Response ID ANON-2V7F-Y8J6-P

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 17:38:47

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

N/A

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

I do not require confidentiality

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

Yes all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court because there is a history of International surrogacy abuse and exploitation of vulnerable and deprived women and a high level of scrutiny should be enforced and maintained.

Please provide your views below:

No, they should be allocated to a judge of the High Court in all cases.

9 Consultation Question 2:

Please provide your views below:

It is inappropriate for lay judges to hear such cases. At a time when the abuse of women within the home environment is finally gaining a level of exposure and prominence the potential to exploit women's reproductive capacity for monetary, or other, gain should be examined in each case to ensure that the mother was not coerced, blackmailed or abused into making the decision to become a surrogate mother.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

Yes

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

No. The Intended parents should not be documented as the legal parents at birth.
This would reduce the role of the birth mother that of a vessel or container and remove her humanity. Such knowledge of the degrading treatment to which their birth mother was subjected would be detrimental to the mental health of the child, and against the healthy formation of their identity. This proposal also substantially weakens the surrogate's right to change her mind.

15 Consultation Question 8:

Yes

Please provide your views below:

100 years; or

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Yes

Please provide your views below:

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

The prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements, otherwise this limits the right of the child to discover their genetic identity and may risk attraction to closely related persons.

18 Consultation Question 11:

No

Please provide your views below:

This consultation takes no account of the natural link between birth mother and baby and assumes an immediate hand-over, whether the birth mother objects or not. The birth mother should have the right to change her mind.

19 Consultation Question 12:

No

Please provide your views below:

The surrogate's decision should be final.

20 Consultation Question 13:

Yes

Please provide your views below:

21 Consultation Question 14:

Yes

Please provide your views below:

22 Consultation Question 15:

Yes

Please provide your views below:

No

Please share your views below:

23 Consultation Question 16:

No

Please provide your views below:

I oppose the proposal that the commissioning parents should be the legal parents of a stillborn baby. Their disappointment will be diminished by the grief of the birth mother who already has a relationship with the child in her womb.
What safeguards are planned in the new pathway should the woman surrogate die? What financial protections would there be for the woman's existing children and family?

Yes

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Yes

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

26 Consultation Question 19:

No

Please provide your views below:

The child should be registered to the surrogate. It is then the surrogate's choice whether to allow the child to be adopted by a new family.

Please provide your views below:

Agree

27 Consultation Question 20:

Not Answered

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

29 Consultation Question 22:

Please provide your views below:

The surrogacy business should be banned not made easier.
There is no evidence in the proposed changes that the surrogacy business, which benefits Agencies, lawyers and those commissioning a surrogate (who is expected to carry a child as an altruistic act) should be made easier for those who profit.
The evidence points to banning or severely restricting surrogacy practices as has been done in European countries such as Switzerland, France, Germany and Sweden and further afield in India and Thailand.

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

It is astonishing given the years of current surrogacy enablement in UK that those involved are not, never have been, subject to Adoption and Child Act (ACA) 2002.

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

No

Please provide your views below:

34 Consultation Question 27:

No

Please provide your views below:

I disagree with the provisional proposal that, where a child is born of a surrogacy arrangement, the Intended Parents should acquire parental responsibility on the birth of the baby. This pathway will take no account of, and fails to recognise, the bond which is formed between mother and baby during and after the gestational period and the right of a child to know the identity of their birth mother.

This pathway will favour the Intended Parents and the removes the right of the child to have a biologically accurate birth record.

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Yes

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Yes

Please provide your views below:

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

Please provide your views below:

40 Consultation Question 33:

No

Please provide your views below:

Surrogacy should be illegal, no for-profit organisations should be benefiting from women selling themselves for money.

No

Please provide your views below:

No

Please provide your views below:

More stringent oversight than this is required

41 Consultation Question 34:

Please provide your views below:

Please provide your views below:

Please provide your views below:

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

No

Please provide your views below:

They should not exist at all but if there are then they must be not for profit

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Yes

Please provide your views below:

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new

pathway to legal parenthood. Do consultees agree?

Yes

Please provide your views below:

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Not Answered

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Yes

Please provide your views below:

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

Surrogacy should be illegal.

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

Children born of surrogacy arrangement, where there is or is not a genetic connection to the birth mother, should have access to all facts relating to their birth heritage and origins. A practice adoption agencies now recognise as key elements for children's rights, security and healthy maturity.

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

Equal treatment/regard for the mother.

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

Yes

Please provide your views below:

Yes

Please provide your views below:

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

No - all details should be available to the child.

57 Consultation Question 49:

Yes

Please provide your views below:

Please provide your views below:

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

Yes

59 Consultation Question 51:

Yes

Please provide your views below:

Please provide your views below:

Yes

60 Consultation Question 52:

Please provide your views below:

Please provide your views below:

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

No

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

No

63 Consultation Question 55:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Yes

Please provide your views below:

Please provide your views below:

British passport holder or naturalised citizen

65 Consultation Question 57:

Please provide your views below:

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Yes

Please provide views below:

67 Consultation Question 59:

No

Please provide views below:

Surrogacy should be illegal. There is no divine right to have a child. Generations of childless couples will attest to this.

Please provide views below:

No

Please provide views below:

International surrogacy should not be allowed

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Not Answered

Please provide your views below:

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Not Answered

Please provide views below:

70 Consultation Question 62:

Please provide your views below:

Please provide your views below:

71 Consultation Question 63:

Yes

Please provide your views below:

Please provide your views below:

Not Answered

Please provide your views below:

72 Consultation Question 64:

Yes

Please provide your views below:

Please provide your views below:

Yes

Please provide your views below:

73 Consultation Question 65:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Yes

Please provide your views below:

Please provide your views below:

75 Consultation Question 67:

Yes

Please provide your views below:

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Yes

Please provide your views below:

The intended parents should finance this.

77 Consultation Question 69:

Yes

Please provide your views below:

Please provide your views below:

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

No

Please provide your views below:

Women are not brood mares! Two should be the maximum and if the first pregnancy was not straightforward further surrogate pregnancies should not be allowed.

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on costs actually incurred by the surrogate, but without the need for production of receipts; or

Please provide your views below:

81 Consultation Question 73:

Please provide your views below:

82 Consultation Question 74:

Please provide your views below:

83 Consultation Question 75:

Please provide your views below:

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

Yes, plus pension contribution and lost NI contributions

85 Consultation Question 77:

Please provide your views below:

Yes

86 Consultation Question 78:

Please provide your views below:

Social welfare benefits should continue to be fully means tested.

87 Consultation Question 79:

pain and inconvenience arising from the pregnancy and childbirth;, medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or, specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

Please provide your views below:

These should be punitive and ample to cover the full medical/subsistence bills of the surrogate. The intended parents should take out full illness insurance as a pre-cursor to acceptance.

Please provide your views below:

a fixed fee set by the regulator (operating as a cap on the maximum payable), or

Please provide your views below:

Insurance should be a pre-requisite

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

Insurance should be a pre-requisite

89 Consultation Question 81:

Please provide your views below:

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

It should never be legal to pay a woman for the use of her body.

Not Answered

Please provide your views below:

essential costs relating to the pregnancy;, additional costs relating to the pregnancy;, compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

Please provide any views below:

91 Consultation Question 83:

Please provide views below:

No

Not Answered

Please provide your views below:

How distasteful.

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Not Answered

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

95 Consultation Question 87:

Please provide your views below:

96 Consultation Question 88:

Yes

Please provide your views below:

Yes

Please provide your views below:

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

N/a

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response.

4. If responding to this consultation in a personal capacity, which term below best describes you?

Other individual.

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

N/a

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and

parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth

and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving derive income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and

facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the

recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother compensation.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother compensation.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother compensation.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

Leave both check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. The idea that a 'surrogacy agreement' could place restrictions on the birth mother's lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit.

There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y8JR-J

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 17:40:05

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

Surrogacy UK

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Intended parent

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

.

Chapter 6: The parental order procedure

8 Consultation Question 1:

Not Answered

Please provide your views below:

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

Not Answered

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Not Answered

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

(3) Further procedural reform is needed and this reform should be exactly the same in Scotland as it is in England and Wales. Laws surrounding surrogacy should be the same throughout the UK.

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

Yes

Please provide your views below:

15 Consultation Question 8:

Yes

Please provide your views below:

100 years; or

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Not Answered

Please provide your views below:

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

18 Consultation Question 11:

No

Please provide your views below:

The intended parents should be the legal parents of the baby, with no objection period.

19 Consultation Question 12:

Yes

Please provide your views below:

20 Consultation Question 13:

Yes

Please provide your views below:

21 Consultation Question 14:

Yes

Please provide your views below:

22 Consultation Question 15:

Yes

Please provide your views below:

No

Please share your views below:

23 Consultation Question 16:

Yes

Please provide your views below:

Yes

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Yes

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

26 Consultation Question 19:

Yes

Please provide your views below:

Please provide your views below:

27 Consultation Question 20:

Not Answered

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

29 Consultation Question 22:

Please provide your views below:

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

Yes

Please provide your views below:

34 Consultation Question 27:

Yes

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

No

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Yes

Please provide your views below:

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

Please provide your views below:

40 Consultation Question 33:

Yes

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

41 Consultation Question 34:

Please provide your views below:

Please provide your views below:

Please provide your views below:

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Yes

Please provide your views below:

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Yes

Please provide your views below:

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Yes

Please provide your views below:

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Not Answered

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Not Answered

Please provide your views below:

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Not Answered

Please provide your views below:

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

63 Consultation Question 55:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Yes

Please provide your views below:

Please provide your views below:

65 Consultation Question 57:

Please provide your views below:

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Yes

Please provide views below:

67 Consultation Question 59:

Yes

Please provide views below:

Please provide views below:

Not Answered

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Not Answered

Please provide your views below:

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Not Answered

Please provide views below:

70 Consultation Question 62:

Please provide your views below:

Please provide your views below:

71 Consultation Question 63:

Yes

Please provide your views below:

Please provide your views below:

Yes

Please provide your views below:

72 Consultation Question 64:

Yes

Please provide your views below:

Please provide your views below:

Other

Please provide your views below:

Age 25

73 Consultation Question 65:

Other

Please provide your views below:

Age 25

Other

Please provide your views below:

Age 25.

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Yes

Please provide your views below:

Please provide your views below:

75 Consultation Question 67:

Yes

Please provide your views below:

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

No

Please provide your views below:

77 Consultation Question 69:

Yes

Please provide your views below:

Please provide your views below:

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

Yes

Please provide your views below:

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on costs actually incurred by the surrogate, and only on production of receipts.

Please provide your views below:

81 Consultation Question 73:

Please provide your views below:

82 Consultation Question 74:

Please provide your views below:

83 Consultation Question 75:

Please provide your views below:

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

85 Consultation Question 77:

Please provide your views below:

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

Please provide your views below:

Please provide your views below:

left to the parties to negotiate.

Please provide your views below:

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

89 Consultation Question 81:

Please provide your views below:

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

any sum agreed between the parties to the surrogacy; or

Please provide your views below:

essential costs relating to the pregnancy;, additional costs relating to the pregnancy;, lost earnings;, compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or, gifts.

Please provide any views below:

91 Consultation Question 83:

Please provide views below:

Not Answered

Please provide your views below:

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Yes

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

95 Consultation Question 87:

Please provide your views below:

96 Consultation Question 88:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

Yes

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

As IPs, the fact that our biological child [redacted] would be registered as the child of our surrogate and her partner, would be very distressing. The fact that we have no legal rights over our biological child is a huge worry and concern. The child would be genetically linked to us; we would be the child's parents, yet that right would be denied should our surrogate change her mind. IPs don't turn to surrogacy as an easy option. After [redacted] of trying for a family, with many rounds of unsuccessful ivf, we have turned to surrogacy as a last hope. Our rights as parents should be protected.

120 Consultation Question 112:

Please provide your views below:

Our clinic charges £2000 for medical screening. We find this outrageous.

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

N/A

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

4. If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and

parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth

and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and

facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the

recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

Leave both check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. The idea that a 'surrogacy agreement' could place restrictions on the birth mother's lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y8JF-6

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 18:15:11

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

N/A

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

All surrogacy has the potential for exploitation so senior, experienced judges should oversee arrangements not a lay judge

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

No

Please provide your views below:

Should occur after the birth, what is best for child should be prime consideration

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

It contradicts The Hague convention on the protection of children

Consent must be given after birth child.

It will set a dangerous precedent for women. Has this even been considered? How would women be treated if they have already lost parental responsibility ?

15 Consultation Question 8:

Other

Please provide your views below:

I vehemently disagree with the new pathway and surrogacy organisations

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Other

Please provide your views below:

I disagree with normalising surrogacy

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

I disagree with the new pathway

18 Consultation Question 11:

No

Please provide your views below:

The birth mother should remain the legal parent and 5-6 weeks post partum is an incredibly short tine to allow objections due to the often traumatic nature of birth and the resulting toll it takes on physical and mental health

19 Consultation Question 12:

Other

Please provide your views below:

I disagree

20 Consultation Question 13:

No

Please provide your views below:

21 Consultation Question 14:

No

Please provide your views below:

I disagree with the new pathway

22 Consultation Question 15:

No

Please provide your views below:

I disagree with the new pathway. It will increase pressure on women who may be coerced by partners/spouses to take on surrogacy for financial gain

Yes

Please share your views below:

23 Consultation Question 16:

No

Please provide your views below:

No

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

No

Please provide your views below:

I disagree with the new pathway

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

I disagree with the new pathway

26 Consultation Question 19:

No

Please provide your views below:

Please provide your views below:

27 Consultation Question 20:

Yes

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

I oppose the 3 patent model

29 Consultation Question 22:

Please provide your views below:

I disagree with the new pathway

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

No

33 Consultation Question 26:

No

Please provide your views below:

34 Consultation Question 27:

No

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Not Answered

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

I disagree

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Not Answered

Please provide your views below:

I disagree with the new pathway

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

I disagree with the new pathway

Please provide your views below:

I disagree with the new pathway

40 Consultation Question 33:

No

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

41 Consultation Question 34:

Please provide your views below:

I disagree with this proposal

Please provide your views below:

I disagree. I believe surrogacy is a violation of human rights of children and women

Please provide your views below:

I disagree with surrogacy organisations. I believe surrogacy is a violation of human rights for children and women

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Other

Please provide your views below:

I disagree with the proposal of regulated surrogacy organisations

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

I disagree with matching facilitation services as I believe surrogacy is a violation of human rights for children and women

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Other

Please provide your views below:

I disagree with the new pathway

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

I disagree with the new pathway

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

Offering these services should be a criminal offence as it will lead to increase in surrogacy which I believe is a violation of human rights for children and women.

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Other

Please provide your views below:

I disagree with this as it sanctions surrogacy which I believe is a violation of human rights for children and women

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I believe surrogacy is a violation of human rights for children and women. The idea of organisations charging for this service is abhorrent

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I disagree with removing the ban as surrogacy is a violation of human rights for children and women

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

Not Answered

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

Health professionals should be aware that women may be being coerced into surrogacy and that surrogacy agreements are not legally binding

It will place extra demands on the nhs

Please provide your views below:

Health professionals should be aware that the birth mother may change her mind and that intended parents have no legal right to override the birth mothers wishes.

Please provide your views below:

Midwives must prioritises the welfare of the birth mother and child

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

The idea that women may be coerced into surrogacy appears not to have been considered. It would be very difficult to legislate such a law so seems prudent to ban surrogacy altogether as in Spain, or at the very least keep payments for essentials only overseen by a senior judge

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

It appears that the law commission has started this consultation with the premise that surrogacy is a good thing. However it is open to abuse and can be seen as a way of commercialising women's reproductive organs and so is a violation of human rights for children and women.

The law commissioners ethical arguments hinge on ideas not based on any recognised human rights instruments. They have been rejected by the UN special Rapporteur

The "New pathway" violates many UN recommendations which are there to protect against exploitation of birth mothers and the sake of children

The Consultation Paper is too long, too confusing and does not even ask if surrogacy is ethical. The Law Commission needs to go back to the beginning and draw up the consultation from the positions of women's and children's rights.

Response ID ANON-2V7F-Y8JD-4

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 18:25:55

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

No

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Intended parent

5 What is your email address?

Email address:

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

To ensure that no surrogate is treated fairly and that a child is not stolen etc.

Please provide your views below:

Yes for the same reason as above.

9 Consultation Question 2:

Please provide your views below:

Lay justices.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

Surrogates and intended parents should have dBs checks but have legally binding agreements and the IPs should be on the birth certificate.

11 Consultation Question 4:

Yes

Please provide your views below:

If proposal 8 is not brought in.

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

It needs to be as straight forward as possible. People taking loans out or remortgaging homes to fund their dream of one child after they've tried everything else are older and faced so much pain that the current complexities around surrogacy destroys more of the soul.

13 Consultation Question 6:

Please provide your views below:

Agreed

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

Yes

Please provide your views below:

Yes yes and yes. I especially like the clause that a surrogate can object. There needs to be safeguards in place for the child. Too many children are born in the traditional method who are let down by families. Surrogacy needs to be simpler and more open but the surrogate needs protection from being exploited or from parents who will let the child down.

15 Consultation Question 8:

Yes

Please provide your views below:

It needs to be above board, clear and simple!

100 years; or

Please provide your views below:

Covers future medical issues

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

No

Please provide your views below:

This would limit the chances of the growth of families due to financial constraints. It isn't fair.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

Should not prevent it. Lesbian couples or couples with sperm issues would again be penalised. Its not fair.

18 Consultation Question 11:

Yes

Please provide your views below:

Hopefully no surrogate will experience uncertainty regarding the morals, values or competency of her intended parents at the birth stage. But that safeguard should remain.

19 Consultation Question 12:

Yes

Please provide your views below:

This seems appropriate

20 Consultation Question 13:

No

Please provide your views below:

If the surrogate falls ill unexpectedly at the birth stage then a third party should make the decision to uphold the surrogate agreement. This is overtly cruel to the intended parents.

21 Consultation Question 14:

Yes

Please provide your views below:

If a couple are willing to jump through the hoops to match with a surrogate then that is evident that they are serious about the process, especially if they have a catalogue of medical records showing how hard their journey has been.

22 Consultation Question 15:

Yes

Please provide your views below:

And this ought to be noted in the agreement.

No

Please share your views below:

The baby is not theirs.

23 Consultation Question 16:

Yes

Please provide your views below:

It is the intended parents child. Why add additional heart ache to a horrible situation. Its cruel.

Yes

Please provide your views below:

Its the child of the intended parents

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Yes

Please provide your views below:

Its the child of the intended parents. They will be grieving and that piece of paper will give them protection to take leave from work. Work places rarely understand surrogacy

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

The surrogate s next of kin should be able to give consent on her behalf in this situation. If they are unable to then it should be passed to a third party. Its situations like this that would make the use of an agency invaluable as there will be paperwork and relationships which would reduce the stress for all parties.

26 Consultation Question 19:

Yes

Please provide your views below:

The child belongs to the intended parents and should be passed to their intended guardian. The IPs should have filled in a will with this instruction prior to conception.

Please provide your views below:

No. See my previous comment.

27 Consultation Question 20:

No

Please provide your views below:

This all sounds too complex.

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

This should not be complex.

29 Consultation Question 22:

Please provide your views below:

Administrative.

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

Yes

Please provide your views below:

34 Consultation Question 27:

Yes

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

No

Please provide your views below:

The child is the intended parents

36 Consultation Question 29:

Please provide your views below:

I don't understand this.

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Yes

Please provide your views below:

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

Yes. No one should be penalised due to lack of money.

Please provide your views below:

40 Consultation Question 33:

Yes

Please provide your views below:

With a statute maximum fee set by government. It is sickening that people like me [redacted] have to spend thousands to have a child when most people can just get drunk, lay down and get pregnant.

No

Please provide your views below:

There should a regulated process to ensure surrogates aren't being exploited or choosing it as a career path.

Yes

Please provide your views below:

It needs to be above board.

41 Consultation Question 34:

representing the organisation to, and liaising with, the regulator;, managing the regulated surrogacy organisation with sufficient care, competence and skill;, ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;, training any staff, including that of the person responsible; and, providing data to the regulator and to such other person as required by law.

Please provide your views below:

Please provide your views below:

Please provide your views below:

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Yes

Please provide your views below:

No one should profit from making a baby. Its what's so sickening about the private fertility clinic fees. Its obscene.

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

Matching profiles like in a dating agency. Meet and great parties.

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Yes

Please provide your views below:

It needs to be regulated to protect the surrogate.

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

Yes

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

Criminal consequences. The surrogate is being put at risk

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Yes

Please provide your views below:

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

No

Please provide your views below:

There's no point to them if its unenforceable. Its again not fair on the intended parents.

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

There should be a maximum charge (afforadble, couple of hundred pounds max) for this service.

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Other

Please provide your views below:

Open advertising outside of agency's or a free nhs site (means tested referrals only) should remain banned to protect the surrogate

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

What's to be ashamed of in this process. A surrogate is an angel, a heroine, a miracle worker. Why would this be kept a secret from the child?

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

Absolutely, its something to be proud of. If the surrogate doesn't want to be on the document that would be fine but she should be asked!

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

How cruel is it that a child can not have access to information about themselves.

55 Consultation Question 47:

Yes

Please provide your views below:

Absolutely, all to protect the surrogate.

Yes

Please provide your views below:

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

Why keep things secret?

57 Consultation Question 49:

Yes

Please provide your views below:

Please provide your views below:

Yes

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

Why would this be a problem?

59 Consultation Question 51:

Yes

Please provide your views below:

That has genetic implications

Please provide your views below:

No. They have no relation to each other. Should they attend a birthday party or a funeral for the surrogate then that is one thing but no one should chase information that's nothing to do with them!

60 Consultation Question 52:

Please provide your views below:

Genetically related - in medical circumstances only. No need otherwise.

Please provide your views below:

No contact

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

Yes its painful for all involved

63 Consultation Question 55:

Not Answered

Please provide your views below:

Yes

Please provide your views below:

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Yes

Please provide your views below:

Please provide your views below:

Time couples have been living together or length of time/attendance to counseling for sole intended parents.

65 Consultation Question 57:

Please provide your views below:

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Yes

Please provide views below:

67 Consultation Question 59:

Yes

Please provide views below:

Please provide views below:

Yes,its ridiculously unfair not too.

Not Answered

Please provide views below:

No idea what this means

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Yes

Please provide your views below:

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Yes

Please provide views below:

70 Consultation Question 62:

Please provide your views below:

Please provide your views below:

71 Consultation Question 63:

Yes

Please provide your views below:

Please provide your views below:

Donated gametes should have the option of remaining annonomous

Yes

Please provide your views below:

72 Consultation Question 64:

No

Please provide your views below:

Intended parents should be under an age that will allow them to still be alive/active whilst their child is in their early 20s.

Please provide your views below:

45-47 gives women chance to try and fail at natural conception and IVF.

Yes

Please provide your views below:

Subject to a minimum time on the register and counseling sessilns. Like all new sign ups.

73 Consultation Question 65:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Yes

Please provide your views below:

Please provide your views below:

75 Consultation Question 67:

Yes

Please provide your views below:

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

No

Please provide your views below:

Why? Can't the government come up with a standardized process like with adoption

77 Consultation Question 69:

Yes

Please provide your views below:

But it should not necessarily proclude people from going through the process.

Please provide your views below:

Yes, some offenses should exclude individuals from being accepted into a surrogacy programme

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

Yes. I think this is important, she needs to know what she's in for!

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

Yes

Please provide your views below:

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on costs actually incurred by the surrogate, but without the need for production of receipts; or

Please provide your views below:

An average expenses sheet should be created by the government that can be used as a ball park figure that a surrogate can them ammend. Surrogates should be able to show someone at the agency what their costs are and why. The figure should then be presented to the intended parents and either an upfront one off payment or a monthly allowance plan be drawn up and agreed

81 Consultation Question 73:

Please provide your views below:

82 Consultation Question 74:

Please provide your views below:

83 Consultation Question 75:

Please provide your views below:

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

Loss of earnings? The surrogate is pregnant and as such should be entitled to the exact same protection at work as a non-surogate pregnant lady

85 Consultation Question 77:

Please provide your views below:

86 Consultation Question 78:

Please provide your views below:

Shouldn't impact means tested benefits as it is not a wage. Its money for clothes, food or travel etc.

87 Consultation Question 79:

Please provide your views below:

No, it should be a fixed monthly amount of money regardless. It shouldn't be a money making scheme. Though in saying that, perhaps £500/month may be a good idea or else women won't volunteer so it probably should have a wage!

Please provide your views below:

No, it should be a wage.

a fixed fee set by the regulator (operating as a cap on the maximum payable), or

Please provide your views below:

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

No, it should be covered in an insurance policy from the agency.

89 Consultation Question 81:

Please provide your views below:

No, a wage is sufficient though flowers and chocs should be ok

90 Consultation Question 82:

It should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

A government set fixed fee that is paid in monthly instalments.

a fixed fee set by the regulator.

Please provide your views below:

essential costs relating to the pregnancy;, additional costs relating to the pregnancy;, gifts.

Please provide any views below:

Gifts of flowers or chocs only like is acceptable for teachers or nurses!

91 Consultation Question 83:

Please provide views below:

The payments should stop once the pregnancy is confirmed as being ended.

Not Answered

Please provide your views below:

Shouldn't be happening, fixed monthly allowance should be used.

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Yes

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

95 Consultation Question 87:

Please provide your views below:

96 Consultation Question 88:

Yes

Please provide your views below:

No

Please provide your views below:

Reasonable requests perhaps.

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

Not Answered

Please provide your views below:

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Please provide your views below:

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

Not Answered

Please provide your views below:

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Not Answered

Please provide your views below:

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Not Answered

Please provide your views below:

107 Consultation Question 99:

Not Answered

Please provide your views below:

108 Consultation Question 100:

Please provide your views below:

Please provide your views below:

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

Maternity leave should be split if desired

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

Yes

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

Yes

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

Yes

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

Its stressful its emotional its horrible when it should be a happy time. Its another reminder to make the intended parents feel less of a parent.

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

To simplify the process after everything else we've been through would be a relief. I don't want it to be another trial!

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

Short Form Questionnaire: Law Commissions' Surrogacy Consultation



This form is an extract of the longer form for comments and responses to the Law Commission's and the Scottish Law Commission's consultation about reforming surrogacy law. If you would like to respond to the full version of our consultation questionnaire, please use the online form: https://consult.justice.gov.uk/law-commission/surrogacy. Please see our websites for further details, and for links to download the full consultation paper: https://www.lawcom.gov.uk/project/surrogacy/ and https://www.scotlawcom.gov.uk/law-reform/law-reform-projects/joint-projects/surrogacy/.

We have selected 46 questions which may be of particular interest of **those with lived experience of surrogacy arrangements**: surrogates, intended parents, family members and adult children born of surrogacy arrangements. You do not need to answer all the questions if you do not want to, and you can write as much or as little as you would like in response to our questions.

Please note that we may publish or disclose information you provide us in response to this consultation, including personal information. We ask consultees, when providing their responses, if they could avoid including personal identifying information in the text of their response, particularly where this may reveal the identities of other people involved in their surrogacy arrangement.

For more information about how we consult and how we may use responses to the consultation, please see page i – ii of the Consultation Paper.

HOW TO SUBMIT YOUR RESPONSE USING THIS QUESTIONNAIRE

Type your response into the text fields below and then save your completed form. When you have completed your response, email the completed form as an attachment to surrogacy@lawcommission.gov.uk.

The closing date for submitting a response to our consultation is 11 October 2019.

QUESTIONS ABOUT YOU

What is your name? [redacted]

If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation? COTS

Are you responding to this consultation in a personal capacity or on behalf of your organisation?
Personal Capacity

If responding to this consultation in a personal capacity, which term below best describes you?
Intended Parent & parent of a child born through surrogacy

What is your email address?
[redacted]

What is your telephone number?
[redacted]

If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our **privacy notice**, we take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.
Click or tap here to enter text.

Question No.	Consultation Question
Q1	Consultation Question 7. In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have: (1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth, (2) complied with procedural safeguards for the agreement, and (3) met eligibility requirements, on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object. Do consultees agree?
Your Response to Q1	**yes**
Q2	Consultation Question 11. We provisionally propose that:

	(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child; (2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and (3) the defined period should be the applicable period for birth registration less one week. Do consultees agree?
Your Response to Q2	**no**
Q3	Consultation Question 12. We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that: (1) the surrogate will be the legal parent of the child; (2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and (3) the intended parents would be able to make an application for a parental order to obtain legal parenthood. Do consultees agree?
Your Response to Q3	**no**
Q4	Consultation Question 15. We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child. Do consultees agree? We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.
Your Response to Q4	**No. This person has no link to the child really in my view.**
Q5	Consultation Question 27.

	We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway: (1) the intended parents should acquire parental responsibility on the birth of the child; and (2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order. Do consultees agree?
Your Response to Q5	**yes**
Q6	Consultation Question 28. We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object. Do consultees agree?
Your Response to Q6	**no**
Q7	Consultation Question 29. For all surrogacy arrangements, we invite consultees' views as to: (1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and (2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.
Your Response to Q7	**It should restrict the exercise of parental responsibility by the party not caring for the child**
Q8	Consultation Question 55. We provisionally propose that: (1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available; (2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

	(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or (b) following a determination by the court that the child should live with the intended parents; and (3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007. Do consultees agree?
Your Response to Q8	**yes**
Q9	Consultation Question 30. We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway. Do consultees agree?
Your Response to Q9	**yes**
Q10	Consultation Question 32. We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway. We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.
Your Response to Q10	**Yes should be in the new pathway, to harmonise this across all providers of surrogacy. The not for profit bodies providing access to the new pathway should consider providing this service to those entering into independent durrogacy arrangements**
Q11	Consultation Question 67. We provisionally propose that, as a condition of being eligible for entry into the new pathway: (1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and (2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15. Do consultees agree?

Your Response to Q11	**yes**
Q12	Consultation Question 68. We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?
Your Response to Q12	**yes**
Q13	Consultation Question 88. We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate. Do consultees agree? We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle. Do consultees agree?
Your Response to Q13	**Yes the agreement should be enforceable by the surrogate. In the event that the surrogate has not complied with her obligations under the agreement this should be taken into account when determining the level of payment the surrogate is able to claim.**
Q14	Consultation Question 42. We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?
Your Response to Q14	**yes**
Q15	Consultation Question 62. We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity: (1) for cases under the new pathway to parenthood; and/or (2) for cases where a post-birth parental order application is made. We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

Your Response to Q15	**No – there should be no such requirement**
Q16	Consultation Question 70. We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.
Your Response to Q16	**no**
Q17	Consultation Question 33. We provisionally propose that: (1) there should be regulated surrogacy organisations; (2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and (3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation. Do consultees agree?
Your Response to Q17	**(1)yes** **(2)regulated surrogacy should be not for profit (charity) organisations** **(3)Yes**
Q18	Consultation Question 35. We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?
Your Response to Q18	**yes**
Q19	Consultation Question 37. We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree? We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.
Your Response to Q19	**Yes. I am not sure that there is enough regulation around these independent sites from my experience.**
Q20	Consultation Question 59.

	We provisionally propose that the new pathway – (1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but (2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility. Do consultees agree? We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements. We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements. Do consultees agree?
Your Response to Q20	**Yes to all**
Q21	Consultation Question 46. We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings. Do consultees agree?
Your Response to Q21	**yes**
Q22	Consultation Question 47. We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors. Do consultees agree? We provisionally propose that: (1) the register should be maintained by the Authority; (2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include: (a) identifying information about all the parties to the surrogacy arrangement, and

	(b) non-identifying information about those who have contributed gametes to the conception of the child; and (3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies. Do consultees agree?
Your Response to Q22	**yes**
Q23	Consultation Question 48. We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.
Your Response to Q23	**yes**
Q24	Consultation Question 49. We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request. Do consultees agree? We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances: (1) where his or her legal parents have consented; (2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or (3) in any other circumstances.
Your Response to Q24	**Yes ans 2**
Q25	Consultation Question 51. We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so. Do consultees agree?

	We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.
Your Response to Q25	**yes**
Q26	Consultation Question 52. We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so: (1) if they are genetically related through the surrogate; and/or (2) if they are not genetically related through the surrogate.
Your Response to Q26	**yes**
Q27	Consultation Question 53. For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.
Your Response to Q27	**yes**
Q28	Consultation Question 72. We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be: (1) based on an allowance; (2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or (3) based on costs actually incurred by the surrogate, and only on production of receipts.
Your Response to Q28	**1 i.e. based on an allowance. By having a set allowable figure to be paid the surrogate it avoids any confusion as to what allowable expenses are, and allows for a straightforward, transperant relationship between IPs and surrogate.**
Q29	Consultation Question 73. We invite consultees' views as to: (1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

	(2) the types of expenditure which should be considered "essential".
Your Response to Q29	**IPs should be able to pay essential costs to the surrogate - the Surrogate should not be out of pocket at any time. These costs would include travel expecnses, maternity clothing, loss of earnings, reimbursement for any additional childcare costs incurred because of surrogate pregnancy**
Q30	Consultation Question 74. We invite consultees' views as to: (1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and (2) the types of expenditure which should be considered additional, rather than essential.
Your Response to Q30	**Yes based on for eg complications as part of the pregnancy which may result in a longer recuperation period or physical discomfort.**
Q31	Consultation Question 75. We invite consultees' views as to: (1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and (2) the types of cost which should be included within this category.
Your Response to Q31	**Yes – in principle the IPs should bear all costs related to the pregnancy for eg lost earnings, travel expenses,**
Q32	Consultation Question 76. We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).
Your Response to Q32	**yes**
Q33	Consultation Question 77. We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings: (1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or (2) other lost potential earnings (as defined in paragraph 15.36 above).

Your Response to Q33	**yes**
Q34	Consultation Question 78. We invite consultees to share their experiences: (1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and (2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.
Your Response to Q34	**Click or tap here to enter text.**
Q35	Consultation Question 79. We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following: (1) pain and inconvenience arising from the pregnancy and childbirth; (2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or (3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy. We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation. We invite consultees' views as to whether the level of compensation payable should be: (1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or (2) left to the parties to negotiate.
Your Response to Q35	**Yes determined as a fixed fee set by the regulator**
Q36	Consultation Question 80. We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Your Response to Q36	**Yes, I believe it is essential that IPs provide life assurance for the surrogate**
Q37	Consultation Question 81. We invite consultees' views as to whether: (1) intended parents should be able to buy gifts for the surrogate; and (2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.
Your Response to Q37	**Yes**
Q38	Consultation Question 82. We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be: (1) any sum agreed between the parties to the surrogacy; or (2) a fixed fee set by the regulator. We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee: (1) no other payments; (2) essential costs relating to the pregnancy; (3) additional costs relating to the pregnancy; (4) lost earnings; (5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or (6) gifts.
Your Response to Q38	**Fixed fee but 2, 3, 4, and 5.**
Q39	Consultation Question 84. We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

	Do consultees agree?
Your Response to Q39	**Yes**
Q40	Consultation Question 85. We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.
Your Response to Q40	**Click or tap here to enter text.**
Q41	Consultation Question 92. We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child. Do consultees agree?
Your Response to Q41	**yes**
Q42	Consultation Question 94. We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth. Do consultees agree? We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules. Do consultees agree? We provisionally propose that: (1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or (2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate. Do consultees agree? We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is

	brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.
Your Response to Q42	**Click or tap here to enter text.**
Q43	Consultation Question 95. We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child. Do consultees agree?
Your Response to Q43	**yes**
Q44	Consultation Question 97. We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?
Your Response to Q44	**Yes**
Q45	Consultation Question 99. We provisionally propose that: the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law. Do consultees agree?
Your Response to Q45	**yes**
Q46	Consultation Question 107. We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

	We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales. We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.
Your Response to Q46	**View both IP's and the surrogate as equally important in the provision of care for the safe delivery of the baby and permit both to be present and treat as equal before and after the delivery of the baby. The wishes of the IPs should be taken as those of the childs legal parents.**

END OF QUESTIONNAIRE – HOW TO SUBMIT

Thank you for completing this form. To submit it as a formal response to the Law Commission, save your completed form and email it as an attachment to surrogacy@lawcommission.gov.uk. Please note that the deadline for responding to our consultation is **11 October 2019**.

Response ID ANON-2V7F-Y8JY-S

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 18:40:29

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

Surrogacy UK

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Surrogate

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

Continue to be heard by lay justices

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

Yes

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

Yes

Please provide your views below:

The surrogate should only be able to object if there are safeguarding issues

15 Consultation Question 8:

Yes

Please provide your views below:

100 years; or

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Yes

Please provide your views below:

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

No. Using donated sperm should not be an issue

18 Consultation Question 11:

No

Please provide your views below:

The surrogate should be able to raise concerns /objections but if they are not safeguarding related it should not affect the PO going forward

19 Consultation Question 12:

No

Please provide your views below:

Legal parenthood should automatically go to the intended parents

20 Consultation Question 13:

Yes

Please provide your views below:

21 Consultation Question 14:

Yes

Please provide your views below:

22 Consultation Question 15:

Yes

Please provide your views below:

No

Please share your views below:

23 Consultation Question 16:

Yes

Please provide your views below:

Yes

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Yes

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

No. As a surrogate I would want the intended parents granted immediate legal parenthood wether I was alive or not. We go into surrogacy in the full knowledge that the baby we are carrying is not ours and being able to give that child back to its parents is the greatest joy

26 Consultation Question 19:

Yes

Please provide your views below:

Please provide your views below:

The intended parents should still be made legal parents and the child should go to their chosen guardians

27 Consultation Question 20:

Yes

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

29 Consultation Question 22:

Please provide your views below:

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

Yes

Please provide your views below:

34 Consultation Question 27:

Yes

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

No

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

The surrogate should not have parental responsibility at all for any length of time after the birth

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Yes

Please provide your views below:

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

Please provide your views below:

40 Consultation Question 33:

Yes

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

41 Consultation Question 34:

representing the organisation to, and liaising with, the regulator;, managing the regulated surrogacy organisation with sufficient care, competence and skill;, ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;, training any staff, including that of the person responsible; and, providing data to the regulator and to such other person as

required by law.

Please provide your views below:

Please provide your views below:

Please provide your views below:

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Yes

Please provide your views below:

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Not Answered

Please provide your views below:

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Not Answered

Please provide your views below:

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Not Answered

Please provide your views below:

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Yes

Please provide your views below:

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

63 Consultation Question 55:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Yes

Please provide your views below:

Please provide your views below:

65 Consultation Question 57:

Please provide your views below:

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Yes

Please provide views below:

67 Consultation Question 59:

Yes

Please provide views below:

Please provide views below:

Yes

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Not Answered

Please provide your views below:

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Yes

Please provide views below:

70 Consultation Question 62:

Please provide your views below:

Please provide your views below:

71 Consultation Question 63:

Not Answered

Please provide your views below:

Please provide your views below:

Not Answered

Please provide your views below:

72 Consultation Question 64:

Yes

Please provide your views below:

Please provide your views below:

Yes

Please provide your views below:

73 Consultation Question 65:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Yes

Please provide your views below:

Please provide your views below:

75 Consultation Question 67:

Yes

Please provide your views below:

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Yes

Please provide your views below:

77 Consultation Question 69:

Yes

Please provide your views below:

Please provide your views below:

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

No. She surrogate should not have to have previously given birth

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

Yes

Please provide your views below:

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on costs actually incurred by the surrogate, but without the need for production of receipts; or

Please provide your views below:

The surrogate must be able to, if asked, produce a breakdown of how the expenses were used

81 Consultation Question 73:

Please provide your views below:

Yes, surrogates should not have to pay for what is essentially someone else's pregnancy. Costs could include
Maternity wear
Travel
Childcare
Food
Pregnancy supplements and sanitary items
Dog walking /gardening
Recuperation break
Loss of earnings for both surrogate and partner

82 Consultation Question 74:

Please provide your views below:

Intended parents should always have a reserved amount due unexpected situations such as an extended hospital stay or unplanned c-section

83 Consultation Question 75:

Please provide your views below:

Yes. Travel for fertility treatment, fertility meds and appointments plus any extra childcare needed while attending such appointments

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

Yes. Definitely

85 Consultation Question 77:

Please provide your views below:

Yes to both

86 Consultation Question 78:

Please provide your views below:

I was receiving child benefit when pregnant with my surrogate baby and the expenses had no effect on my benefit payments are they are expenses. If they had been classed as payments it would have been a very different matter

87 Consultation Question 79:

Please provide your views below:

No

Please provide your views below:

As long as a surrogate is not put off pocket no additional 'compensation' should be needed

Not Answered

Please provide your views below:

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

Intended Parents should always cover payments for a surrogate life insurance policy. The policy should be for a minimum of £300, 000

89 Consultation Question 81:

Please provide your views below:

Gifts should be fine but not required or expected

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

The idea of being paid to have a baby makes my skin crawl and I would not wish to be a surrogate under a commercial surrogacy model

Not Answered

Please provide your views below:

Please provide any views below:

91 Consultation Question 83:

Please provide views below:

Not Answered

Please provide your views below:

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

No

Please provide your views below:

No payments should be allowed. Expenses only!

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

95 Consultation Question 87:

Please provide your views below:

96 Consultation Question 88:

Yes

Please provide your views below:

A surrogate should not be out of pocket

Yes

Please provide your views below:

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

Name (Required)

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

N/A

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

- This is a personal response x
- This is a response on behalf of an organisation
- Other

If other, please provide details:

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

- Surrogate
- Intended parent
- Person born of a surrogacy arrangement
- Family member of a surrogate
- Family member of an intended parent
- Legal practitioner
- Medical practitioner or counsellor
- Social worker
- Academic
- Other individual x

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

N/A

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in

surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or

parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and

facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the

recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. x

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

Neither

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

None of the above

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

None of the above

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. The idea that a 'surrogacy agreement' could place restrictions on the birth mother's lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y8U9-4

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 18:45:52

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

Surrogacy UK

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Intended parent

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

N/A

Chapter 6: The parental order procedure

8 Consultation Question 1:

Other

Please provide your views below:

Only when they are from jurisdictions that are not on the 'approved' list. If from an "approved" destination then they could go to the next level down.

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

Given that there will be two routes the journeys that go down the PO route may be more complicated than is previously the case as they may be the ones that are more complex. In this case it may be justified to move a level up from the current level of the judiciary.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

Yes

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

Yes

Please provide your views below:

15 Consultation Question 8:

Yes

Please provide your views below:

100 years; or

Please provide your views below:

The time period should be similar to that required from other medical records such as those kept by maternity units or clinics.

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Yes

Please provide your views below:

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

Yes as this will act as a disincentive to use more risky donation processes

18 Consultation Question 11:

No

Please provide your views below:

1) I do not think that the surrogate should have the right to object. If it emerges that the IPs lied in a way that undermines her consent then she should be able to go to a court to determine what happens. This is the only reason that I can think of which would justify the raising an objection to the IPs becoming legal parents and I think this can be dealt with in a different way to the proposed "right to object", which has a much broader application. The other reasons that may be given to object are:
A) that the surrogate has concerns over the welfare of the child: in this instance the concerns should be raised to Cafcass who should investigate as they would in any other pregnancy
B) the surrogate feels that she should be the mother of the child: given the process of the new pathway and deep discussions over intent I do not think this is justified ground to object to the IPs becoming legal parents. The child was created always as a child of the IPs, who may have created embryos even before they met the surrogate. The child is the child of the intended parents. I believe it is therefore in the best interests of the child that the surrogate cannot object.
C) the surrogate and the IPs have a breakdown of relationship which results in the surrogate wanting to object in order to express her frustration/upset: this is not a valid reason and does not put the child first and centre.
Having said that I would be open to retaining the right to object as long as the intended parents retain legal parenthood until a permanent decision is

made by a court. If the surrogate wishes to become a legal parent (perhaps with her partner) she/they should apply for a parental order.

2) Please see point 1 above. If however, the Law Commissions keep the right to object I think this is sensible

3) I think more work needs to be done in relation to what the appropriate time frame is. I think this should be as short as possible. I do not think that IPs should be prevented from registering the birth in line with other new parents and think the objection and birth registration processes should be divorced from each other.

19 Consultation Question 12:

No

Please provide your views below:

1) See above Q11. Under no circumstances should the surrogate become the legal parent if she objects to the IPs becoming legal parents.

2) See above Q11. The IPs should continue to be the legal parents until a court resolves the objection and makes a final decision on legal parenthood and parental responsibility

3) See above, Q11. I believe the surrogate should apply for legal parenthood if she wishes to become a legal parent. I object to the assumption that a surrogate who lodges an objection will always want to become a legal parent. I do not believe this is always the case. I think it is unfair to put the burden of legal parenthood on the surrogate if she lodges an objection. The overwhelming majority of surrogates have no desire to ever be treated as the parent. They deserve the right to not be treated as the mother. I believe refusing to give them this right is tied into sexist views about women and motherhood and how they should feel in relation to children and child birth. I also believe that this view will be even further eroded over the next ten years or so and that if any reforms perpetuate these views instead of listening to surrogates, they are in danger of creating new legislation that will rapidly become outdated especially in the context of trans-rights challenges to the legal definition of a mother.

20 Consultation Question 13:

No

Please provide your views below:

See point in questions above that the surrogate should not have the right to object under the new pathway.

The surrogate should never automatically become the legal parent. If the surrogate wishes to become a legal parent she should apply for a PO.

21 Consultation Question 14:

Yes

Please provide your views below:

22 Consultation Question 15:

Yes

Please provide your views below:

See above points that on who should be a legal parent

No

Please share your views below:

23 Consultation Question 16:

No

Please provide your views below:

As per previous answers the IPs should always be the legal parents unless a court rules that it is in the best interests of the child that they are not its legal parents.

And see previous answers that state that IPs should be able to register the birth without the consent of the surrogate and in the same time frame as other parents

No

Please provide your views below:

As per previous answers there should be no need for the surrogate to consent to this as the IPs should always be treated as parents from birth and should be able to register the child as any normal parents would

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

No

Please provide your views below:

As per previous answers there should be no need for the surrogate to consent to this as the IPs should always be treated as parents from birth and should be able to register the child as any normal parents would

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

As per previous answers the IPs should always be treated as parents from birth and should be able to register the child as any normal parents would. They should not have to apply for a PO if the surrogate dies in childbirth.

26 Consultation Question 19:

No

Please provide your views below:

As per previous answers the IPs should always be treated as parents from birth and should be registered as the parents even if the surrogate objects.

Please provide your views below:

1A&B) Yes
2) NO

27 Consultation Question 20:

No

Please provide your views below:

This should be treated in the same way as for parents outside of surrogacy who have a child either as a solo parent or together.

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

If this where to be allowed it should be the case that it was always intended that there would be a three-parent model of parenthood. Intention is key.

IPs should not have to apply for a PO and therefore the legal parenthood of the surrogate does not need to be extinguished.

29 Consultation Question 22:

Please provide your views below:

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

Yes

Please provide your views below:

34 Consultation Question 27:

No

Please provide your views below:

1) Yes

2) The IPs should not have to apply for a PO in this circumstance. They should have parental responsibility.

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

No

Please provide your views below:

The surrogate should not have parental responsibility during this period. It is fundamentally in contradiction to everything about a surrogacy agreement.

36 Consultation Question 29:

Please provide your views below:

PR should not be shared

2) yes it may be appropriate

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Yes

Please provide your views below:

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

Yes, they could simply go to a regulated organisation for their checks

Please provide your views below:

they could simply go to a regulated organisation for their checks

40 Consultation Question 33:

Yes

Please provide your views below:

No

Please provide your views below:

It should be a charitable or not-for-profit entity

Other

Please provide your views below:

I am not sure how this would work within not-for-profit organisations which may not have the funds to adequately compensate the individual for the serious duties and responsibilities of this position. I think thought needs to be be given to an alternative way to make this work, perhaps the board of trustees could be responsible?

41 Consultation Question 34:

representing the organisation to, and liaising with, the regulator;, ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;, training any staff, including that of the person responsible; and, providing data to the regulator and to such other person as required by law.

Please provide your views below:

Please provide your views below:

Please provide your views below:

Competencies should be in the topics of: risk assessment, compliance and risk management; data analysis; process and project management

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Other

Please provide your views below:

and/or charities

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

I agree with SUK's definition in their consultation response

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Yes

Please provide your views below:

I don't believe "matching" is the right word here

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

yes

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

criminal

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Yes

Please provide your views below:

The HFEA will need to regulate very differently as this is not about things like building compliance. It is about standards around advice, taking of consent and checks.

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

Not-for-profit agencies should only charge on a not-for-profit basis.

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Yes

Please provide your views below:

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Other

Please provide your views below:

Agree but please note responses earlier that say that IPs in the new pathway should not have to apply for a PO

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

No

Please provide your views below:

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

No

Please provide your views below:

55 Consultation Question 47:

Yes

Please provide your views below:

Yes

Please provide your views below:

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

yes

57 Consultation Question 49:

Yes

Please provide your views below:

Please provide your views below:

yes to all

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

only relevant if a genetic link

59 Consultation Question 51:

Yes

Please provide your views below:

Please provide your views below:

no

60 Consultation Question 52:

Please provide your views below:

yes

Please provide your views below:

no

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

yes

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

yes

63 Consultation Question 55:

Yes

Please provide your views below:

Yes

Please provide your views below:

THIS SHOULD ALSO BE ABLE TO BE APPLIED RETROSPECTIVELY, ON A CASE BY CASE BASIS, WHEN IT IS DEEMED IN THE BEST INTERESTS OF THE CHILD TO DO SO

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Yes

Please provide your views below:

Please provide your views below:

65 Consultation Question 57:

Please provide your views below:

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Yes

Please provide views below:

although definition of home should be broad

67 Consultation Question 59:

Other

Please provide views below:

1) YES

2) NO as this is not consistent with other forms of ART. It could be reconsidered for other forms of ART and then reformed holistically but surrogacy should not be different

Please provide views below:

yes

Yes

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Other

Please provide your views below:

Please see previous comments that the IPs should not have to apply for a PO

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Yes

Please provide views below:

70 Consultation Question 62:

Please provide your views below:

No. this is not consistent with other forms of ART. It could be reconsidered for other forms of ART and then reformed holistically but surrogacy should not be different

Please provide your views below:

very broadly and not should discriminate against men or for mental health reasons

71 Consultation Question 63:

Yes

Please provide your views below:

Please provide your views below:

yes

Yes

Please provide your views below:

72 Consultation Question 64:

Yes

Please provide your views below:

Although please note that the IPs should not have to apply for a PO under the pathway, it would be the surrogate who would have to do this.

Please provide your views below:

No - each case should be assessed on the welfare of the child on a case by case basis. Organisations could all have an ethics committee to help with difficult cases

Yes

Please provide your views below:

73 Consultation Question 65:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Yes

Please provide your views below:

Please provide your views below:

75 Consultation Question 67:

Yes

Please provide your views below:

BUT the current quality of implications counselling is appalling and not fit for purpose. The in depth agreement session provided by SUK mediators is much more beneficial for exploring all areas of surrogacy.

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

No

Please provide your views below:

I think this is totally unnecessary and discourage people from using the new pathway. Regulated organisations can preform a check of legal understanding and suggest actions if they deem a basic level has not been met, these may include seeking independent legal advice.

They could also flag only difficult or contentious agreements for legal advice.

I would like to see Gov guidance that explains, in simple language the legal implications of the new pathway.

77 Consultation Question 69:

Yes

Please provide your views below:

Please provide your views below:

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

Absolutely not! please listen to surrogates who do not have children on this issue

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

Yes

Please provide your views below:

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

Not Answered

Please provide your views below:

I think sensible individuals, with the support of regulated organisations, can decide this. I don't think it should be mandated in legislation.

81 Consultation Question 73:

Please provide your views below:

Yes although I think the phrase "essential" is highly subjective and does not stand up to scrutiny. That said I support the items in here as items that should be reimbursed

82 Consultation Question 74:

Please provide your views below:

Yes although I think the phrase "additional" is highly subjective (and judgmental) and does not stand up to scrutiny. That said I support the items in here as items that should be reimbursed

83 Consultation Question 75:

Please provide your views below:

yes. these should also include surrogate's partners expenses or the expense of people that support the surrogate e.g. with childcare

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

yes

85 Consultation Question 77:

Please provide your views below:

1) yes
2) no

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

Please provide your views below:

Absolutely not. Only actual costs that the surrogate incurs should be reimbursed. This category is equivalent to payment for the service of being a surrogate.

If this category were to be allowed, it would fundamentally change the principle of the current law, which is widely supported (and valued) by surrogates and IPs and has formed a vital part of their identity as people who have formed families through surrogacy in the UK. The current law and it's "reasonable expenses" has created a positive culture and practice around surrogacy. This should be protected.

I have not seen any surrogates, let alone a majority, support this category.

Please provide your views below:

Not Answered

Please provide your views below:

It should not be permitted

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

IPs should pay out for a life insurance policy for an appropriate length of time (please see SUK's policy for timeline)

89 Consultation Question 81:

Please provide your views below:

Yes and Yes. In line with other (tax) law on what equates to a modest gift

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

No. please see Q79

Not Answered

Please provide your views below:

It should not be permitted

Please provide any views below:

It should not be permitted

91 Consultation Question 83:

Please provide views below:

yes - SUK has a good policy in relation to this.

Please note a principle of reimbursement needs to be followed through. Only actual costs incurred by the surrogate should be reimbursed

Not Answered

Please provide your views below:

A principle of reimbursement needs to be followed through. Only actual costs incurred by the surrogate should be reimbursed

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Yes

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

Costs of the surrogate's partner or support network that are directly related to the surrogacy journey e.g. time off work

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

Please see Q79

If there is any movement towards a model that allows surrogates to profit from surrogacy then we will have destroyed what is amazing about UK surrogacy. I am proud advocate for surrogacy and a mum to children born through surrogacy. I could not support a commercial model of surrogacy that permits for-profit payments to surrogates.

95 Consultation Question 87:

Please provide your views below:

Parties should sign an affidavit and be held of contempt of court if they break it. A court should be able to force the return of monies to either party

96 Consultation Question 88:

Yes

Please provide your views below:

And also by IPs

Yes

Please provide your views below:

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

Yes

Please provide your views below:

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

Yes

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

Please provide your views below:

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

Yes

Please provide your views below:

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Yes

Please provide your views below:

107 Consultation Question 99:

Yes

Please provide your views below:

108 Consultation Question 100:

Please provide your views below:

Please provide your views below:

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

Yes

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

more training and guidance is needed. this is still an area that is not up to standard

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:
2011

domestic; or

If international, in which country did the arrangement take place?:

Yes

(a) opposite-sex couple;

118 Consultation Question 110:

domestic; or

No

No

Please provide the cost of any legal advice or representation below:

N/A

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

The current law in this respect completely undermined my role as a mother by not recognising my relationship to my child from the moment they were born. It undermined my confidence in my role as their mother

It is the only area of surrogacy that I have not told my children about as they will be devastated to know that they were not always recognised as mine. It is not in line with their identity.

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

If you allow for-profit payments it will restrict accessibility and creation inequality of access

Please provide your views below:

124 Consultation Question 116:

domestic; or

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

Short Form Questionnaire: Law Commissions' Surrogacy Consultation



This form is an extract of the longer form for comments and responses to the Law Commission's and the Scottish Law Commission's consultation about reforming surrogacy law. If you would like to respond to the full version of our consultation questionnaire, please use the online form: https://consult.justice.gov.uk/law-commission/surrogacy. Please see our websites for further details, and for links to download the full consultation paper: https://www.lawcom.gov.uk/project/surrogacy/ and https://www.scotlawcom.gov.uk/law-reform/law-reform-projects/joint-projects/surrogacy/.

We have selected 46 questions which may be of particular interest of **those with lived experience of surrogacy arrangements**: surrogates, intended parents, family members and adult children born of surrogacy arrangements. You do not need to answer all the questions if you do not want to, and you can write as much or as little as you would like in response to our questions.

Please note that we may publish or disclose information you provide us in response to this consultation, including personal information. We ask consultees, when providing their responses, if they could avoid including personal identifying information in the text of their response, particularly where this may reveal the identities of other people involved in their surrogacy arrangement.

For more information about how we consult and how we may use responses to the consultation, please see page i – ii of the Consultation Paper.

HOW TO SUBMIT YOUR RESPONSE USING THIS QUESTIONNAIRE

Type your response into the text fields below and then save your completed form. When you have completed your response, email the completed form as an attachment to surrogacy@lawcommission.gov.uk.

The closing date for submitting a response to our consultation is 11 October 2019.

QUESTIONS ABOUT YOU

What is your name? [redacted]

If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation? **Click or tap here to enter text.**

Are you responding to this consultation in a personal capacity or on behalf of your organisation?
Personal

If responding to this consultation in a personal capacity, which term below best describes you?
Intended Parent

What is your email address?
[redacted]

What is your telephone number?
[redacted]

If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our **privacy notice**, we take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.
Click or tap here to enter text.

Question No.	Consultation Question
Q1	Consultation Question 7. In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have: (1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth, (2) complied with procedural safeguards for the agreement, and (3) met eligibility requirements, on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object. Do consultees agree?
Your Response to Q1	**I agree that the intended parents should be the legal parents at birth. I also agree that the process before conception should be rigorous with both parties being independently advised and represented. However, I strongly disagree that on the birth of the child the surrogate should have a right to object to the intended parents being the legal parents.**

	My husband and I have a baby boy born 11 months ago in California through surrogacy. He is the most beautiful and perfect baby and just looking at him fills our hearts with joy. Our family expanded by more than just one though through this journey as we have a truly wonderful surrogate who we are honoured to have as part of our family now too. **We are both British and chose to go to California because of the legal certainty under the law there. We could not contemplate going through the process under UK law and face the uncertainty throughout the process that the surrogate could change her mind when our baby was born and try to keep him. We suffered very high costs in going to California but we had no choice because the system in the UK where the surrogate could try to keep our baby filled us with terror. We also suffered the distress and difficulty of going through this process so far from home, away from our friends and family.** **We could not have conceived a child if there was a risk that he/she might be taken away from us; to gamble with the future of our baby like this would have felt like the most selfish and reckless act. We could not have done that and we would have remained childless if this was the choice. The world would have been a darker place without our baby's smile.**
Q2	Consultation Question 11. We provisionally propose that: (1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child; (2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and (3) the defined period should be the applicable period for birth registration less one week. Do consultees agree?
Your Response to Q2	**I strongly disagree with the surrogate having a legal right to object to the acquisition of legal parenthood by the intended parents at birth as I think this is detrimental to all parties involved – the intended parents, the surrogate and potentially the baby in the case where the right is exercised. The whole point of allowing the intended parents to be the legal parents at birth is to remove uncertainty (for both surrogate and intended parents) from the process. Introducing a formal, specific and defined right to object for the surrogate as part of the process woud defeat this legal certainty entirely and leave all sides with damaging uncertainty in their minds throughout the process.** **I think it is self-evident that intended parents want certainty (and I have explained that we could not have gone through the process in the UK as this is absent). However, I do not think the current proposals have considered the harm that this right to object would inflict on the surrogates themselves.** **I do not consider it an exaggeration to state that surrogacy (done in the right way) is one of the wonders of our civilisation. It requires the coming together of extraordinary medical technology, social and legal acceptance, dedicated professionals and the most extraordinary altruistic women who act as surrogates**

	(and egg donors). I am concerned that codifying a right to object in the way proposed would inflict harm on the surrogates by removing from them the certainty as they go through the pregnancy and birth. Surrogacy and pregnancy are emotional and difficult experiences and I think the proposals as they stand have overlooked the very significant support that is given to surrogates by the certainty that the intended parents being the parents of the baby at birth would give. A right to object would strip the surrogates of this certainty and introduce a space in their minds where confusion and anxiety could multiply during the pregnancy and around the time of birth when emotions are heightened. **I am also concerned that not allowing certainty in the process by having this right to object will encourage some women to become surrogates who have not properly considered the issues and who should perhaps not act as surrogates. A right to object will plant a seed in the back of people's minds when they are deciding to be a surrogate or not that if they really want to keep the baby once he/she is born then they might be able to.** **Our experience of surrogacy is that once our surrogate had told us that the implantation of our embryo was successful we never felt like "intended parents" at all. There was a pregnancy and we were our baby's daddies. I think that our surrogacy process worked so well because we all had certainty under the Californian legal system and we were able to relax with each other, be open and to build a solid relationship.** **I would like to point out to you that in the drop down menu at the beginning of this form I was asked "which term best describes you" (since I am responding in a personal capacity). The option this consultation document gave me which is closest to what I am was "intended parent". I ask that you reflect on this. Where was the option for "parent of a child born through surrogacy"? I am not an intended parent I am a parent. Our baby was created with my sperm and the egg from an egg donor. My husband and I were our baby's parent from when he was a little blastocyst in a petridish. Our doctor gave us a picture of him then which we show on a big screen at his wedding! We were our baby's parents all the way through the pregnancy when our wonderful surrogate telephoned us with news of his first movement, his first (of many) attacks of the hiccoughs, his first kick and his first bad dream. We have a truly wonderful relationship with our surrogate that has enriched all our lives. We went into the process because we trusted each other but the journey is an emotional one. Who can help but to love a baby? Certainty protects all involved, deepens the trust between them and enables them not to worry. We all felt secure in the arrangement and could actually forget about it and focus on building a relationship with each other that will last a lifetime.** **A right to object to legal parenthood at birth will make the process unnecessarily more stressful for surrogates and intended parents. Certainty would protect both intended parents and surrogates.**
Q3	Consultation Question 12. We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that: (1) the surrogate will be the legal parent of the child;

	(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and (3) the intended parents would be able to make an application for a parental order to obtain legal parenthood. Do consultees agree?
Your Response to Q3	**As I have set out above, I profoundly disagee with the concept of the surrogate having a right to object as I believe this to be harmful to surrogates, intended parents and possibly the baby where this right is exercided. I believe the intended parents should be the legal parents at birth and not after a fixed period after birth.** **However, if this right to object is maintained then I would support points 2 and 3 here but would object to the surrogate being the legal parent of the child if she objects. I believe that this status would serve to encourage surrogates to register their objection – even if their claim was baseless they may feel that want the baby to know when he or she grows up that they cared so much that they wanted to keep him/her.** **What new parents want and indeed need is certainty. Being a new parent is a thrilling and a very emotional experience. It is also exhausting. A legal dispute at this stage would be profoundly damaging to the new parents and the surrogate. All of this should be settled before birth.** **It may sound obvious but do not lose sight of this being a surrogacy arrangement. If each side are properly advised and represented at the start of the process and each side are competent adults then there should only be one outcome from surrogacy arrangement and that is that the baby is the intended parents'.** **Having gone through a surrogacy arrangement the presumption of the outcome for all concerned should be that the intended parents are the legal parents at birth. We never thought of our surrogate as our baby's "parent" at any stage. She was not. We were always his parents. If I'm honest the thought seems obscene (and I use the word deliberately). Our surrogate was our baby's surrogate; she is a truly wonderful woman who we are in awe of and she will be a part of our family forever but she was never our baby's "parent".** **Introducing a twilight period shortly after birth where one "parent's" status or rights over the child are extinguished in favour of the emerging rights of the intended parents does not benefit anyone. We're not there yet but older children's story books will confirm that twilight is when bad things can come out at twilight.** **The last thing people need is a lengthy period of uncertainty when this period is when everyone needs to adjust.** **I believe that in such circumstances it should be the intended parents who should act as the "guardians" of the baby (with full parental rights and responsibilities – except perhaps the right to obtain a passport and leave the country) and that they should have custody of the baby until the court resolves the issues and issues a parental order.** **The preparation and legal process before conception should ensure that process before conception The rigorous process that each party goes through before conception should ensure that well informed adults who go through the process**

Q4	Consultation Question 15. We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child. Do consultees agree? We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.
Your Response to Q4	**As set out above I disagree that the surrogate should have a right to object after birth. The intended parents should be the legal parents from birth.** **However, I agree that if this right is retained in the new pathway and the surrogate exercises this reight to object then the surrogate's spouse or civil partner should not be a legal parent of the child.** **I also disagree that in the event of a surrogacy arrangement outside of the new pathway that the surrogate's spouse or civil partner should be a legal parent.**
Q5	Consultation Question 27. We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway: (1) the intended parents should acquire parental responsibility on the birth of the child; and (2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order. Do consultees agree?
Your Response to Q5	**I agree that intended parents should have parental responsibility form birth.** **If the right to object is retained under the new pathway (I object to the right for the surrogate for reasons already stated) then the intended parents should continue to have parental responsibility for the child in all circumstances until the parental order is issued bythe court.** **I question the point here about "where the child is living with them". It is not clear what circumstances the question Is seeking to exclude. I think the matter is straightforward – the intended parents should have full parental responsibility from birth unless and until this responsibility is extinguished by a parental order or another order from the court.**

	The presumption should be in favour of the intended parents and the default position under the new pathway should be that they have full parental responsibility unless a court rules otherwise. Again, clarity helps everyone.
Q6	Consultation Question 28. We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object. Do consultees agree?
Your Response to Q6	**I could not disagree more. I have been through a very successful surrogacy process in California where we were the legal parents from the moment of birth. It would be a huge mistake and lost opportunity for the new process to impose this responsibility on surrogates just after they have given birth.** **Birth can be a very emotional and confusing time and I think this suggestion may be well intentioned but in practice is is cruel to both the surrogate and the intended parents. I think the process is made much more painful for the surrogate if there is a voice inside her head when she first looks at the baby and knows that she is the legal parent. Or to use a more powerful word – the baby's mother. She is not and a well advised and well prepared surrogate would know she is absolutely not this.** **I believe it would add emotional turmoil to bothe r surrogate and the intended parents. What people need is certainty. Certainty and clarity is a huge support for everyone in a difficult and emotional situation. Blur these lines just a little and you make the process unnecessarily more difficult for everyone.** **When our baby was born he was our baby. Everyone knew this and it was handled by the hospital in a very sensitive way. We spent time with our surrogate after our baby was born because the certainty of the Californian legal process meant we all knew where we stood and could relax.**
Q7	Consultation Question 29. For all surrogacy arrangements, we invite consultees' views as to: (1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and (2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.
Your Response to Q7	**I do not believe there should be any shared period of parental responsibility. This approach seems very harmful indeed. This seems like a fudge that is trying to please everyone. What people need is certainty.** **However, if the new process retains this right to object (and period of muddled, overlapping or confused parental responsibility – please chose the word you feel**

	most appropriate) then there absolutely would need to be some restrictions on the exercise of parental responsibility. **As to what those restrictions are I think this is a huge can of worms. Something like not being able to obtain a passport or travel outside of the UK would seem obvious but then you quickly get to medical questions and how on earth do you reslve conflicts here when one person with parental responsibility wants one things and another wants the opposite.** **There are myriad reasons why overlapping parental responsibility is inappropriate and should not form part of the new pathway. This could make the situation more painful and difficult for everyone and harm baby, surrogate and intended parents.** **The intende parents should have legal and parental responsibility at birth and if this is not the case under the new pathway then the presumption should be in their favour so even if they are not legal parents they should have parentlay responsibility with the one exception that they could not travel outside the UK.**
Q8	Consultation Question 55. We provisionally propose that: (1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available; (2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances: (a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or (b) following a determination by the court that the child should live with the intended parents; and (3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007. Do consultees agree?
Your Response to Q8	**1. Agree – except I think all this should be settled before birth so when the baby I sborn the legal process is already complete.** **2. Agree – except I do not believe the surrogates consent should be required for the baby to live with the intended parents. The intended parents are the parents, the surrogate is not.**
Q9	Consultation Question 30.

	We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway. Do consultees agree?
Your Response to Q9	**Agree.**
Q10	Consultation Question 32. We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway. We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.
Your Response to Q10	**Agree.** **Intended parents and surrogates should have the option of clearing agreeing arrangements between themselves that go beyond what it proposed in the new pathway.** **The option should be open to surrogates and intended parents to agree everything before the baby is born and for the court to agree that the intended parents are the legal parents from birth.** **It appears from the consultation that the new pathway does not seek to allow this which I think is a significant mistake. It was the certainty of our process (under Californian law where we were the legal parents from birth and the surrogate had no right object) that enabled all of us to relax and build such a good relationship.** **There is so much to think about and do with a new baby having legal uncertainty and indeed a possible fight for your own baby is a truly horrendous thought. We could not go through the process with such risks and would still be forced to go to California under the system that the consultation proposes.**
Q11	Consultation Question 67. We provisionally propose that, as a condition of being eligible for entry into the new pathway: (1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and (2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15. Do consultees agree?

Your Response to Q11	**Click or tap here to enter text.**
Q12	Consultation Question 68. We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?
Your Response to Q12	**I strongly agree.** **Our experience in California was that we and our surrogate each had independent legal advice and this was invaluable to both sides. We had a very detailed surrogacy agreement and we were guided through all of the questions by the very knowledgeable and sensitive professionals involved.** **THe result of thie independent legal advice was that both sides were able to discuss and agree on a whole range of questions and scenarios and we settled everything in advance of the pregnancy. I cannot emphasise enough how beneficial this was. Propper legal advice allowed us to agree everything in advance which then allowed us to become the legal parents during the pregnancy under the system in California and this supported all of us being able to relax and build a solid relationship. Apart from the expense and distance which were both very painful we think of our experience of surrogacy as bing a kind of gold standard.**
Q13	Consultation Question 88. We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate. Do consultees agree? We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle. Do consultees agree?
Your Response to Q13	**I agree that the financial terms of the agreement should be enforceable by the surrogate.** **The second question here is more complicated. I would like to say yes but I think that in a situation where a surrogate takes illegal drugs, smokes cigarettes or drinks alcohol when they have said they don't or won't do these things it does seem wrong that the court can't impose a penalty for this. However, the imposition of such a penalty and the process of the court deciding this seems rather patriarchal or misogynistic.** **I think that wiser heads than mine should decided this so I would susgest some discretion to amend the financial settlement but that the default should be that the settlement is not amended by the court unless there is a very significant reason for**

	doing so. And by that I mean that is the surrogate causes genuine harm to the baby during the pregnancy and that this harm is directly linked with the lifestyle factors. I am thinking in terms of foetal alcohol syndrome, HIV infection, direct physical harm, damage by drugs etc. I am not talking about not limiting diet to organic food or not refraining from the occasional glass of wine. **It is only the surrogate who can keep the baby safe during the pregnancy – it is therefore only she who can bear this responsibility and the courts should have some way of encouraging the responsible care of this unborn baby.**
Q14	Consultation Question 42. We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?
Your Response to Q14	**I agree. The current ban pushes discussion of surrogacy under the table and makes people think negatively of it. Surrogacy is a wonderful thing. Our surrogate is a truly wonderful woman!**
Q15	Consultation Question 62. We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity: (1) for cases under the new pathway to parenthood; and/or (2) for cases where a post-birth parental order application is made. We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.
Your Response to Q15	**I would support both of these points. Surrogacy should not be for those who can have a baby normally and who just choose not to. There could turn out to be rather a lot of those people and they will reduce the number of willing and able surrogates who are able to work with people who genuinely can't have a child of their own naturally. Surrogacy is a precious thing and it is the only way that many couples (such as mine – 2 gay men) can have a baby. It is such a major life decision it should not be done on a whim by those who could have a child naturally. Altruism and necessity are both major parts of the surrogacy equation and without these yu end up with a commercial arrangement that appears to me to be exploitative.**
Q16	Consultation Question 70. We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.
Your Response to Q16	**I would agree with this requirement being retained in the new pathway. I think this is a really important factore as regardless of who one reads or what advice one receives beforehand a woman cannot know what going through a preganicncy and having a baby is like until they have done it. In California our agency would only work with surrogates who had at least one child already AND who had decided that they did not want any more children of their own.**

	Our surrogate had one child already who was around 7 at the start of the process and was very clear that she did not want to have more children herself. I think this helped her emotionally as she went through the process and she told me when we were all in the hospital together after our baby was born (and it was time for us to take him home) that it was hard but she always knew, all the way throught the process that he was our baby and not hers. We were both in floods of tears but we all had certainty and it helped all of us.
Q17	Consultation Question 33. We provisionally propose that: (1) there should be regulated surrogacy organisations; (2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and (3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation. Do consultees agree?
Your Response to Q17	**I agree with all three points here.**
Q18	Consultation Question 35. We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?
Your Response to Q18	**I agree with this.**
Q19	Consultation Question 37. We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree? We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.
Your Response to Q19	**I agree with both points.** **Only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in and outside of the new pathway.**
Q20	Consultation Question 59. We provisionally propose that the new pathway –

	(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but (2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility. Do consultees agree? We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements. We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements. Do consultees agree?
Your Response to Q20	**I agree with both points 1 and 2.** **I would also agree that double gamete donation should be permitted under the parental order pathway in domestic surrogacy arrangements.** **I do not have a view on whether double gamete donation should be allowed in the case of international surrogacy arrangements.**
Q21	Consultation Question 46. We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings. Do consultees agree?
Your Response to Q21	**I agree.**
Q22	Consultation Question 47. We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors. Do consultees agree? We provisionally propose that: (1) the register should be maintained by the Authority; (2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has

	contributed gametes for the conception of the child has been medically verified, and that the information should include: (a) identifying information about all the parties to the surrogacy arrangement, and (b) non-identifying information about those who have contributed gametes to the conception of the child; and (3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies. Do consultees agree?
Your Response to Q22	**I strongly agree with all points.** **Before surrogacy we were approved for adoption and we learned how important it is for children (and adults) to have access to the information they want about their history (in an age appropriate way) as this impact on their identity throughout their life.**
Q23	Consultation Question 48. We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.
Your Response to Q23	**I agree with this – and it would perhaps allow some disclosure at an earlier age than 18.** **I think keeping surrogacy a secret from a child born through surrogacy would be terrible and the process and courts should help to ensure this doesn't happen. Storing up secrets like this for a big reveal (intentional or unintentional) down the line couldbe very damaging to a child and adult.**
Q24	Consultation Question 49. We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request. Do consultees agree? We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances: (1) where his or her legal parents have consented; (2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or (3) in any other circumstances.

Your Response to Q24	**I don't agree that surrogacy is like adoption where the child can be denied access to information. I think surrogacy is different. I think the question of information access is one with the surrogate and intended parents to agree before conception in the surrogacy agreement. If the surrogate wishes contact to be open then the child should know who she is at whatever age if the parents agree.** **If the surrogate does not wish the child to know then the child should be able to access non-identifying information at any age with their parents' consent, at 15 without their consent and then identifying information at age 18.** **I agree with this and I would suggest given the safeguards (parents' approval, counsellor's approval) that it could be appropriate for the age to be lower than 16 for non-identifying information. I would suggest certaintly 15 and possibly 14. Those ages can be difficult if children are trying to work out their identity and access to no identifiable information may be helpful.**
Q25	Consultation Question 51. We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so. Do consultees agree? We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.
Your Response to Q25	**I agree that genetically related individuals born of the same surrogate should be able to identify and contact each other if they want to.** **I do not have a view on whether non-genetically related individuals should be able to identify each other.**
Q26	Consultation Question 52. We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so: (1) if they are genetically related through the surrogate; and/or (2) if they are not genetically related through the surrogate.
Your Response to Q26	**I agree if genetically related** **I do not agree if not genetically related**
Q27	Consultation Question 53.

	For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.
Your Response to Q27	**Yes they should. They are part of the child's history.**
Q28	Consultation Question 72. We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be: (1) based on an allowance; (2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or (3) based on costs actually incurred by the surrogate, and only on production of receipts.
Your Response to Q28	**I'm not sure this is very important. Our experience was where the surrogate had to produce receipts and this worked ok. It does require extra administration costs though so in order to minimise the admin costs involved I would be most in favour of option o1 - this being being done on the basis of an allowance.**
Q29	Consultation Question 73. We invite consultees' views as to: (1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and (2) the types of expenditure which should be considered "essential".
Your Response to Q29	**I agree.** **I also think this definition should be drawn pretty widely. Housecleaning, additional food, clothing allowance, driving to appointments, lost earnings, hoitel stays for medical appointments, prescription and medical costs where appropriate, life insurance costs where appropriate.**
Q30	Consultation Question 74. We invite consultees' views as to: (1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and (2) the types of expenditure which should be considered additional, rather than essential.
Your Response to Q30	**I agree.** **Pregnancy can be stressful. Intended parents should be able to pay for the surrogate to go and have a massage or go and have her hair done. Little things like this should not be excluded as it helps smooth the process for all.**
Q31	Consultation Question 75.

	We invite consultees' views as to: (1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and (2) the types of cost which should be included within this category.
Your Response to Q31	**I agree.**
Q32	Consultation Question 76. We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).
Your Response to Q32	**I agree.**
Q33	Consultation Question 77. We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings: (1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or (2) other lost potential earnings (as defined in paragraph 15.36 above).
Your Response to Q33	**Click or tap here to enter text.**
Q34	Consultation Question 78. We invite consultees to share their experiences: (1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and (2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.
Your Response to Q34	**We did not experience this but we think the intended parents should be able to cover all these costs if they want to. They of course have the option of choosing to work with a different surrogate.**
Q35	Consultation Question 79.

	We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following: (1) pain and inconvenience arising from the pregnancy and childbirth; (2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or (3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy. We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation. We invite consultees' views as to whether the level of compensation payable should be: (1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or (2) left to the parties to negotiate.
Your Response to Q35	**I agree that the parties should be able to pay compensation for all of these expenses.** **I also think that surrogates whoi have been a surrogate before should be able to receive an extra amount to reflect that they are doing the process again and have experience. These surrogates would provide additional reassurance and support to intended parents because eof their previous experience.** **I think that a maximum cap on these figures should be set by the regulator as given there are so many variables it will make the process easier to understand if the overall financial arrangements for surrogacy are similar regardless of which agency one goes to.** **However, I do not think though that the payment caps should be set by the regulator at such a low level to ensure that all surrogacy arrangements have the same costs. I think there should be more flexibility to allow some surrogates to be paid more than others. Our surrogate would be top of the pile as she is amazing!**
Q36	Consultation Question 80. We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.
Your Response to Q36	**I not only agree with this I think it is essential. We paid for a life insurance policy for our surrogate as pregnancy and childbirth still carry some risk of serious injury or death. We would not have wanted to go ahead unless we could put something like this in place for our surrogate and her family. This helps everyone's peace of mind. I cannot think of a single reason why this might be prohibited.**
Q37	Consultation Question 81.

	We invite consultees' views as to whether: (1) intended parents should be able to buy gifts for the surrogate; and (2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.
Your Response to Q37	**I do agree that the intended parents should be able to buy gifts for the surrogate.** **I also agree that specific provision should be made for these gifts to be modest or reasonable in nature.**
Q38	Consultation Question 82. We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be: (1) any sum agreed between the parties to the surrogacy; or (2) a fixed fee set by the regulator. We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee: (1) no other payments; (2) essential costs relating to the pregnancy; (3) additional costs relating to the pregnancy; (4) lost earnings; (5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or (6) gifts.
Your Response to Q38	**I agree that payment should be allowed but think that this should not be any sum. It should be set by the regulator and should be capped rather than fixed. In relation to the other costs/payments listed, I think these should be allowed but it is important that the rtegulator structures this so that the more other costs are allowed, the lower the payment for the 'service'. It is important that surrogets are not exploited but it is also important that intended parents are also protected from exploitation.** **It is important not to lose the altruism element of the motivation and balance this with a fair financial package. I know our surrogate did not do it for the money but equally I do not believe that she would have done it (or perhaps been able to do it) if the financial package she received was not fair.**
Q39	Consultation Question 84.

	We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?
Your Response to Q39	**I agree.**
Q40	Consultation Question 85. We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.
Your Response to Q40	**Click or tap here to enter text.**
Q41	Consultation Question 92. We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child. Do consultees agree?
Your Response to Q41	**Yes. This process should be made as smooth as possible.**
Q42	Consultation Question 94. We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth. Do consultees agree? We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules. Do consultees agree? We provisionally propose that: (1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or (2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate. Do consultees agree?

	We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.
Your Response to Q42	**I think the time limit should be extended to one year but there should be a special process where this can still be done if the time limit is missed.** **Our child was born in California during the mid-term elections when President Trump was threatening to remove birthright citizenship by an executive order. We were terrified about this happening before we could obtain a US passport for our child as we could have been stuck in the USA for months trying to obtain a UK Passport for our child. I think the risks here should be urgently addressed and there should be some way of obtaining a passport of other travel documents form the UK for our baby even if the intended parents and baby are abroad.** **This was the most significant problem we encountered in our surrogacy journey and we could have so easily been trapped in a foreign land with our baby who would have been effectively stateless. THe UK need to have a clear a rapid process for this kind of situation.**
Q43	Consultation Question 95. We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child. Do consultees agree?
Your Response to Q43	**Click or tap here to enter text.**
Q44	Consultation Question 97. We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?
Your Response to Q44	**Yes**
Q45	Consultation Question 99. We provisionally propose that: the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal

	parents in the UK, without it being necessary for the intended parents to apply for a parental order, but before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law. Do consultees agree?
Your Response to Q45	**Yes. This sounds like a very good idea. In California we obtained a court order before birth that we were our baby's legal parents in the US. We should dhave been able to use this court order in the UK to establish the same rights and then when our baby was born we could have gone to the UK embassy or consultate and obtained a UK Passport for our baby.**
Q46	Consultation Question 107. We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area. We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales. We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.
Your Response to Q46	**The NHS should recognise the intended parents at birth as the only people who can exercise parental responsibility for the child. THe child should dbe in the custody of the intended parents from birth and not the surrogate.**

END OF QUESTIONNAIRE – HOW TO SUBMIT

Thank you for completing this form. To submit it as a formal response to the Law Commission, save your completed form and email it as an attachment to surrogacy@lawcommission.gov.uk. Please note that the deadline for responding to our consultation is **11 October 2019**.

Response ID ANON-2V7F-YJRU-F

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 19:01:37

About you

1 What is your name?

Name:
Rose-Marie Drury

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

Mills & Reeve LLP - Family and Children team

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a response on behalf of an organisation

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Legal practitioner

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

No

Please provide your views below:

Whilst allocation to a judge of the High Court provides certainty that the judge dealing with the matter will have the relevant expertise to deal with the case we believe that other judges can be ticketed to ensure they have the appropriate expertise.

Simply because the case is an international surrogacy arrangement does not mean that it needs the expertise of the High Court judiciary.

Ticketing of other levels of judiciary would alleviate pressure upon the High Court workload. This would enable cases to be dealt with more quickly whilst ensuring an appropriate level of expertise of judicial oversight.

Please provide your views below:

We agree that circuit judges should be ticketed to hear international surrogacy cases. We believe that district judges could also be appropriately ticketed to deal with some international surrogacy arrangements – see further in response to consultation question 3.

9 Consultation Question 2:

Please provide your views below:

1) We are concerned that lay justices do not necessarily have the experience to adequately scrutinise cases falling outside the new pathway.

2) We would suggest that, in the first instance, district judges could be allocated domestic surrogacy cases falling outside the new pathway with complex cases, for example where the surrogate exercises her right to object, being allocated to a circuit judge or to the High Court either at gatekeeping stage or at a directions appointment.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

As noted in paragraph 6.36 of the consultation not all international cases raise issues of additional complexity. For example applicants who do not have any connections with other countries, are clearly domiciled in England, are able to clearly demonstrate informed consent of the surrogate and have a clear record of payments made which are within the range of those approved to date by the court for that jurisdiction, do not raise additional elements of complexity simply by virtue of being an international surrogacy arrangement.

It seems at odds with a claimed justification of complexity that domestic cases where a respondent does not agree to the making of a parental order, and so are arguably more complex cases, are allocated to a circuit judge.

Unlike international adoption cases which may involve issues relating to recognition of orders made overseas a parental order only involves consideration of whether the English statutory criteria are met and does not in itself give rise to additional complexity.

As set out above we consider that district judges could be appropriately ticketed to deal with domestic cases outside the pathway and international cases. District judges are already allocated private law cases involving international elements such as leave to remove to 1996 Hague Convention or EU countries, private law cases where significant factual matters are in issue and public law cases involving serious allegations.

We believe that clear guidance on allocation for gatekeeper's similar to the President's Guidance for Allocation and Gatekeeping for Proceedings under Part II of the Children Act 1989 and Allocation and Gatekeeper for Care, Supervision etc under CA 1989 Pt IV and oversight by the area's Designated Family Judge would ensure that cases are allocated appropriately, wherever possible at gatekeeping stage, whether that be at district, circuit or High Court level.

The C51 application form could include the option to state any indication by the parties/their legal advisers as what level they consider the case should be allocated to with the reasons why. This may help ensure at any early stage prior to a directions appointment complex cases are allocated to a circuit or High Court judge. This would be a similar to the approach taken to allocation of financial remedy cases to a High Court judge for which a certificate of complexity is used by legal advisers.

11 Consultation Question 4:

Yes

Please provide your views below:

Such a proposal would help to ensure that at the earliest stage intended parents are granted parental responsibility without the need for an additional application to be submitted to the court, thereby removing additional legal costs and court fees. We believe that this change will be particularly beneficial to litigants in person who may not otherwise be aware that they could apply for parental responsibility at a first directions hearing.

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

We agree that there should be greater transparency regarding parental order reports. In our experience intended parents can find the need for a report to be a cause of worry and are understandably concerned to know, as soon as possible, what the report states.

Given that reports are usually subsequently released to the parties we believe that the proposal to release the report by default is sensible. It reflects the approach in private law proceedings where reports are served on parties by default pursuant to FPR PD16A para 9.4(e) unless otherwise directed by the court.

If there are concerns about release of the report to the intended parents then the parental order reporter may apply to the court for directions.

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

Other

Please provide your views below:

We agree that subject to the proposed requirements intended parents should be recognised as legal parents at birth. This reflects the intention of the parties' in entering into the surrogacy arrangement. Moving recognition of parentage to a pre-conception approach bring surrogacy law in line with the acquisition of parentage where married couples use a sperm donor or for unmarried couples use a sperm donor at a licenced UK fertility clinic.

We disagree that the acquisition of parentage should be subject to the surrogate's right to object. The surrogate's right to object creates a period of potential uncertainty as to legal parentage. As proposed it also creates a situation where legal parentage may change from the intended parents to the surrogate simply on the provision of notice by the surrogate. If a parental order is subsequently granted this will mean in a short period of time a child will have had three changes in their parentage (the intended parents at birth until the right to object is exercised, the surrogate once the right to object is exercised and the intended parents once a parental order is granted). We do not believe these changes in parentage are in a child's best interests and may present a confusing narrative for children to understand the period in which parentage was lost by their intended parents.

If implemented we are also concerned this is likely to be particularly problematic for intended parents who will in effect be obliged to prove a negative – for example to prove parentage (or if parental responsibility is not granted and retained by intended parents at birth) the intended parents who will need to show not only have they complied with the new pathway but also their surrogate has not objected at that point in time.

If the right for a surrogate to object is implemented as part of the new pathway then we would propose that the surrogate should become a legal parent at the point of exercising of her right to object with the intended parents remaining legal parents (and so there being three-parents) rather than the surrogate's right to object transferring parentage from the intended parents to the surrogate.

15 Consultation Question 8:

Other

Please provide your views below:

We agree that there may be an interest in records being maintained for the benefit of the children born through surrogacy arrangements who will have an interest in accessing those records. Given the proposal for the birth registrar to be able to confirm with the surrogacy organisation (or a clinic) that the arrangement meets the new pathway we anticipate that the records will not need to be maintained to establish legal parentage. We would support consideration of whether, having had such confirmation and proceeding to register the birth certificate there should be a statutory presumption that the requirements of parentage will have been complied with to reduce the prospect of subsequent disputes or uncertainty as to legal parentage arising as have arisen in the HFEA 2008 alphabet cases.

We believe it would be preferable for records to be centrally filed and maintained to avoid issues arising with different practices of record keeping within individual organisations, failure to maintain standards of record keeping or which may arise for example if an organisation or clinic ceases to exist. This will help avoid problems such as those caused by record keeping practices in fertility clinics as dealt with by the Family Court in the HFEA 2008 alphabet cases.

100 years; or

Please provide your views below:

We agree that 100 years would be an appropriate period to cover the length of the life of any surrogate born child.

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

No

Please provide your views below:

We do not agree that the use of anonymously donated gametes in a traditional surrogacy arrangement should prevent a regulated surrogacy organisation being involved provided that the organisation is not involved in the acquisition or importation of the donated gametes.

Individuals reasons for using anonymously donated gametes are likely to vary but will, in our experience, often reflect the lack of availability of suitable donors with similar characteristics to the intended parents in the UK.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

We do not agree that the use of anonymously donated gametes should prevent the new pathway applying for the reasons set out in response to consultation question 9.

18 Consultation Question 11:

Other

Please provide your views below:

As explained in response to question 7 we do not agree that the acquisition of parentage by the intended parents should be subject to the surrogate's right to object or to acquire parentage. Our responses in relation to the right to object have been answered on the basis that a right to object ultimately be supported by the majority of responses.

If there is a right to object or a period of time during which a surrogate may acquire legal parentage by provision of notice then:

(1) We agree that this should be for a fixed period after the birth of the child to provide certainty.

(2) We agree the right should operate on provision of a written notice. We would suggest a requirement for the regulator to acknowledge receipt of the notice should be imposed to avoid situations arising where a surrogate claims she has provided notice but there is a dispute as to whether or not that has been received.

(3) We would suggest that there should be one time period applicable to the UK and there should not be a difference between the length of time a surrogate may object if the child is born in Scotland as compared to England and Wales. Given the shorter time period for birth registration to take place in Scotland we would propose that the period of 14 days from birth be used.

19 Consultation Question 12:

Other

Please provide your views below:

If there is a right to object or a period of time during which a surrogate may acquire legal parentage by provision of notice then:

(1) We agree.

(2) We would propose instead that both intended parents remain legal parents and so there is a temporary period of three person parentage.

(3) We agree.

20 Consultation Question 13:

Other

Please provide your views below:

If there is a right to object/acquire parentage:

(1) and (2) We agree but would suggest that the intended parents should be able to provide a declaration that if at any stage the surrogate has lacked capacity (for example because she has been unconscious) that she has recovered capacity prior to the period in which she had the right to object expiring rather than requiring the surrogate to give positive consent.

(3) We agree that if the surrogate does not have capacity at the expiry of the period then the parental order process should be available to the intended parents. We would suggest that this may be subject to the ability to return to the pathway or to a shortened parental order process if the surrogate regains capacity prior to a parental order being made.

21 Consultation Question 14:

Yes

Please provide your views below:

We agree subject to the additional requirements of the new pathway for health screening, mental health assessments and criminal background checks being imposed. Without these requirements we believe that the procedure of completing a welfare of the child form is too reliant on self-disclosure and that otherwise a welfare assessment post-birth would be required.

22 Consultation Question 15:

Yes

Please provide your views below:

If there is a right to object we agree the surrogate's spouse or civil partner should not be able to acquire legal parenthood through the exercise of that right.

Yes

Please share your views below:

We agree given the uncertainty that may arise as to whether or not the matter is a surrogacy arrangement or a donor arrangement to provide certainty as to parentage the surrogate's spouse or civil partner should be a legal parent unless it can be shown that she/he did not consent as per s35 and s42 HFEA 2008.

We would support a distinction being drawn between a spouse or civil partner who may be supportive of the pregnancy but may not consent to being a legal parent, for example by provision of a written notice that they do not consent prior to conception taking place. Whilst the issue of whether or not a spouse/civil partner 'does not consent' is one of fact it is generally accepted that where a couple remain in a conventional relationship and the spouse/partner is supportive of the pregnancy that it is not possible to show that they did not consent.

23 Consultation Question 16:

Yes

Please provide your views below:

We believe in the context of stillbirth the right to object to parentage would be a cause of considerable upset to intended parents who will be dealing with a very significant bereavement. It would be preferable that in the new pathway, in the same way the intended parents are the parents from birth in a still birth the intended parents are treated as the legal parents. If a right to object is imposed in the new pathway we believe in the context of a stillbirth this right should not exist. However, if it does then we agree that the proposals would provide a practical way forward. We do not believe that there should be a period during which the surrogate cannot provide the necessary consent.

Yes

Please provide your views below:

We agree and believe this would be widely supported by intended parents and surrogates. We do not believe that there should be a period during which the surrogate cannot provide the necessary consent.

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Yes

Please provide your views below:

We agree and believe this would be widely supported by intended parents and surrogates. We do not believe that there should be a period during which the surrogate cannot provide the necessary consent.

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

We would support the arrangement remaining within the new pathway and the intended parents acquiring legal parentage at birth provided that at the time of the surrogate's death there has been no exercise of her right to object.

In the context of the surrogate's death the issue of a right to object may give rise to inheritance issues if she is treated as a legal parent at birth and the intended parents must then apply for a parental order. For example if the surrogate has not made a Will excluding the child from inheriting from her.

26 Consultation Question 19:

Yes

Please provide your views below:

If there is a right to object we agree that the intended parents should be registered as the child's parents subject to that right. As addressed below we would support the ability for those caring for the child to make a posthumous application for a parental order conferring legal parentage on the intended parents where the arrangement falls outside the pathway.

Please provide your views below:

(1)(a) and (b) - we agree with the proposals as recognising the reality that the child may be cared for by a person(s) other than the surrogate.

We would support the court being able to dispense with the surrogate's consent, even in the event of the death of the intended parents. As detailed in response to questions addressing the ability to dispense with the surrogate's consent we do not consider the issue of legal parentage should be linked to welfare issues of who the child lives/spends time with. Within the context of the new pathway we support issues of parentage being treated as distinct from welfare decisions about the arrangements for the child as they are for example in the context of s36 and s43 HFEA 2008.

Although one option instead of requiring a parental order application would be to permit registration of the intended parents as the child's parents, subject to the provision of a declaration that the requirements as to a parental order have been met, in a similar manner to that proposed in the event of a stillbirth/death of a child prior to a parental order, we consider this may lead to cases of intended parents being registered as the child's parents for the purposes of inheritance claims by the person caring for the child and on balance the oversight of the court as to whether such an order is in the child's best interest is preferable.

(2) We do not believe that this is an appropriate alternative to allowing an application for a parental order. We believe that being unable to register the intended parents as the child's parents will only add to the loss the child suffers. Not only have their intended parents been lost but they are permanently unable to secure recognition of their legal relationship with those persons.

27 Consultation Question 20:

Yes

Please provide your views below:

We agree with the proposals. We would support parental orders being extended to two parties who are not in an enduring family relationship. At present intended parents who are unmarried but separate during the pregnancy or are in a platonic relationship must either accept that one will not be a legal parent or a parental order cannot be granted and recourse has to be had to mechanisms such as wardship which are no substitute for conferring legal parentage. We believe this is discriminatory given that married couples who may be in a platonic marriage or who may be separated but remain legally married.

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

We believe that the granting of legal parentage from birth to only the intended parents is preferable to a three-parent model as it reflects the parties' intentions in entering into a surrogacy arrangement.

If a three-parent model were to be preferred we would support a model based upon lapsing of the surrogate's legal parenthood as we believe this provides the simplest mechanism for a transfer of parentage. It avoids the surrogate or intended parents having to take further active steps to confer parentage solely on the intended parents at a time when the surrogate will be recovering from the birth and the intended parents will be occupied with caring for their newborn child.

We believe a model based upon the surrogate providing consent may pose difficulties in the event of the surrogate being unable to consent (for example in the event of incapacity/death). Although instances of surrogates not consenting are rare many intended parents will (as is our experience that they currently are) be worried that the surrogate is able to object to sole legal parentage being conferred on them.

We believe a move to a model where parentage is extinguished by court order would still mean intended parents face the practical hurdles and time/cost/stress of applying for a parental order. Given the safeguards proposed under the new pathway we do not believe the post-birth process of a parental order should be required for surrogacy under the pathway.

29 Consultation Question 22:

Please provide your views below:

We do not believe additional oversight is required if the safeguards under the new pathway are met. Effective regulation should ensure that these are maintained. In the event that further oversight is considered preferable we believe this would be best achieved by administrative oversight akin to an adoption panel rather than the court system which is already overburdened with private and public law cases.

30 Consultation Question 23:

Please provide your views below:

We do not believe the welfare checklist requires amendment and, as set out elsewhere in our response we support the issue of dispensing with the surrogate's consent in relation to legal parentage as being separate to disputes over who the child lives with.

We are concerned that importing the parties' intentions in entering into the arrangement as a specific factor to consider in the welfare checklist in the context of section 8 applications risks elevating that intention as being determinative in the assessment of the child's welfare. The court is already able to take into account the parties' intentions as part of the factual matrix in assessing the child's welfare.

31 Consultation Question 24:

Please provide your views below:

We support the parties' intentions being considered as a specific factor in the context of whether or not to grant a parental order application. We believe that consideration of intention is particularly relevant to issues of legal parentage. Such an inclusion would bring move the law in relation to acquisition of parentage in a surrogacy context closer to the law in relation to acquisition of parentage in a sperm donor context which is reliant on intention.

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

We support such a recommendation as removing what is otherwise an unnecessary hurdle and additional step for intended parents bringing section 8 applications. It is difficult to conceive of a situation in which the court would not grant leave to bring an application to intended parents in this context.

33 Consultation Question 26:

Yes

Please provide your views below:

We agree that this would, on a practical basis, be a sensible proposal. We suggest that parents could provide proof of parental responsibility, which might be required by third parties such as health professionals, by means of a signed declaration.

34 Consultation Question 27:

Other

Please provide your views below:

(1) We agree that intended parents should acquire parental responsibility on the birth of the child although we note this would create a disparity in their position when compared to unmarried father's/second legal parents who only acquire parental responsibility upon registration on the birth certificate. However, we believe that this is indicative of the necessity for reform of the law relating to parental responsibility more widely rather than a reason intended parents should not acquire parental responsibility on birth.

(2) We believe that the intended parents should continue to have parental responsibility unless otherwise ordered by the court and this should not be dependent upon the child living with the intended parents since, in the event of a surrogate exercising her right to object, it is likely this issue will be contested.

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

No

Please provide your views below:

We would propose that a surrogate should only acquire parental responsibility if the right to object is exercised. There would, if the intended parents have parental responsibility, be no need for the surrogate to have parental responsibility. Granting the surrogate parental responsibility would seem unnecessary if she is not a legal parent and does not intend to exercise her right to object.

36 Consultation Question 29:

Please provide your views below:

(1) We do not believe that it is necessary for there to be an automatic restriction on the exercise of parental responsibility since, if there are issues relating to the exercise of parental responsibility these are best addressed by the court upon consideration of the issue in dispute. However, in our experience, we believe intended parents would welcome the surrogate being prevented from exercising parental responsibility.

(2) If the child is living with the intended parents it seems less likely there will be a dispute as to the exercise of parental responsibility and so on balance we would support the surrogate's right to exercise parental responsibility being restricted where the child lives with the intended parents. We would not support intended parents parental responsibility being restricted if the child lives with the surrogate since we anticipate that situation is more likely to arise in the context of a dispute which is then best addressed by the court upon consideration of welfare issues.

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Yes

Please provide your views below:

We see no valid justification to draw a distinction with the treatment of traditional surrogacy arrangements if the new pathway is otherwise met.

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

We support as many arrangements as possible being brought within the scope of the new pathway.

Please provide your views below:

We believe that any oversight as to compliance with the requirements is likely to be best carried out either by a separate administrative panel to whom independent surrogates and intended parents can apply or for regulated surrogacy organisations to undertake such checks without carrying our matching services. Such a panel or organisation should be able to charge for their services to meet their costs.

Although independent professional such as lawyers could provide a return for the surrogate and intended parents unless the professional is to undertake the checks required by the pathway (for example medical checks, criminal records checks) they will only be able to certify that the surrogate and intended parents have told them they have carried out the checks and provided them with documents suggesting these checks have been carried out. We do not believe it would be appropriate for independent professionals to be expected to carry out those checks themselves. There may be difficulties in independent professionals obtaining verification from third parties that the checks have been carried out (for example privacy issues) and there is a greater risk of fraud arising (whether fraudulently claiming an independent professional has verified the checks or fraudulently claiming the checks have been carried out to the independent professional). We further anticipate the cost of carrying out such checks in a meaningful way is likely to mean such a service is significantly more expensive than a panel or regulated organisation carrying out the checks in the first place.

40 Consultation Question 33:

Yes

Please provide your views below:

We believe it is important surrogacy organisations are regulated to ensure minimum standards and accountability to protect intended parents, surrogates and children. The need for regulation is only increased given the role it is envisaged surrogacy organisations will carry out under the new pathway.

Yes

Please provide your views below:

There would appear to be no justification for requiring a surrogacy organisation to take a particular form.

Yes

Please provide your views below:

We believe that this will help ensure accountability of the organisation.

41 Consultation Question 34:

representing the organisation to, and liaising with, the regulator;, managing the regulated surrogacy organisation with sufficient care, competence and skill;, ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;, training any staff, including that of the person responsible; and, providing data to the regulator and to such other person as required by law.

Please provide your views below:

Please provide your views below:

Please provide your views below:

We anticipate given the variety backgrounds of those who may wish to become a person responsible (for example surrogates, intended parents, social workers, lawyers, health professionals) that to ensure a minimum level of knowledge and skills a written competency assessment may be required before an appointment can take effect with requirements as to CPD thereafter.

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

No

Please provide your views below:

We do not agree surrogacy organisations must be non-profit making bodies although some may choose to be. We believe that effective regulation is the best way to avoid exploitation, coercion or commodification.

We believe it is important that whatever the constitution of such organisations they maintain independence from third party entities that may be involved in other aspects of surrogacy - for example whilst organisations may wish to provide names of clinics or solicitors they would recommend there should be no requirement that a particular clinic or solicitor is used and they should not be permitted to enter into fee sharing or introducer/referral fee arrangements.

If the requirement for organisation to be non-profit making is maintained we believe it is important that there is greater public awareness (for example through inclusion on any government webpage regarding surrogacy) as to what non-profit making means since we anticipate the wider public may be unaware that this means an organisation may pay commercial salaries.

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

We support the inclusion of (1) – (2) and (4) at paragraph 9.86 of the consultation within the definition of matching and facilitation services.

Whilst there is a role for surrogacy organisations to play in advising and supporting surrogates and intended parents ancillary to the role envisaged in (1) and (2) we do not support (3) advice on surrogacy arrangements, including helping to manage the relationship between the parties as falling within the definition of matching and facilitation services. We believe that including (3) in such a definition relies on then carving out those areas that do not constitute this advice (such as advising on a surrogacy agreement) with the consequence that there may be areas in which other professionals such as solicitors, mediators/family therapists (who might be used prior to entering into a surrogacy arrangement or to manage a dispute between the parties/their relationship) would not be able to advise parties without risking straying into matching and facilitation services.

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Yes

Please provide your views below:

We agree that this will help ensure the safeguards envisaged by the new pathway are met is likely to ensure high standards are maintained by such organisations.

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

We note the risks that may arise from unregulated organisations carrying out these services for example lack of accountability, lack of regulatory oversight as to standards and lack of professional insurance.

However, as noted in the consultation paper at present there are many social media groups which may want to facilitate such services. Whilst criminal sanctions could be imposed against those who carry out such activities who are not part of a regulated organisation the practicalities of policing this and effectively imposing such sanctions against individuals operating on private social media groups may be difficult. We are concerned that it may also dissuade intended parents from making an application for a parental order if they are concerned their application may be considered 'tainted' by having used such as group.

We believe that a public awareness campaign (for example on any gov.uk page about surrogacy and the 'new pathway' as to the benefit of a regulated surrogacy organisation is required to increase awareness of the risks of using an unregulated organisation.

To encourage those who do use an unregulated organisation to apply for a parental order we believe it should be made clear that the use of such an organisation will not be taken into account by the court in considering whether or not to make a parental order e.g. there would be no sanction of a parental order not being made simply because an unregulated organisation had been used.

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

We would propose that any sanctions should be criminal to ensure the greatest deterrent against carrying out these activities.

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Other

Please provide your views below:

We agree that there needs to be regulatory oversight but we are neutral as to what organisation or entity is best placed to manage that.

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

We agree that surrogacy arrangement should remain unenforceable. This is consistent with other areas of family law for example parenting agreements are not enforceable, consent orders for arrangements for children are subject to oversight by the court before an order will be made and nuptial agreements which, whilst influential, cannot prevent a party bringing an application.

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Yes

Please provide your views below:

We agree. If parties are to be encouraged to enter into agreements which reflect issues on which they are provided informed consent and financial terms which may be enforceable then they should be able to obtain legal advice on these. As set out in response to question 36 above we believe there should be no prohibition on charging for advising on surrogacy arrangements more generally subject to the restriction of matching and facilitation under the new pathway being carried out by regulated organisations.

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Yes

Please provide your views below:

We agree. We believe that this will help increase public awareness of the existence of and benefits of using regulated surrogacy organisations over unregulated organisations or informal social media groups who may be advertising in breach of the current ban.

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

We agree that it is important to allow adult children to access information about their gestational origins and we would support the law being brought in line with that of Scotland. Regardless of the age (16 or 18) at which a child may access such records we believe it is particularly important that the requirements of provision of information about availability of counselling and an opportunity to receive the same are mirrored in English law.

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

No

Please provide your views below:

Whilst we support transparency and openness by intended parents regarding the use of a surrogate to conceive a child we believe a requirement to record that the birth was as a result of a surrogacy arrangement may discourage some intended parents from using the new pathway.

We note that whilst a short form certificate is often used to prove a person's identity there may be instances in which a person is required to produce their full form birth certificate for example a full form birth certificate is necessary for a first UK passport application, to prove nationality where a person does not have a valid UK passport (for example proving to an employer they are a British national) or to claim child benefit for a child, when they would not wish to disclose to third parties that they were conceived through the use of a surrogate.

We further note the importance of knowing their gestational history to a person's identity is likely to vary from person to person and there is no comparative requirement to record the use of donated gametes on a birth certificate of a child. It should be a matter of individual choice as to whether such information is disclosed.

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

For the reasons set out in response to question 44 we do not believe that a full form birth certificate must record that a parental order has been granted or donor gametes have been used.

We agree that the law relating to birth registration more generally requires wider reform, for example to take into account gender identity issues such as gender neutrality and transgender persons. We further believe that the law should be amended to allow more than two persons to be registered as a legal parent to reflect co-parenting arrangements involving more than one person.

We recognise that individuals born through surrogacy or using donated gametes have an interest in being able to obtain information about their conception and should be able to access that information even if that fact has not been disclosed to them by their legal parents. We consider one option would be to collect information about the use of surrogates and donated gametes upon birth registration but to maintain that information in a separate register to which individuals may apply for information to be disclosed to them (after appropriate offers of counselling etc).

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

We agree that this will promote transparency and would support such an extension of the law provided that requirements such as to the opportunity to receive counselling are maintained.

55 Consultation Question 47:

Yes

Please provide your views below:

We agree that will promote transparency and as noted in our response to question 45 above it may provide the opportunity for individuals who are unaware but suspect they have been conceived through a surrogacy arrangement to obtain such information if it has not been disclosed to them by their legal parents.

Other

Please provide your views below:

(1) We are neutral as to who should maintain such a register.

(2) We agree that any register should include information for arrangements both in and outside of the pathway.

(a) We do not agree that identifying information must be provided, for example if a surrogate wishes only to provide non-identifying information we believe this should be possible.

(b) We agree.

(3) We agree since whilst such information may be captured at birth registration for children born in the UK it would not be captured in respect of children born overseas.

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

We agree subject to requirements such as the opportunity to receive counselling being imposed before such information is provided.

57 Consultation Question 49:

Other

Please provide your views below:

Whilst we do not agree identifying information must be provided, we take the view non-identifying information must be provided and identifying information may be provided as a matter of choice for the person who that information concerns (e.g. the surrogate if it is her information or the intended parents if it is theirs), we agree information should only be provided after counselling has been offered.

Please provide your views below:

(1) We agree that legal parents should be able to exercise their parental responsibility to consent to this information being provided.

(2) and (3) We propose that a child who is Gillick competent to decide whether or not they wish to receive such information should be able to do so and that any disputes as to such competency should be left to be resolved by the courts.

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

We agree it is in the interests of transparency that individuals are able to make such requests for disclosure. It is a matter of personal choice whether an individual would wish to enter into a marriage in circumstances where they are not siblings or genetically related but were carried by the same surrogate.

59 Consultation Question 51:

Yes

Please provide your views below:

We agree subject to the requirement for an opportunity to receive counselling being maintained. This would bring the law in relation to surrogacy in line with the law in relation to donor conceived individuals.

Please provide your views below:

We agree subject to the requirement for an opportunity to receive counselling being maintained. We note that to some persons their shared gestational history may be of strong importance.

60 Consultation Question 52:

Please provide your views below:

We agree subject to the requirement for an opportunity to receive counselling being maintained. This is consistent with such information being provided to donor conceived individuals.

Please provide your views below:

We agree subject to the requirement for an opportunity to receive counselling being maintained. We note that to some persons their shared gestational history may be of strong importance.

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

We agree that non-identifying information (or if the intended parent who is not a party to the application chooses) identifying information should be recorded to allow individuals to access information about the intentions of those involved in their conception.

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

We agree that in light of the case law interpretation that the six month time limit should not be maintained. We believe consideration should be given as to whether there should be an upper age limit after which it will not be possible to apply for a parental order, for example as with adoption orders to require an application to be made before a child is 18, since otherwise there is a risk that the court will, in the future, have to deal with applications made when the child is an adult. We anticipate this might arise particularly in the context of inheritance disputes. Although we believe it may be in that individual's interests for an application to be brought and so it is possible it might be considered desirable a court could still permit dispensation with the time limit in certain circumstances we believe some incentive is required to ensure that intended parents bring applications during a child's minority.

We believe that any change to the time limit to bring an application needs to be made alongside a public awareness campaign as to the benefits of promptly obtaining a parental order and the risks if intended parents do not apply for such an order.

63 Consultation Question 55:

Yes

Please provide your views below:

We agree.

Other

Please provide your views below:

(2) We agree that the court should be able to dispense with the consent of the surrogate and any other legal parent. However, we do not agree this should be dependent upon the child living with the intended parents. Issues as to identity and status should be separate to issues of where a child should live and what time they should spend with each parent. We believe that to only dispense with consent where the child lives with the intended parents risks escalating the level of conflict and dispute in cases where the surrogate wishes to remain involved in the child's life. Decisions as to where and with whom a child should live are inevitably welfare decisions based on that point in time in the child's life. Linking them to the grant of legal parentage assumes that the arrangement will remain in place for the remainder of that child's life.

(3) We would support that where the court considers dispensing with the surrogate or any other legal parents' consent the child's welfare should be the paramount consideration and that one of the factors taken into account by the court in assessing this should be the parties' intentions at the time they entered into the surrogacy arrangement.

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Yes

Please provide your views below:

We agree that expanding applications to cases where parents are habitually resident will enable applications to be brought where children are living in this country but neither parent is domiciled in this country. This is consistent with the jurisdiction of the Family Court pursuant to the Children Act 1989.

We believe that domicile should be retained as a ground for applications given that some intended parents may live abroad but remain domiciled in the UK, particularly given that there is no current process or international instrument to recognise foreign orders or birth certificates conferring parental status in surrogacy arrangements.

Please provide your views below:

We do not believe that an additional condition should be imposed on the test of habitual residence. Whilst habitual residence may be acquired quickly a degree of integration is still required and if a person's sole reason for residence in the UK were for a surrogacy arrangement it is appears very unlikely that a court would consider they would have achieved the depth of integration required to become habitually resident in the UK and disintegration to have lost their previous habitual residence.

65 Consultation Question 57:

Please provide your views below:

We support the removal of the qualifying categories of relationship subject to maintaining the prohibition on the prohibited degrees of relationship. At present the qualifying categories are discriminatory in the way they it treats married or civil partnered couples as compared to unmarried couples. In particular:

(a) married or civil partnered couples may be in a platonic relationship. It seems highly unlikely that an unmarried couple in a platonic co-parenting relationship would fall within the category of an 'enduring family relationship'.

(b) married or civil partnered couples may be separated at the time of bringing their application but are not prohibited from bringing their application if they are not legally divorced/dissolved. It would seem artificial to draw distinctions between couples who have separated and not taken the step of applying for decree absolute/a final order and those who have.

Unmarried couples fall outside the definition of an enduring family relationship where their relationship has broken down prior to the application being made and either one parent must 'give up' their opportunity to acquire parental status (or their parental status if they are already a legal parent) so that the other may apply as a single applicant which artificially rewrites the intentions of the parties in conceiving the child so that they have a single parent or the court cannot make a parental order.

We note that the fact an unmarried couple may subsequently separate after making their application (such as in K v L v N [2019] EWFC 21) creates an incentive for parties to be dishonest about the status of their relationship at the time of making their application or to stay in a failing relationship which is unlikely to provide the best environment in which to arise a child.

We believe that removing the requirement will also assist those who may not have previously applied for a parental order (for example because they were unaware of the need to do so) given the longer the passage of time from the birth of the child the greater (statistically based on general population divorce and separation figures) the likelihood a breakdown in the intended parents relationship will have occurred.
Maintaining the relationship requirements is not only potentially discriminatory but unfairly penalises children and surrogates who have no control over the intended parents' relationship.

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Other

Please provide views below:

We agree that some criteria around the intended parents' intentions may be a desirable, for example a stated intention that they wish to be involved in the child's life. However, we are concerned more generally that maintaining the requirement that a child's home is with the intended parents may escalate levels of conflict in section 8 proceedings between separated intended parents or intended parents and surrogates. Although the court has interpreted 'home' as being capable of a child having a home with both parents by maintaining this requirement this continues to link section 8 orders to live with or spend time with a child to parental orders. We believe there is a need to separate out such issues from issues of legal parentage.

67 Consultation Question 59:

Yes

Please provide views below:

(1) We agree – as noted in the consultation this will help alleviate potential discrimination against infertile people and will alleviate the discrepancy between those who conceive using double donation but not a surrogate and intended parents who conceive using double donation and a surrogate.

(2) We agree that this will help avoid the potential use of double donation as a form of eugenics.

Please provide views below:

We support double donation being available to all intended parents where it is medically necessary whether they are in the new pathway, domestic arrangements outside the pathway or international arrangements.

No

Please provide views below:

As set out above we do not support the requirement for one intended parent to be genetically related to the child in international arrangements. We do not believe the requirement can be justified if the requirement of medical necessity is imposed for cases of double donation.

Dealing with the particular concerns that arise in the context of international arrangements:

1) In the same way that international surrogates are currently required to provide their consent (unless they cannot be found in which case the court has the discretion as to whether to dispose with their consent and so maintains oversight) international surrogates could be asked to complete a declaration that the intended parents were involved in bringing about the conception of the child.

2) Retaining such a requirement creates a discrepancy between those who conceive using double donation abroad and those who conceive using double donation abroad and a surrogate. Whilst we acknowledge that there is an interest in children knowing their genetic origins not all parents who use donated gametes (whether in the UK or abroad) will tell their children of the use of such gametes. Requirements can be imposed for intended parents to provide what information is available to them about the gametes used as part of the parental order process.

c) Concerns about child trafficking can be addressed by way of criminal records checks and criminal law.

d) Medical necessity will help guard against issues of eugenics.

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Yes

Please provide your views below:

We agree since otherwise this would unfairly penalise children whose intended parents subsequently fall outside the new pathway.

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Yes

Please provide views below:

We agree, although as explained elsewhere in our response we would support the removal of categories of relationships which prevent separated intended parents from both being able to apply for a parental order.

70 Consultation Question 62:

Please provide your views below:

Whilst the majority of surrogacy cases will be used in cases of medical necessity given that the current law does not impose this requirement we do not believe it should be subsequently imposed.

Please provide your views below:

We agree with the proposed test as set out in 12.93 of the consultation.

71 Consultation Question 63:

No

Please provide your views below:

As set out elsewhere in our response we do not agree that identifying information must be provided. Although it seems likely that surrogates will want to provide identifying information if they use the new pathway we believe it is unfair to impose such as requirement.

Please provide your views below:

(1) We believe that where such information is available to the intended parents (for example other than in cases of anonymous donation) the information should be entered on the register.

(2) We agree that if this requirement is maintained the simplest way to demonstrate compliance is with medical or DNA evidence.

Yes

Please provide your views below:

We agree on the basis that the surrogate has the choice as to whether they wish to provide non-identifying or identifying information.

72 Consultation Question 64:

Yes

Please provide your views below:

We agree that imposing an age requirement would be arbitrary and the issue is best considered as part of the welfare of the child.

Please provide your views below:

We consider that imposing an age limit would be arbitrary and that the best approach would be to consider the intended parent's age as part of the welfare assessment.

Yes

Please provide your views below:

73 Consultation Question 65:

Yes

Please provide your views below:

We believe this will help guard against concerns that a surrogate has been exploited.

Yes

Please provide your views below:

We believe this will help guard against concerns that a surrogate has been exploited.

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Yes

Please provide your views below:

We agree that this will help protect surrogates and children and will ensure that all parties are fully informed of potential risks (for example sexually transmitted infections, genetic disorders etc) going into the arrangement.

Please provide your views below:

We believe that it should be possible for health screening, genetic testing for disorders and sexually transmitted infections to be carried out in traditional surrogacy arrangements whilst recognising that it will not be possible to quarantine the specific gametes.

75 Consultation Question 67:

Yes

Please provide your views below:

(1) We agree that implication counselling is an important part of ensuring that all parties to an arrangement provide informed consent. Where a surrogate is living with a partner we agree that person should attend counselling as well.

(2) We agree that counselling should only be carried out by those who meet the requirements of the Code of Practice. This will help maintain minimum standards and accountability.

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Yes

Please provide your views below:

Although legal advice is not considered a mandatory requirement in other areas of agreement in family law (whilst being preferable) given that the new pathway will lead to intended parents acquiring parentage from birth, the surrogate not being a legal parent and the proposal that financial payments will be enforceable, we believe legal advice should be required.

The provision of legal advice will ensure that the parties are fully informed as to the arrangement they are entering into.

Those intended parents and surrogates who do not wish to take legal advice would still have the parental order process open to them.

77 Consultation Question 69:

Yes

Please provide your views below:

We agree with the proposals. We do not believe the other parties to the arrangement should need to see the certificate unless they consent to this being disclosed provided the body overseeing the arrangement is satisfied as to suitability of the parties.

Please provide your views below:

We agree that the list of offences should apply.

It should be a matter to the parties as to whether there is further information about the other's character/background which they consider relevant in which case the body overseeing the surrogacy arrangement could take into account that person considers the information is relevant in determining if the parties should be matched.

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

We do not believe there should be such a requirement. It is a matter of personal choice if a woman wishes to be surrogate regardless of whether she has previously given birth or not. We believe provided she makes an informed decision in entering into the arrangement the new pathway should be open to surrogates who are carrying a child for the first time.

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

Yes

Please provide your views below:

We agree. To propose a maximum limit would be arbitrary since the number of pregnancies which are safe for a woman to undertake will be individual to each person.

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on an allowance;

Please provide your views below:

We support an allowance based approach as providing a practical way for surrogates and intended parents to ensure that costs the surrogate is very likely to incur are met. In our experience we are aware that it is often impractical for intended parents to obtain receipts for every item of the surrogate's expenditure, particularly in international cases.

81 Consultation Question 73:

Please provide your views below:

(1) We support the payment of essential costs.

(2) We agree that essential expenditure should include costs associated with fertility treatment, maternity clothes, vitamins, additional food and costs arising after birth relating to recovery. We consider that many costs which some may view as 'additional' are arguably essential for the comfort and well-being of the surrogate during pregnancy, for example domestic support, fitness costs etc as they are costs which are incurred because the surrogate is pregnant.

82 Consultation Question 74:

Please provide your views below:

(1) We support the payment of additional costs.

(2) As set out in response to question 73 we believe that many expenses that may be viewed as 'additional' are arguably, to the pregnant woman essential. We believe that costs which are incurred because the woman is pregnant (for her comfort/convenience) should be included within additional costs.

83 Consultation Question 75:

Please provide your views below:

(1) We support the payment of these costs.

(2) We support the inclusion of costs such as getting to know the intended parents, costs of entering into the agreement (such as legal advice and counselling), costs of making a Will (where a child would otherwise inherit as the surrogate's child in the event of her death), support after pregnancy, a recuperative holiday and costs maintaining contact with the intended parents and child.

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

We support intended parents being able to pay the surrogate her actual lost earnings.

85 Consultation Question 77:

Please provide your views below:

We support intended parents being able to pay both categories of lost earnings. Whilst the second category may be considered speculative we believe that such concerns could be addressed by provision of some evidence as to the basis on which the payments have been calculated.

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

pain and inconvenience arising from the pregnancy and childbirth;, medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or, specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

Please provide your views below:

We agree surrogates should be able to be compensated for pain and inconvenience as well as medical complications/treatments arising as a result of the pregnancy.

Please provide your views below:

We believe it would be appropriate to permit payments of compensation where the loss is causally linked to the pregnancy and that tests as to remoteness of loss used in personal injury/clinical negligence claims might be applied to assess whether or not the payment could be categories as compensation.

left to the parties to negotiate.

Please provide your views below:

We believe compensation should be left to the parties to negotiate since it is likely to depend upon the individual parties' circumstances as to what is considered appropriate and given that the level of risks associated with the pregnancy will vary for each surrogate.

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

We agree that intended parents should be able to compensate surrogate's families.

89 Consultation Question 81:

Please provide your views below:

(1) We agree intended parents should be able to buy gifts for the surrogate.

(2) We believe it would be very difficult to assess whether or not a gift is reasonable or modest since this will be dependent upon both the surrogate and intended parent's respective financial positions. What one person considers 'reasonable' or 'modest' another may consider lavish.

If there is a concern that gifts may be used to circumvent restrictions on payments then we would suggest that alternative mechanisms such as prohibitions on cash gifts could be used.

90 Consultation Question 82:

It should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

We support the payment for the service of undertaking a surrogacy. This recognises the fact that as a surrogate the woman will be undertaking a full-time role for 9 months from which she will have no respite.

any sum agreed between the parties to the surrogacy; or

Please provide your views below:

We believe such sum should be left to the parties to agree based on the valuation they place on the gestational service being provided.

essential costs relating to the pregnancy;, additional costs relating to the pregnancy;, lost earnings;, compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or, gifts.

Please provide any views below:

Given that the fixed fee will be for the gestational service itself as distinct from other elements of loss or costs we support payment being permitted of all other categories of expenses.

91 Consultation Question 83:

Please provide views below:

We do not agree payments for the surrogate's service should be reduced in the event of a miscarriage or termination. We believe payments for a gestational service should be capable of being structured in such as way as to reflect the length of the gestational service e.g. payment for each month or week or service. If structured this way this would result in a lower payment where the pregnancy has ended before full term.

Not Answered

Please provide your views below:

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Yes

Please provide your views below:

We agree. Allowing the same types of payment to be made in the new pathway as outside the pathway will hopefully encourage intended parents to use the new pathway where possible. Restricting payment to narrower categories for arrangements outside the pathway is likely to lead to problems arising for those cases that fall outside of the pathway in the course of an arrangement. It is also only likely to continue to perpetuate the current problems of the law that the court is then regularly asked to approve expenses over and above those categories permitted.

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

95 Consultation Question 87:

Please provide your views below:

(1) We consider that cases may fall outside the pathway where limits on payments are breached. The court will then still retain the ability to make a parental order.

(2) We believe that the most appropriate mechanism of control will be the court having the discretion as to whether or not to approve the payments made. Whilst the circumstances in which a court refuses to approve the payments (and therefore grant a parental order) are likely to be limited we believe that this is the best option as compared to other options such as a hard line rule that a parental order would not be available which would effectively punish the child or criminalisation which is likely to dissuade intended parents from being open about payments made.

96 Consultation Question 88:

Yes

Please provide your views below:

We agree that this will provide protection and security to the surrogate that the payments will be made.

Yes

Please provide your views below:

We agree that making enforcement of payments contingent upon lifestyle requirements of the agreement is likely to be intrusive into the surrogate's life and would effectively be a form of specific enforcement which in other contexts would not be available as a remedy.

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

Yes

Please provide your views below:

We support any moves which will help intended parents navigate immigration issues more quickly than at present.

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

Yes

Please provide your views below:

We support any moves which will help intended parents navigate immigration issues more quickly than at present.

Yes

Please provide your views below:

We support any moves which will help intended parents navigate immigration issues more quickly than at present.

Yes

Please provide your views below:

Yes

Please provide your views below:

Please provide your views below:

We agree although we believe that intended parents should be made aware that they will be expected to apply for a parental order and that the grant of a visa and therefore immigration status for the child within the UK should not be seen as a substitute for a parental order.

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

Yes

Please provide your views below:

We support any moves which will help intended parents navigate immigration issues more quickly than at present.

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

We agree that such a guide, provided it is maintained and updated regularly will be beneficial for intended parents. In our experience the current information (for example the FCO and Home Office guide) has not been maintained and whilst helpful provides out of date information to parties which can be a cause of confusion. If a government guide is regularly maintained we believe that this will help parties understand their position better and will avoid the perpetuation of many surrogacy myths which are prevalent on the internet and in the media.

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Yes

Please provide your views below:

Whilst we would support international arrangements being eligible for the new pathway we recognise, in the absence of an international convention which provides reassurance as to the safeguards being applied in other countries that it may be considered too difficult to ensure that the safeguards envisaged by the pathway are met. Consideration would have to be given on a country by country basis as to whether those safeguards could be met.

107 Consultation Question 99:

Yes

Please provide your views below:

We agree. If necessary we consider that the issue of whether parentage should be recognised could be overseen by the courts in a process distinct from parental order applications.

108 Consultation Question 100:

Please provide your views below:

Our experience involves intended parents with foreign or dual nationality who are domiciled in the UK and therefore have been eligible to apply for a parental order. However, they have faced a very high level of scrutiny by the court as to their domicile which has understandably increased the stress of the parental order process for them.

Please provide your views below:

(1) We believe that restrictions, as with removal for overseas adoptions, are necessary to safeguard children born in the UK where there is no recognition of parentage under the new pathway and a UK parental order has not been sought.

(2) In the absence of an international convention as to surrogacy we believe that this process is best overseen by the courts by considering whether it is in the child's best interests to be removed from the jurisdiction which may include consideration as to whether or not, save for living overseas, a parental order would have been available to those parents and the equivalent order would be made in the foreign jurisdiction.

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

Not Answered

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

We believe that consideration should be given to excluding, in respect of a person acting as a surrogate, any child born to them who they were a surrogate for from the definition of a child of the deceased in s1(1)(c) Inheritance (Provision for Family and Dependants) Act 1975 .

We believe that whilst there is desirability in ensuring that children are able to inherit from their intended parents this issue is best addressed by intended parents making proper Wills providing for their intended children in the period prior to them becoming their legal children.

115 Consultation Question 107:

Please provide your views below:

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

(1) We anticipate that a meeting with detailed follow up written advice would take approximately 1 1/2 to 3 hours of a solicitor's time. In some instances a fixed fee may be offered which would be based on the upper estimate of the time that would be spent dealing with that matter. Our hourly charging rates reflect the level of expertise of our team, the often complex cases we deal with and the level of experience of the solicitor providing the advice.

We do not believe that such advice could adequately be provided at a 'free' meeting and we believe it is important that written advice is provided alongside a meeting to ensure that the intended parents or surrogate have a clear record of the advice given and understand the implications of the arrangement they are entering into.

(2) The level of charges will ultimately depend on the nature of the agreement drafted. The more complex the agreement (if, for example, very detailed bespoke provisions are required), or if significant negotiation is required the higher the level of costs which will be incurred. We anticipate that straightforward agreements could be drafted for a fixed fee with negotiation to finalise this then charged on the basis of hourly rates.

Whilst we are aware that surrogacy, is for many intended parents, an extremely costly process, we believe the importance of obtaining appropriate independent legal advice from experienced surrogacy/fertility solicitors should not be underestimated. There are a limited number of lawyers within family law who have genuine expertise in this area.

A system of accreditation could be considered for lawyers to be able to provide the requisite advice for the new pathway.

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

Law Commissions' Surrogacy Consultation

Questionnaire Response

Questions About You

What is your name?

[redacted]

If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

The Society for the Protection of Unborn Children (Scotland)

Are you responding to this consultation in a personal capacity or on behalf of your organisation?

On behalf of the Society for the Protection of Unborn Children (Scotland)

What is your email address?

[redacted]

What is your telephone number?

[redacted]

Society for the Protection of Unborn Children (Scotland) Response

The Society for the Protection of Unborn Children (Scotland) will endeavour to respond to the consultation for: 'Building families through surrogacy: a new law.' SPUC Scotland is only providing an answer to Question 118, as it is our position that this consultation fails to address any ethical implications of surrogacy more generally.

Question 118

The Position of SPUC Scotland

The Society for the Protection of Unborn Children (Scotland) is deeply disappointed that this consultation does not question whether or not surrogacy is, in fact, ethically acceptable. The mere mention of arguments against surrogacy does not constitute a serious examination of those arguments. In the 'Summary of Consultation Paper' it states 'Instead, we take as our starting point that surrogacy is an accepted form of building a family, as recognised by the Department of Health and Social Care…' (p. 4). The fact that a serious debate about the ethics of surrogacy is and has been ignored in the last 3 decades is not reason enough to regard surrogacy as morally acceptable or socially desirable. The ethics of surrogacy must be re-examined before the process of pursuing surrogacy, either as an intended parent or as a surrogate, is expedited and made more widely accessible.

At its core, surrogacy treats pregnancy and childbirth as transactions where babies are objects of pre-planned exchange. It reduces the surrogate to her reproductive functions and treats the unborn child as a commodity. Commercial surrogacy, explored in some of the questions in this consultation, would further commodify both surrogate and child. International surrogacy, too, adds even more ethical questions. Systems of commercial International surrogacy leave vulnerable women especially open to exploitation.

The removal, in some cases, of the requirement for a genetic link between at least one intended parent and the child opens up the possibility of a child with 5 individuals who have some claim to parenthood – intended parent 1, intended parent 2, surrogate, sperm donor, and egg donor can all be different people. Take as an example the case of Buzzanca v. Buzzanca, which highlights just how challenging this scenario can be.[1] In practice, these '5-parent surrogacies' do not only raise legal questions, but also raise emotional questions for the child as he/she grows up. While this consultation addresses the fact that a child, once grown, may desire to know who all relevant parties are, it does not adequately address how this set-up would affect the child psychologically.

Children have an intrinsic right to parents who care for them. Children have been shown to do best in homes with both their biological parents. It appears that this unwavering pursuit of surrogacy seeks to benefit the intended parents, but does not respect the interests of the child who comes to be. There is, of course an ethical alternative for those who are unable to bear children; that is: adoption. While IVF and surrogacy are being pursued at every turn, we are disincentivising couples from pursuing this ethical alternative. Surrogacy artificially creates a child to fulfil an intended parent's desire. Adoption provides a home for an existing child in need.

Finally, this consultation barely considers potential disputes between intended parents and surrogates through the duration of pregnancy. Consider, for example, a pre-natal test that reveals a disability in the unborn child. If the intended parents no longer desire the child, would the surrogate feel compelled to have a termination? What alternative would she have – to parent the child herself? Or, perhaps, the relationship between the intended parents dissolves during the time of pregnancy. What will happen to the child in that instance? The consultation only briefly addresses these issues, suggesting they could (but need not be) covered in a written agreement before conception occurs. Listed among potential topics in the agreement is stated: '(10) decisions about termination where the child is diagnosed with specific conditions while in the womb, and selective reduction in the case of a multiple pregnancy (where recommended by the hospital), including what will happen regarding the care of the child where the surrogate refuses to terminate the pregnancy.' Additionally, the consultation mentions on page 307 that BICA's guidelines state that 'embryo abnormalities and the possibility of terminations' may be included in 'implications counselling.' This does not go far enough to protect unborn children from being discriminated against on the basis of disability. Nor does it protect surrogates from pressure or coercion to terminate a pregnancy.

Instead of pursuing the proposals of this consultation paper, the Society for the Protection of Unborn Children (Scotland) advocates the adoption of practices which support childless couples in ways which do not fragment maternity and harm future children and their parents.

[1] Buzzanca v. Buzzanca (1998 Cal. App. Lexis 180), 10 March 1998.

Response ID ANON-2V7F-Y8UP-U

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 19:10:09

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

N/A

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Intended parent

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

N/A

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

Please provide your views below:

n/a

9 Consultation Question 2:

Please provide your views below:

Lay Justice is perfectly adequate.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

N/A

11 Consultation Question 4:

Yes

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

n/a

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

Yes

Please provide your views below:

Again I feel is this is adhered to the Surrogates right to object or withdraw consent should be removed.

15 Consultation Question 8:

Yes

Please provide your views below:

100 years; or

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Yes

Please provide your views below:

I believe all children have a right to know their donors, it's in their best interest.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

n/a

18 Consultation Question 11:

No

Please provide your views below:

I don't believe Surrogates should have a right to object. If all elements of the pathway are satisfied, in particular via a registered clinic then the right to object should be removed. This still makes IP's very nervous, and only this [redacted]. These types of restrictions will drive more IP's abroad to places like the Ukraine.

19 Consultation Question 12:

No

Please provide your views below:

I think for GS ONLY the new pathway should apply, as this is the type of surrogacy we should be encouraging as its lower risk

20 Consultation Question 13:

Yes

Please provide your views below:

n/a

21 Consultation Question 14:

Yes

Please provide your views below:

n/a

22 Consultation Question 15:

Yes

Please provide your views below:

n/a

No

Please share your views below:

Their spouse should never be allowed to be a legal parent, this level of uncertainty and risk is so stressful and upsetting for IPs and is just another hurdle or obstacle to maneuver around.

23 Consultation Question 16:

Not Answered

Please provide your views below:

n/a

Yes

Please provide your views below:

n/a

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Yes

Please provide your views below:

n/a

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

I don't have a major issue with the current pathway being used, I'm more curious as to why the new pathway can't be used given the exceptional circumstances and in particular if treatment took place via a registered centre.

26 Consultation Question 19:

Yes

Please provide your views below:

Please provide your views below:

n/a

27 Consultation Question 20:

Yes

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

n/a

29 Consultation Question 22:

Please provide your views below:

I feel based on the following on the new pathway this could be managed effectively administratively providing the body had sufficient capacity and knowledge.

30 Consultation Question 23:

Please provide your views below:

n/a

31 Consultation Question 24:

Please provide your views below:

n/a

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

n/a

33 Consultation Question 26:

Yes

Please provide your views below:

n/a

34 Consultation Question 27:

Yes

Please provide your views below:

Although I disagree with the right to object

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

No

Please provide your views below:

No, I strongly feel Surrogates should not be given this power and hold over the IP's

36 Consultation Question 29:

Please provide your views below:

n/a

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Yes

Please provide your views below:

Only with the use of IVF.
TS should be treated differently, especially in the case of home insems as I believe there is still potential for exploitation / lack of counselling and inflated expenses

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

We began our journey in [redacted] and all the NFP's were not registering new IP's so we went alone and opted for an independent journey, but with all the protection as if we re via an agency. We took legal advice, all our health screening was conducted at the clinic as we were receiving donor eggs. We created our intention document and our solicitor sent it to our surrogate and us. All our counselling was carried out by the clinic. We already had life insurance and updated our wills. [redacted]

39 Consultation Question 32:

Please provide your views below:

Yes i believe they should, but only if GS. I have real concerns with TS and some of the surrogates that offer these services.

Please provide your views below:

Providing a licensed clinic is used for GS then this is perfectly fine, where regulation needs tightening is TS Independent.

40 Consultation Question 33:

Yes

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

41 Consultation Question 34:

representing the organisation to, and liaising with, the regulator;, managing the regulated surrogacy organisation with sufficient care, competence and skill;, ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;, training any staff, including that of the person responsible; and, providing data to the regulator and to such other person as required by law.

Please provide your views below:

Please provide your views below:

Please provide your views below:

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Yes

Please provide your views below:

However with increased compliance comes increased costs, so this needs to be factor.

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

Matching needs to incorporate Health Screening of all members, registration to include DBS Checks.

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Yes

Please provide your views below:

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Yes

Please provide your views below:

I feel the HFEA are the best suited body to audit and regulate

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Yes

Please provide your views below:

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Yes

Please provide your views below:

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

n/a

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

Yes

Please provide your views below:

Yes

Please provide your views below:

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

Yes, anything to support the welfare of the child is needed

57 Consultation Question 49:

Yes

Please provide your views below:

Please provide your views below:

n/a

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

Not required unless there is genetic links

59 Consultation Question 51:

Yes

Please provide your views below:

Please provide your views below:

Yes, this feels sensible and fair to access

60 Consultation Question 52:

Please provide your views below:

Yes

Please provide your views below:

No

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

n/a

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

Yes

63 Consultation Question 55:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Yes

Please provide your views below:

Please provide your views below:

65 Consultation Question 57:

Please provide your views below:

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Yes

Please provide views below:

67 Consultation Question 59:

Yes

Please provide views below:

Please provide views below:

Yes

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Yes

Please provide your views below:

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner

provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Yes

Please provide views below:

70 Consultation Question 62:

Please provide your views below:

Please provide your views below:

71 Consultation Question 63:

Yes

Please provide your views below:

Please provide your views below:

Yes

Please provide your views below:

72 Consultation Question 64:

Yes

Please provide your views below:

Please provide your views below:

Yes

Please provide your views below:

73 Consultation Question 65:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Yes

Please provide your views below:

Please provide your views below:

n/a

75 Consultation Question 67:

Yes

Please provide your views below:

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Yes

Please provide your views below:

77 Consultation Question 69:

Yes

Please provide your views below:

Please provide your views below:

yes - I agree

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

Yes, I believe to reduce risk this is sensible

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

Yes

Please provide your views below:

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on costs actually incurred by the surrogate, but without the need for production of receipts; or

Please provide your views below:

I do feel there are a large number of independent surrogates who are profiting from Surrogacy. Figures are plucked out of the air, and most accept bulk payments and make demands on the IPs, it happens all too often.

81 Consultation Question 73:

Please provide your views below:

Loss of earnings
Childcare
Takeaways/Meals
Mat Clothing
Medication
Travel to Meet and appointments
Insurances

82 Consultation Question 74:

Please provide your views below:

Recoup break
Gifts

83 Consultation Question 75:

Please provide your views below:

IP's do anyway

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

Yes, this seems acceptable

85 Consultation Question 77:

Please provide your views below:

I personally don't agree with potential losses as its far too ambiguous and subjective

86 Consultation Question 78:

Please provide your views below:

n/a

87 Consultation Question 79:

Please provide your views below:

No, as I feel these are risks with childbirth and this will only put IP's off, as its yet another cost they have to bare.

Please provide your views below:

left to the parties to negotiate.

Please provide your views below:

I don't feel the regulator can involve itself in compensation

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

Yes, via Insurance

89 Consultation Question 81:

Please provide your views below:

Yes, if IP's want to treat their friend to a gift this should be permitted

90 Consultation Question 82:

It should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

any sum agreed between the parties to the surrogacy; or

Please provide your views below:

essential costs relating to the pregnancy;, additional costs relating to the pregnancy;, lost earnings;, compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or, gifts.

Please provide any views below:

91 Consultation Question 83:

Please provide views below:

I feel this is a sum negotiated between IP's and Surrogates, and should obviously be a reduced sum but it is not a matter for a third party.

to any miscarriage or termination; or

Please provide your views below:

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Yes

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

no

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

95 Consultation Question 87:

Please provide your views below:

96 Consultation Question 88:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

I don't believe the spouse should be able to given the fact there are proposals to remove them from the parental order process.

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

No

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

N/A

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

If she is expressing/nursing then she should have protected rights

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

I feel leave for IVF appointments where grounds of medical infertility exists employers should allow leave as if it were a regular hospital appointment

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

N/A

115 Consultation Question 107:

Please provide your views below:

I have recently carried out a FOI on all Acute NHS Trusts. I was keen to understand the take up of the new 2018 updated guidelines and how many Trusts have a Surrogacy policy. Disappointingly less than over 60% don;t even have a policy and for those that do, only 15% have updated it since Feb 2018.

So I feel more NHS Trusts need to mandate the guidelines and create a policy to ensure full understanding of the needs of Surrogates and IP's

Please provide your views below:

I would like TwoDads added to the resources lists as there is still a lack of support for Intended Fathers and organsations with a 100% commitment to UK Surrogacy, unlike COTS and BB.

Please provide your views below:

Lack of awareness and training, a workshop on Surrogacy at their next next RCM Conference.

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

n/a

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:
[redacted]

domestic; or

If international, in which country did the arrangement take place?:

N/A

Yes

(b) [redacted]

118 Consultation Question 110:

domestic; or

Yes

No

Please provide the cost of any legal advice or representation below:

£750 which included the PO application and sending of the intention document to our surrogate once we had all discussed it.

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

Starting a surrogacy journey is a daunting task, [redacted]. There is a shortage of UK only information and with the current law being so restrictive about advertising for surrogates etc it gives the impression socially that surrogacy generally is illegal. This is the feedback we receive from IF's at our [redacted].

The journey generally adds an enormous amount of stress on a relationship and family, financially it's a stretch for most of us, especially if you are having a GS journey.
The early days of needing to bond with your new family is also quite stressful, based on the current legislation feeling anti-family There is an unknown period which is very unsettling an stressful to the IP, the fear that the surrogate may change her mind, or the fear that additional expenses may be incurred and you feel you have no real say.

What is frustrating is the lack of knowledge in the Healthcare sector when it comes to dealing with Surrogates and IP's - most NHS Trusts still treat Surrogacy as if its a risky transaction and make IP's feel totally inadequate, and less of a parent.

120 Consultation Question 112:

Please provide your views below:

Both were carried out at the clinic where we conceived our children, screening was the more expensive as the counselling was free.

Screening was around £1,300 each which included all bloods and semen

Please provide your views below:

N/a

121 Consultation Question 113:

Please provide your views below:

n/a

Please provide your views below:

n/a

122 Consultation Question 114:

Please provide your views below:

n/a

123 Consultation Question 115:

Please provide your views below:

I feel that this reform is needed clearly and is a tremendous volume of work, and something I'm pleased to see be happening. I do feel that the majority of the proposal has been so inclusive and clearly demonstrates knowledge for what is a vast topic of debate, socially and economically.

However my only concern is that the Surrogate still has a right to object and for many this is still a risk couples or singles just won't be prepared to make. This may even drive IP's abroad where they can enter into a commercial arrangement or worst still an unregulated clinic environment exploiting women and children.

Please provide your views below:

N/A

124 Consultation Question 116:

domestic; or

Please provide your views below:

[redacted]

In [redacted]

Please provide your views below:

Savings

Please provide your views below:

None

Please provide your views below:

N/A

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

N/A

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

N.A

Surrogacy Consultation Questions

ABOUT YOU

1. What is your name?

Name (Required

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

- This is a personal response

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

- Academic

5. What is your email address?

Email address:

[redacted]

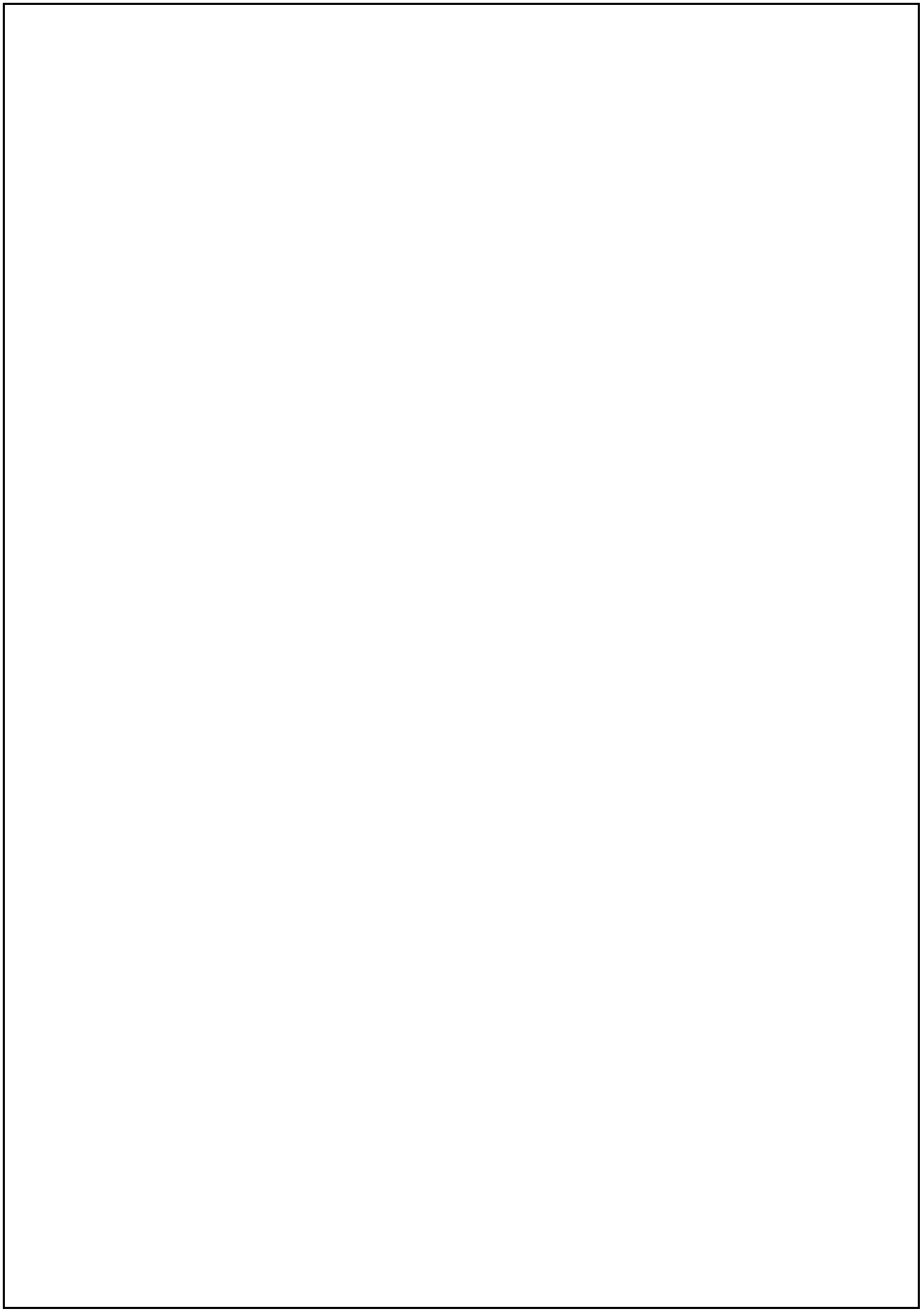
If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.



Consultation Question 1.

1. We invite consultees' views as to whether, in England and Wales:

   (1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

   (2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1. We invite consultees' views as to whether, in respect of England and Wales

   (1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

   (2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1. We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1. We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

   Do consultees agree?

   (Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1. We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

   Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1. We invite consultees' views as to whether they are of the view that, in Scotland:

   (1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

   (2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

   (3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1. In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

   (1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

   (2) complied with procedural safeguards for the agreement, and

   (3) met eligibility requirements,

   on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

   Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth.I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1. We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

   Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

2. We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1. We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

   Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1. We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1. We provisionally propose that:

   (1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

   (2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

   (3) the defined period should be the applicable period for birth registration less one week.

   Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth,with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1. We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

   (1) the surrogate will be the legal parent of the child;

   (2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

   (3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

   Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1. We provisionally propose that, in the new pathway:

   (1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

   (2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

   (3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

   Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1. We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

   (1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

   (2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

   (3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1. We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

   Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children.There is no evidence that the law commissioners have carried out any such assessment.

2. We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1. We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

   (1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

   (2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

   Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

2. We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

   Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1. We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

   Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1. For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1. We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

   Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'.I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

2. We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

   (1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

      (a) for an order for appointment as guardian of the child, and

      (b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

   (2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1. We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

   (1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

   (2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

   (3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

   Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1. We invite consultees' views as to:

   (1) a temporary three-parent model of legal parenthood in surrogacy cases; and

   (2) how the legal parenthood of the surrogate should be extinguished in this model.

Iprofoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1. We invite consultees' views:

    (1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

    (2) if so, as to whether should this oversight be:

        (a) administrative, or

        (b) judicial.

I profoundly disagree with the proposals for the 'new pathway'.The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1. In respect of England and Wales, we invite consultees' views as to:

    (1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

    (2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration.I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1. In respect of England and Wales, we invite consultees' views:

    (1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

    (2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration.I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1. We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1. We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

   (1) the child is living with them or being cared for by them; and

   (2) they intend to apply for a parental order.

   Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1. We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

   (1) the intended parents should acquire parental responsibility on the birth of the child; and

   (2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

   Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1. We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

   Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1. For all surrogacy arrangements, we invite consultees' views as to:

   (1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

   (2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1. We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

   Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1. We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1. We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

2. We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1. We provisionally propose that:

    (1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

    (2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

    (3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

    Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1. We provisionally propose that the person responsible must be responsible for:

   (1) representing the organisation to, and liaising with, the regulator;

   (2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

   (3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

   (4) training any staff, including that of the person responsible; and

   (5) providing data to the regulator and to such other person as required by law.

   Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

2. We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

3. We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1. We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

   Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and,given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1. We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisationsbeing able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1. We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

   Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisationsor any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

2. We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisationsor any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1. We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1. We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

   Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

2. If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1. We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

   Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1. We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

   Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because Iconsider it a violation of the human rights of both women and the child.The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1. We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

   Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefitfrom it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1. We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

   Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1. We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

   Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1. We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate.Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1. We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

   Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1. We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

   Do consultees agree?

YES

2. We provisionally propose that:

   (1) the register should be maintained by the Authority;

   (2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

      (a) identifying information about all the parties to the surrogacy arrangement, and

      (b) non-identifying information about those who have contributed gametes to the conception of the child; and

   (3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

   Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1. We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1. We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

   Do consultees agree?

YES

2. We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

   (1) where his or her legal parents have consented;

   (2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

   (3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1. We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1. We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

   Do consultees agree?

YES

2. We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1. We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

   (1) if they are genetically related through the surrogate; and/or

   (2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1. For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1. We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

   Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1. We provisionally propose that:

    (1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

    (2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

        (a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

        (b) following a determination by the court that the child should live with the intended parents; and

    (3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

    Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1. We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

   Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

2. We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – becauseof the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1. We invite consultees' views on whether:

   (1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

   (2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1. We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

   Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1. We provisionally propose that the new pathway –

   (1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

   (2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

   Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained.I dispute that surrogacy is ever a 'medical necessity.'

2. We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

3. We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

   Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1. We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

   Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained.I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1. We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

   Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1. We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

   (1) for cases under the new pathway to parenthood; and/or

   (2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

2. We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1. We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

   Do consultees agree?

OTHER

Iprofoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

2. We invite consultees' views as to whether it should be a condition for an application for a parental order that:

   (1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

   (2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

3. We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

   Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1. We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

   Do consultees agree?

NO

Iam opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is thereforeparticularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

2. We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

3. We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. Isuggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1. We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

   Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

2. We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

   Do consultees agree?

OTHER

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1. We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

   Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

2. We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1. We provisionally propose that, as a condition of being eligible for entry into the new pathway:

   (1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

   (2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

   Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1. We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

   Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1. We provisionally propose that, as an eligibility requirement of the new pathway:

   (1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

   (2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

   (3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

   Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

2. We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1. We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1. We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

   Do consultees agree?

NO

I amprofoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths.Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1. We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

   (1) based on an allowance;

   (2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

   (3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1. We invite consultees' views as to:

   (1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

   (2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1. We invite consultees' views as to:

    (1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

    (2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1. We invite consultees' views as to:

    (1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

    (2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1. We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1. We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

    (1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

    (2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1. We invite consultees to share their experiences:

    (1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

    (2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1. We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

   (1) pain and inconvenience arising from the pregnancy and childbirth;

   (2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

   (3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

2. We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

3. We invite consultees' views as to whether the level of compensation payable should be:

   (1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

   (2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1. We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1. We invite consultees' views as to whether:

   (1) intended parents should be able to buy gifts for the surrogate; and

   (2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1. We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

2. We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

   (1) any sum agreed between the parties to the surrogacy; or

   (2) a fixed fee set by the regulator.

Leave both check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

3. We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1. We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

2. We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

   (1) in the first trimester of pregnancy only;

   (2) to any miscarriage or termination; or

   (3) some other period of time (please specify).

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their ‘services’. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1. We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

   Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1. We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1. We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1. We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

   (1) for cases within the new pathway to parenthood; and

   (2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1. We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

   Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

2. We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

   Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. The idea that a 'surrogacy agreement' could place restrictions on the birth mother's lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1. We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1. We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1. We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1. We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

   Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1. We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1. We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

   Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

2. We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

   Do consultees agree?

NO

3. We provisionally propose that:

   (1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

   (2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

   Do consultees agree?

YES

4. We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1. We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

   Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1. We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1. We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

   Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1. We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

   Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1. We provisionally propose that:

2. the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

3. before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

   Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements.I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1. We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

2. We invite consultees' views as to whether:

   (1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

   (2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1. We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1. We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

   Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1. We invite consultees' views as to:

    (1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

    (2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1. We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1. We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1. We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1. We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother maybe being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact ofany of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself. There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for

prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

2. We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother maybe being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

3. We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1. We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1. We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

    (1) when the child was born;

    (2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

    (3) whether the arrangement led to the making of a parental order in the UK; and

    (4) whether they are a:

        (a) opposite-sex couple;

        (b) male same-sex couple;

        (c) female same-sex couple;

        (d) single woman; or

        (e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1. We invite consultees who have experience of applying for a parental order in the UK to tell us:

    (1) whether the surrogacy arrangement was domestic or international;

    (2) whether they had legal advice before the making of the parental order;

    (3) whether they were represented by a lawyer in court; and

    (4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1. We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1. We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

   (1) medical screening; and

   (2) implications counselling

   (where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

2. We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

   (1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

   (2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1. We invite consultees to tell us of the impact of:

    (1) the current requirement of a genetic link; and

    (2) any removal of this requirement in cases of medical necessity:

        (a) in the new pathway;

        (b) in the parental order route for domestic surrogacy arrangements; or

        (c) in both situations.

Paragraph 18.11

Consultation Question 114.

1. We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

    (1) their profession; and

    (2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1. We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

   (1) if particular proposals will increase accessibility, and why; and

   (2) if particular proposals will restrict accessibility, and why.

N/A

2. We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

   (1) if particular proposals will increase accessibility, and why; and

   (2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1. We ask consultees who are intended parents to tell us:

   (1) whether the surrogacy arrangement was domestic or international;

   (2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

   (3) how they raised the funds for the surrogacy arrangement(s);

   (4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

   (5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1. We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1. We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws

around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y8J1-H

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 19:20:23

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Family member of an intended parent

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

No

Please provide your views below:

I think a child born of a surrogate in a country whose surrogacy arrangements are recognised by the United Kingdom should automatically become the child of the intended parents.

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

Yes

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

Yes

Please provide your views below:

I think it essential that the intended parents should be the legal parents from the birth of the child.

15 Consultation Question 8:

Yes

Please provide your views below:

Another period

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Not Answered

Please provide your views below:

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

18 Consultation Question 11:

No

Please provide your views below:

19 Consultation Question 12:

Not Answered

Please provide your views below:

20 Consultation Question 13:

Not Answered

Please provide your views below:

21 Consultation Question 14:

Not Answered

Please provide your views below:

22 Consultation Question 15:

Yes

Please provide your views below:

No

Please share your views below:

23 Consultation Question 16:

Yes

Please provide your views below:

Yes

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Not Answered

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

26 Consultation Question 19:

Yes

Please provide your views below:

Please provide your views below:

27 Consultation Question 20:

Not Answered

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

29 Consultation Question 22:

Please provide your views below:

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

Yes

Please provide your views below:

34 Consultation Question 27:

Yes

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

No

Please provide your views below:

I do not think the surrogate should retain any parental responsibility once the child is born.

36 Consultation Question 29:

Please provide your views below:

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Yes

Please provide your views below:

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

Please provide your views below:

40 Consultation Question 33:

Yes

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

41 Consultation Question 34:

representing the organisation to, and liaising with, the regulator;, managing the regulated surrogacy organisation with sufficient care, competence and skill;, ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;, training any staff, including that of the person responsible; and, providing data to the regulator and to such other person as required by law.

Please provide your views below:

Please provide your views below:

Please provide your views below:

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Yes

Please provide your views below:

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Yes

Please provide your views below:

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Yes

Please provide your views below:

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Yes

Please provide your views below:

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Yes

Please provide your views below:

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

No

Please provide your views below:

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

No

Please provide your views below:

No

Please provide your views below:

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

57 Consultation Question 49:

Not Answered

Please provide your views below:

Please provide your views below:

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

59 Consultation Question 51:

Not Answered

Please provide your views below:

Please provide your views below:

60 Consultation Question 52:

Please provide your views below:

Please provide your views below:

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

Definitely agree as it is much too stressful for the intended parents.

63 Consultation Question 55:

Not Answered

Please provide your views below:

Yes

Please provide your views below:

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Yes

Please provide your views below:

Please provide your views below:

65 Consultation Question 57:

Please provide your views below:

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Yes

Please provide views below:

67 Consultation Question 59:

Not Answered

Please provide views below:

Please provide views below:

Yes

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Yes

Please provide your views below:

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Not Answered

Please provide views below:

70 Consultation Question 62:

Please provide your views below:

Please provide your views below:

71 Consultation Question 63:

Not Answered

Please provide your views below:

Please provide your views below:

Not Answered

Please provide your views below:

72 Consultation Question 64:

Yes

Please provide your views below:

Please provide your views below:

Yes

Please provide your views below:

73 Consultation Question 65:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Yes

Please provide your views below:

Please provide your views below:

75 Consultation Question 67:

Yes

Please provide your views below:

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Yes

Please provide your views below:

77 Consultation Question 69:

Yes

Please provide your views below:

Please provide your views below:

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

Definitely. The surrogate should have experienced childbirth so she is aware of exactly what she is signing up to.

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

Yes

Please provide your views below:

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on an allowance;

Please provide your views below:

81 Consultation Question 73:

Please provide your views below:

Yes to (1)
An extra allowance once travel and all other out of pocket expenses have been paid, e.g. 3 months of an average UK salary (tax free).

82 Consultation Question 74:

Please provide your views below:

Yes see 81 response.

83 Consultation Question 75:

Please provide your views below:

Yes

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

Yes

85 Consultation Question 77:

Please provide your views below:

Both

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

pain and inconvenience arising from the pregnancy and childbirth;, medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or, specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

Please provide your views below:

Please provide your views below:

a fixed fee set by the regulator (operating as a cap on the maximum payable), or

Please provide your views below:

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

No

89 Consultation Question 81:

Please provide your views below:

No

90 Consultation Question 82:

It should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

a fixed fee set by the regulator.

Please provide your views below:

essential costs relating to the pregnancy;, additional costs relating to the pregnancy;, lost earnings;, compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

Please provide any views below:

91 Consultation Question 83:

Please provide views below:

Payment should be any loss of pay and out of pocket expenses.

to any miscarriage or termination; or

Please provide your views below:

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Yes

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

95 Consultation Question 87:

Please provide your views below:

96 Consultation Question 88:

Yes

Please provide your views below:

No

Please provide your views below:

It is important for example that she does not smoke or take drugs and eats a sensible diet.

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

Yes

Please provide your views below:

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Please provide your views below:

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

Not Answered

Please provide your views below:

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

No

Please provide your views below:

107 Consultation Question 99:

Yes

Please provide your views below:

108 Consultation Question 100:

Please provide your views below:

Please provide your views below:

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

Yes

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

By email

Law Commission
52 Queen Anne's Gate
London
SQ1H 9AG

16 September 2022

Dear Sir/Madam

The Law Commissions' Consultation on Surrogacy

The NMC welcomes the opportunity to contribute to the joint consultation, 'Building families through surrogacy: a new law'. We have decided to respond to the consultation by writing to you specifically on consultation question 107.

The Nursing and Midwifery Council (NMC) is the independent professional regulator for nurses, midwives and nursing associates. We hold a register of all the 690,000 nurses, midwives who can practise in the UK and nursing associates who are registered to practise in England. Better and safer care for people is at the heart of what we do, supporting the healthcare professionals on our register to deliver the highest standards of care. We make sure nurses, midwives and nursing associates have the knowledge and skills they need to care for people safely, with integrity, expertise, respect and compassion, from the moment they step into their first job.

We are responsible for establishing the standards necessary for admission to the register and for safe and effective practice.

We note paragraph 17.70 of the consultation paper references a current lack of specific surrogacy training for midwives and the Surrogacy UK's Working Group's recommendation on better information and training on surrogacy for healthcare professionals and others.

As you may know we are finalising the development of new standards of proficiency for midwives. These set out the knowledge, skills and attributes all midwives must demonstrate to join our register and practise as a midwife in the UK.

Our new standards are being informed by evidence and engagement and in May 2019 the 12 week public consultation on draft standards closed. The consultation findings have been independently analysed and are helping us to finalise the standards.

These standards will take into account the changing context in which midwives work and will reflect the midwife's role in caring for all childbearing women and newborn infants across the continuum from pre-pregnancy, pregnancy, labour and birth, postpartum, and the early days and weeks of life.

Our proposals include a specific skill for midwives in providing additional postnatal care for women which must include support for women and families undergoing surrogacy or adoption. There is a stronger emphasis on the midwife's role in respecting and enabling the human rights of women and newborn infants, and ensuring that care always focuses on the needs, views, preferences and decisions of women and the needs of newborn infants.

In reference to question 17.78 on how midwifery practice may better accommodate surrogacy arrangements, particularly in regard to safeguarding issues, although we're unable to comment on healthcare providers' policies and processes, our new standards will however require midwives to be able to recognise, respond to all forms of abuse and exploitation, and the need for safeguarding. Midwives, both now and in the future, need to understand women's individual circumstances, and be able to demonstrate the ability to communicate effectively and involve others, including future or intended parents. This involves discussions and decisions about the woman's care and the care of the newborn infant. It's expected that midwives will respect the woman's needs, views, preferences and decisions about who to involve and the extent of involvement and communication including in a surrogacy arrangement.

In addition, under the Code and the professional duty of candour, people on our register are under an obligation to act without delay if there is a risk to patient safety and public protection. Our professional standards also requires nurses, midwives and nursing associates to keep to the law of the country in which they are practising.

The draft midwifery standards will be submitted to our Council for consideration in October 2019. If approved, the standards will first take effect in September 2020 and be fully implemented by September 2021. For further information including updates please visit https://www.nmc.org.uk/standards/midwifery/education/

We hope our response is helpful. If you have any questions or would like to discuss any of the points in more detail please contact us.

Yours faithfully,

[redacted]

Response ID ANON-2V7F-Y8J8-R

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 19:22:04

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge,

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

No

Please provide your views below:

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.
This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.
I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.
Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

15 Consultation Question 8:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway.'

18 Consultation Question 11:

No

Please provide your views below:

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.
The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

19 Consultation Question 12:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.
The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*
The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

20 Consultation Question 13:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.
The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*
The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy

human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

21 Consultation Question 14:

No

Please provide your views below:

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in
10
surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.
The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.
The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.
In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.
The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

22 Consultation Question 15:

No

Please provide your views below:

I profoundly disagree with the 'new pathway.'
There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or
11
parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.
However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

Yes

Please share your views below:

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

23 Consultation Question 16:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The

birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

No

Please provide your views below:

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

No

Please provide your views below:

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

26 Consultation Question 19:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

Please provide your views below:

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

27 Consultation Question 20:

Yes

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.

29 Consultation Question 22:

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

30 Consultation Question 23:

Please provide your views below:

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added

31 Consultation Question 24:

Please provide your views below:

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

33 Consultation Question 26:

No

Please provide your views below:

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as
17
recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.
I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.
Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

34 Consultation Question 27:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is

the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.
I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.
Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Other

Please provide your views below:

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.
All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

36 Consultation Question 29:

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

40 Consultation Question 33:

No

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

No

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Other

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

41 Consultation Question 34:

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Other

Please provide your views below:

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'
Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Other

Please provide your views below:

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Other

Please provide your views below:

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.
At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.
Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the

recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities. However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

Yes

Please provide your views below:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

57 Consultation Question 49:

Yes

Please provide your views below:

Please provide your views below:

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

YES, this should be possible.

59 Consultation Question 51:

Yes

Please provide your views below:

Please provide your views below:

YES, I agree.

60 Consultation Question 52:

Please provide your views below:

YES, I agree.

Please provide your views below:

YES, I agree.

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

NO. The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

63 Consultation Question 55:

No

Please provide your views below:

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

No

Please provide your views below:

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

Please provide your views below:

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

65 Consultation Question 57:

Please provide your views below:

The qualifying categories of relationship should not be reformed or removed.

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Other

Please provide views below:

I profoundly disagree with the proposals for the 'new pathway'.

67 Consultation Question 59:

No

Please provide views below:

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Please provide views below:

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

Yes

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

No

Please provide your views below:

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

No

Please provide views below:

I dispute that surrogacy is ever a 'medical necessity.'

70 Consultation Question 62:

Please provide your views below:

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

Please provide your views below:

I dispute that surrogacy is ever a 'medical necessity.'

71 Consultation Question 63:

Other

Please provide your views below:

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

Please provide your views below:

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

Other

Please provide your views below:

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

72 Consultation Question 64:

No

Please provide your views below:

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.
Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.
Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45. Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. 36
I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.
Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.
Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

73 Consultation Question 65:

Other

Please provide your views below:

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.
At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.
Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Other

Please provide your views below:

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.
Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

Please provide your views below:

75 Consultation Question 67:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

77 Consultation Question 69:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.
Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

No

Please provide your views below:

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.
Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is

accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

81 Consultation Question 73:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

82 Consultation Question 74:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

83 Consultation Question 75:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.
I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

85 Consultation Question 77:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international

prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
44
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.
I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

Please provide your views below:

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.
Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.
No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.
Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.
Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.
Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).
How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?
Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".
The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.
All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
47
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.
This question illustrates the risks of surrogacy and why I oppose it.

89 Consultation Question 81:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
48
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.
I am therefore opposed to allowing the 'intended parents' to give the birth mother gift

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.
I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.
I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

Please provide any views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.
50
I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

91 Consultation Question 83:

Please provide views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.
This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
51
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.
This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Other

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international

prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

95 Consultation Question 87:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

96 Consultation Question 88:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The idea that a 'surrogacy agreement' could place restrictions on the birth mother's lifestyle is utterly abhorrent.

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

No

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

Please provide your views below:

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

No

Please provide your views below:

Allowing the ‘intended parents’ to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur’s recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Other

Please provide your views below:

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy a familial/parental relationship with children .

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the ‘new pathway’.

107 Consultation Question 99:

No

Please provide your views below:

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur’s key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of ‘parenthood’ should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

108 Consultation Question 100:

Please provide your views below:

Please provide your views below:

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees’ views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate’s spouse, civil partner or partner requires reform.

Please provide your views below:

I do not believe this needs changing.

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

No

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

115 Consultation Question 107:

Please provide your views below:

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.
All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.
Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.
It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.
Adoption research suggests that the separation of the new-born and the birth mother has longterm negative effects on the well-being of both of them. This is likely to be the same for birth
mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.
An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death.

Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.
The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself. There appears to have been no evaluation of the size of the additional costs to the NHS and society.
At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

Please provide your views below:

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.
All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.
The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

Please provide your views below:

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.
It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.
If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.
It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.
It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.
It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child –

and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

Name (Required)

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

- This is a personal response

If other, please provide details:

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

- Other individual

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential.

As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and

parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth

and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and

facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the

recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

Leave both check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. The idea that a 'surrogacy agreement' could place restrictions on the birth mother's lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y8JN-E

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 19:37:18

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

Na

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

All arrangements are subject to potential abuse and could infringe on human rights in the most serious ways.

Please provide your views below:

Na

9 Consultation Question 2:

Please provide your views below:

Potential for serious abuse of women and trafficking of children. Should be heard by a senior, experienced judge, not a lay judge.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

No

Please provide your views below:

In recommends all decisions regarding parental responsibility should be taken b6 a court or other competent authority after the birth and tgere should be n9thing automatic about it. Child's best interests should be paramount.

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

Massively disagree. In says birth mother should have control and parental responsibility a5 the birth and that her relinquishing this must be freely given after the birth.

This proposal sets v dangerous precedent for all women, mothers and children.

15 Consultation Question 8:

Other

Please provide your views below:

Profoundly disagree with the new pathway and regulated surrogacy organisations.

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Other

Please provide your views below:

Profoundly disagree with regulated surrogacy organisations as they would lead to a normalizing of surrogacy.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

Profoundly disagree with the proposal for a new pathway.

18 Consultation Question 11:

No

Please provide your views below:

Intended parents should not have automatic legal parenthood status. The birth mother is not given enough time to object. Post partum period can be fraught with physical and emotional problems.

19 Consultation Question 12:

Other

Please provide your views below:

Object to new pathway proposal.

Birth mother should have legal parent status til she freely gives it up after the birth.

Court should rule on this.

20 Consultation Question 13:

No

Please provide your views below:

Disagree with new pathway, intended parents havibg legal status of parent etc etc.

21 Consultation Question 14:

No

Please provide your views below:

Disagree!! Commodifies children. Welfare assessment paramount in order to ascertain children's best interests.

Disagree with new pathway etc etc.

22 Consultation Question 15:

No

Please provide your views below:

Object to new pathway.

Yes

Please share your views below:

Normal legal parenthood rules should apply.

23 Consultation Question 16:

No

Please provide your views below:

Object to new pathway. Birth mother should be legal parent, even if still born.

No

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

No

Please provide your views below:

Birth mother should always be legal parent and if child does before legal status is changed, the birth mother should be accurately recorded as the legal parent

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

I profoundly disagree with proposals for the new pathway.

26 Consultation Question 19:

No

Please provide your views below:

Disagree with new pathway. Intended parents should NOT be registered as legal parents in this case.

Please provide your views below:

Option 2 is preferable.

27 Consultation Question 20:

Yes

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

Disagree profoundly with 3 parent model, even if temporary.

29 Consultation Question 22:

Please provide your views below:

Disagree with new pathway.

Birth mother should have legal guardianship and any decisions taken to change this be made by a court, after the birth of the child.

30 Consultation Question 23:

Please provide your views below:

Child's best interests should drive all decisions. Current welfare checklist is adequate.

31 Consultation Question 24:

Please provide your views below:

Child's best interests should drive this. Welfare checklist is sufficient. No other factors should be added.

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

No

33 Consultation Question 26:

No

Please provide your views below:

Birth mother should be legal parent at birth and any changes to that made by a court.

Not reasonable for birth mothers under a surrogacy arrangement to believe they can bring a child into work and be absolved from all responsibility.

Also increased risk of child trafficking.

34 Consultation Question 27:

No

Please provide your views below:

Disagree with new pathway.

Understand this is based in wishes of some 'Surrogate mothers but thus is not enough to contravene the Hague convention and also increase the risk of children being trafficked.

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Other

Please provide your views below:

Birth mother should always be legal parent unless decision is made by a court or other competent authority.

36 Consultation Question 29:

Please provide your views below:

I profoundly disagree with the new pathway. The birth mother should always be the legal parent and any decisions changing this made by a court or other competent authority.

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Other

Please provide your views below:

Profoundly disagree with the new pathway.

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

Na

39 Consultation Question 32:

Please provide your views below:

I profoundly disagree with the new pathway. It is inappropriate and contradicts binding obligations under UNCRC and its first optional protocol.

Please provide your views below:

I profoundly disagree with the new pathway. It is inappropriate and contradicts binding obligations under UNCRC and its first optional protocol.

40 Consultation Question 33:

No

Please provide your views below:

Disagree because regulated organisation s would legitimise surrogacy.

Other

Please provide your views below:

Disagree because regulated organisation s would legitimise surrogacy and increase prevalence. I consider surrogacy to violate the human rights of women and children.

Other

Please provide your views below:

Disagree with regulated organisations which would legitimise surrogacy and increase prevalence. I consider surrogacy to violate the human rights of women and children.

41 Consultation Question 34:

Please provide your views below:

Disagree with regulated organisations because they would legitimise surrogacy and increase prevalence. I consider surrogacy to violate the human rights of women and children.

Please provide your views below:

Disagree with regulated organisations because they would legitimise surrogacy and increase prevalence. I consider surrogacy to violate the human rights of women and children.

Please provide your views below:

Disagree with regulated organisations because they would legitimise surrogacy and increase prevalence. I consider surrogacy to violate the human rights of women and children.

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Other

Please provide your views below:

Disagree with regulated organisations because they would legitimise surrogacy and increase prevalence. I consider surrogacy to violate the human rights of women and children.

Even if surrogacy orgs are non profit making, they would still be driven by commercial imperatives e.g. to cover costs and therefore will need to seek new business etc.

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

Disagree with regulated organisations because they would legitimise surrogacy and increase prevalence. I consider surrogacy to violate the human rights of women and children.

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Other

Please provide your views below:

Disagree with regulated organisations because they would legitimise surrogacy and increase prevalence. I consider surrogacy to violate the human rights of women and children.

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

Disagree with regulated organisations because they would legitimise surrogacy and increase prevalence. I consider surrogacy to violate the human rights of women and children.

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

I disagree with any matching function because it would increase prevalence of surrogacy which I consider to be a violation of women and children's rights.

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Other

Please provide your views below:

Disagree with regulated organisations because they would legitimise surrogacy and increase prevalence. I consider surrogacy to violate the human rights of women and children.

Please provide your views below:

Na

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I vehemently oppose any charging for surrogacy which I consider to violate women and children's human rights.

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I vehemently oppose commercialisation of surrogacy. Breach of human rights etc.

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the new pathway.

Birth mother should be 'recorded as parent not intended parents. Any decision altering this made by a court, after the birth.

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

No need for reform.

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

Yes

Please provide your views below:

Other

Please provide your views below:

Profoundly disagree with pathway but should surrogacy take place, children need to have full information on their genetic heritage, so these proposals are generally sound, other than that info held on gamete donors should also hold identifying information.

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

I agree but with the proviso info should be identifying.

57 Consultation Question 49:

Yes

Please provide your views below:

Please provide your views below:

I agree with 1 and 2 and poss other circumstances.

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

Yes thus should be possible.

59 Consultation Question 51:

Yes

Please provide your views below:

Please provide your views below:

Yrs I agree

60 Consultation Question 52:

Please provide your views below:

Yes

Please provide your views below:

Yes

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

Yes they should

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

No.

The time limit should be retained unless changed by a court in best interests of child.

63 Consultation Question 55:

No

Please provide your views below:

Violation of women's rights and would increase risk of child trafficking.

No

Please provide your views below:

Violation of women's rights. Increases risk of cild trafficking.

Adoption order could be considered.

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

No

Please provide your views below:

Please provide your views below:

Disagree because of risk of surrogacy tourism.

65 Consultation Question 57:

Please provide your views below:

Qualifying categories of relationship should not be reformed or removed.

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Other

Please provide views below:

Disagree with proposals for new pathway.

67 Consultation Question 59:

No

Please provide views below:

Believe genetic link should be retained. Disbelieve surrogacy is ever medically necessary.

Please provide views below:

Disagree with new pathway and likely increase in prevalence of surrogacy. Do not therefore believe double donation should be permitted.

Yes

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

No

Please provide your views below:

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

No

Please provide views below:

Doubt ever medically necessary.

70 Consultation Question 62:

Please provide your views below:

I oppose surrogacy and do not believe it is ever medically necessary.

Please provide your views below:

71 Consultation Question 63:

Other

Please provide your views below:

I disagree with new pathway but support recording of all genetic information.

Please provide your views below:

Whilst I oppose surrogacy I support 1 and 2.

Yes

Please provide your views below:

If surrogacy happens, I support this position.

72 Consultation Question 64:

No

Please provide your views below:

Please provide your views below:

Disagree with new pathway but if it happens, age should be 45.

Other

Please provide your views below:

Disagree profoundly with surrogacy but if it happens. Age limit should be much older e.g. 25. Otherwise young women v susceptible to exploitation

73 Consultation Question 65:

Other

Please provide your views below:

18 much too young. Should be 25 at least otherwise v susceptible to exploitation

Other

Please provide your views below:

17 much too young. 25 at least.

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Other

Please provide your views below:

Disagree with new pathway

Please provide your views below:

75 Consultation Question 67:

Other

Please provide your views below:

Disagree with new pathway.

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Other

Please provide your views below:

Disagree with new pathway.

77 Consultation Question 69:

Other

Please provide your views below:

Disagree with new pathway.

Please provide your views below:

Profoundly disagree with the new pathway.

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

Profoundly disagree with the new pathway.

No way woman who hasn't had a child should consider surrogacy. She cannot understand the effect of pregnancy and birth on feelings for and attachment to child.

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

No

Please provide your views below:

Bad for women's health. Women should not undergo multiple pregnancies.

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on costs actually incurred by the surrogate, and only on production of receipts.

Please provide your views below:

Totally opposed to payment as it commercialised women's reproductive functions.

There us rising inequality in uk and any payment beyond expenses will act as incentive.

81 Consultation Question 73:

Please provide your views below:

Medical bills, travel to medical appts, vitamins, extra food.

82 Consultation Question 74:

Please provide your views below:

Nope.

83 Consultation Question 75:

Please provide your views below:

None. Nothing which could incentivise surrogacy.

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

No. It would incentivise.

85 Consultation Question 77:

Please provide your views below:

Opposed as it would incentivise.

86 Consultation Question 78:

Please provide your views below:

Na

87 Consultation Question 79:

Please provide your views below:

No you cannot monetise the toll that pregnancy takes on a body. This is obscene.

Please provide your views below:

No

Not Answered

Please provide your views below:

Opposed to any kind of payment.

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

This question illustrates the risks of pregnancy and is why I oppose it.

89 Consultation Question 81:

Please provide your views below:

No. Too easy to incentivise via gifts rather than payment.

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

Not Answered

Please provide your views below:

Please provide any views below:

No. Opposed to any commercialisation of surrogacy.

91 Consultation Question 83:

Please provide views below:

N.a. as I oppose any payment other than basic, receipted costs.

Not Answered

Please provide your views below:

Opposed to any payment.

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Other

Please provide your views below:

Opposed to payment beyond basic costs. Opposed to new pathway. Opposed to payment on new pathway.

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

No

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

No Opposed to surrogacy as an abuse of human rights . Opposed to any payment which may incentivise it

95 Consultation Question 87:

Please provide your views below:

N.a.. Opposed to any payment.

96 Consultation Question 88:

Other

Please provide your views below:

Profoundly disagree with the new pathway.

Other

Please provide your views below:

The idea that a surrogacy agreement could place restrictions on the birth mothers lifestyle is abhorrent.

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

Na

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

Na

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

Na

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

No

Please provide your views below:

No contradicts the uns recommendations guarding against trafficking of children.

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

Na

102 Consultation Question 94:

No

Please provide your views below:

No

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

Please provide your views below:

No.

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

No

Please provide your views below:

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

Na

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Other

Please provide your views below:

I agree with such a guide but explaining why surrogacy is a breach if human. Rights.

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Other

Please provide your views below:

Disagree with new pathway.

107 Consultation Question 99:

No

Please provide your views below:

108 Consultation Question 100:

Please provide your views below:

Na

Please provide your views below:

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

Does not need changing.

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

No

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

Opposed to any reform in this area because it would noalise surrogacy which is a human rights violations.

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

No. Would normalize surrogacy.

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

No would normalize surrogacy.

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

No. Would normalize surrogacy.

115 Consultation Question 107:

Please provide your views below:

Loads of issues. Too tired to go into them.

How long is this bloomin consultation??

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

Response ID ANON-2V7F-Y81J-H

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 20:10:47

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Not Answered

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

No

Please provide your views below:

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

15 Consultation Question 8:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

Another period

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway.'

18 Consultation Question 11:

No

Please provide your views below:

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

19 Consultation Question 12:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

20 Consultation Question 13:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

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* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

21 Consultation Question 14:

No

Please provide your views below:

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

22 Consultation Question 15:

No

Please provide your views below:

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

Yes

Please share your views below:

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

23 Consultation Question 16:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

No

Please provide your views below:

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

No

Please provide your views below:

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

26 Consultation Question 19:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

Please provide your views below:

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

27 Consultation Question 20:

Yes

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

29 Consultation Question 22:

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

30 Consultation Question 23:

Please provide your views below:

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

31 Consultation Question 24:

Please provide your views below:

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

No - There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

33 Consultation Question 26:

No

Please provide your views below:

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

34 Consultation Question 27:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Other

Please provide your views below:

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

36 Consultation Question 29:

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

Please provide your views below:

40 Consultation Question 33:

No

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Other

Please provide your views below:

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Other

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41 Consultation Question 34:

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

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Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Other

Please provide your views below:

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Other

Please provide your views below:

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Not Answered

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Not Answered

Please provide your views below:

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Not Answered

Please provide your views below:

55 Consultation Question 47:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

57 Consultation Question 49:

Not Answered

Please provide your views below:

Please provide your views below:

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

59 Consultation Question 51:

Not Answered

Please provide your views below:

Please provide your views below:

60 Consultation Question 52:

Please provide your views below:

Please provide your views below:

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Not Answered

Please provide your views below:

Please provide your views below:

65 Consultation Question 57:

Please provide your views below:

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Not Answered

Please provide views below:

67 Consultation Question 59:

Not Answered

Please provide views below:

Please provide views below:

Not Answered

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Not Answered

Please provide your views below:

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Not Answered

Please provide views below:

70 Consultation Question 62:

Please provide your views below:

Please provide your views below:

71 Consultation Question 63:

Not Answered

Please provide your views below:

Please provide your views below:

Not Answered

Please provide your views below:

72 Consultation Question 64:

Not Answered

Please provide your views below:

Please provide your views below:

Not Answered

Please provide your views below:

73 Consultation Question 65:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

81 Consultation Question 73:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

82 Consultation Question 74:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

83 Consultation Question 75:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

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85 Consultation Question 77:

Please provide your views below:

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There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

86 Consultation Question 78:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

87 Consultation Question 79:

Please provide your views below:

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Not Answered

Please provide your views below:

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

89 Consultation Question 81:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

90 Consultation Question 82:

It should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

Please provide any views below:

91 Consultation Question 83:

Please provide views below:

Not Answered

Please provide your views below:

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Not Answered

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

95 Consultation Question 87:

Please provide your views below:

96 Consultation Question 88:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

Not Answered

Please provide your views below:

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Please provide your views below:

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

Not Answered

Please provide your views below:

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Not Answered

Please provide your views below:

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Not Answered

Please provide your views below:

107 Consultation Question 99:

Not Answered

Please provide your views below:

108 Consultation Question 100:

Please provide your views below:

Please provide your views below:

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

Not Answered

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself. There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to

expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
Advance equality of opportunity between people who share a protected characteristic and those who do not.
Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.

Response ID ANON-2V7F-Y81N-N

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 20:14:02

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

All International surrogacy arrangements should continue to be automatically allocated to a Judge of the High Court. There is a history of International surrogacy abuse and exploitation and a high level of scrutiny should be maintained.

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

Not Answered

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Not Answered

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

The Intended parents should not be documented as the legal parents at birth. This would reduce the birth mother to a vessel, a container, such knowledge of which would be detrimental to the mental health of the child, and against the healthy formation of their identity. This is not in the child's best interest. This proposal weakens the surrogate's right to change her mind.

15 Consultation Question 8:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Yes

Please provide your views below:

The prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements, otherwise this limits the right of the child to discover their genetic identity and may risk attraction to closely related persons. This is clearly not in the best interests of the child.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

18 Consultation Question 11:

Not Answered

Please provide your views below:

The surrogate should have the right to object to the acquisition of legal status by the Intended Parents immediately after the birth and before the baby is handed over. This consultation takes no account of the natural link between birth mother and baby and assumes an immediate hand-over, whether the birth mother objects or not. The birth mother should have the right to change her mind in exactly the same way as any other mother where relinquishing a baby is a possibility.

19 Consultation Question 12:

No

Please provide your views below:

I would object to any proposal which gives intended parents any more legal rights than they currently have.

20 Consultation Question 13:

Not Answered

Please provide your views below:

21 Consultation Question 14:

Not Answered

Please provide your views below:

22 Consultation Question 15:

Not Answered

Please provide your views below:

Not Answered

Please share your views below:

23 Consultation Question 16:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Not Answered

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

26 Consultation Question 19:

Not Answered

Please provide your views below:

Please provide your views below:

27 Consultation Question 20:

Not Answered

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

29 Consultation Question 22:

Please provide your views below:

The surrogacy business should be banned not made easier. There is no evidence in the proposed changes that the surrogacy business, which benefits Agencies, lawyers and those commissioning a surrogate (who is expected to carry a child as an altruistic act) should be made easier for those who profit. The evidence points to banning or severely restricting surrogacy practices as has been done in European countries such as Switzerland, France, Germany and Sweden and further afield in India and Thailand.

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

Not Answered

Please provide your views below:

34 Consultation Question 27:

Not Answered

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Not Answered

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Not Answered

Please provide your views below:

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

The views of independent surrogates are unlikely to be well represented, particularly overseas surrogates, mainly poor and uneducated and often exploited.

39 Consultation Question 32:

Please provide your views below:

Please provide your views below:

40 Consultation Question 33:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

41 Consultation Question 34:

Please provide your views below:

Please provide your views below:

Please provide your views below:

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Not Answered

Please provide your views below:

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Not Answered

Please provide your views below:

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Not Answered

Please provide your views below:

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Not Answered

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Not Answered

Please provide your views below:

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Not Answered

Please provide your views below:

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on costs actually incurred by the surrogate, and only on production of receipts.

Please provide your views below:

Any opportunity for financial gain in surrogacy would result in the creation of a market in which babies are for sale.

81 Consultation Question 73:

Please provide your views below:

No financial transaction should be a part if surrogacy arrangements. This creates a market for babies.

82 Consultation Question 74:

Please provide your views below:

83 Consultation Question 75:

Please provide your views below:

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

No

85 Consultation Question 77:

Please provide your views below:

No

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

Please provide your views below:

No. This creates a marketplace in which the item being traded for money is a baby.

Please provide your views below:

Not Answered

Please provide your views below:

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

89 Consultation Question 81:

Please provide your views below:

No. No gifts in return for a baby of any nature whatever.

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

Not Answered

Please provide your views below:

Please provide any views below:

91 Consultation Question 83:

Please provide views below:

Not Answered

Please provide your views below:

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Not Answered

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

This section highlights the importance of not creating this market in the first place. Babies should never be for sale.

95 Consultation Question 87:

Please provide your views below:

96 Consultation Question 88:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Marlyn G-lenSurrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

Name (Required)

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

[Name of organisation if relevant.]

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

- This is a personal response

If other, please provide details:

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

- Other individual

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential.

As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES – this is essential

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO after the birth

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

1.7 Only after the birth

(1) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.8 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.9 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.10 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.11 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.12 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.13 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.14 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.15 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and

children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and

facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the

recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

Leave both check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. The idea that a 'surrogacy agreement' could place restrictions on the birth mother's lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y81C-A

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 20:14:48

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

SUK

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Intended parent

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

No

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

Not Answered

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

Yes

Please provide your views below:

100%

15 Consultation Question 8:

Yes

Please provide your views below:

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Not Answered

Please provide your views below:

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

18 Consultation Question 11:

No

Please provide your views below:

19 Consultation Question 12:

Not Answered

Please provide your views below:

20 Consultation Question 13:

Not Answered

Please provide your views below:

21 Consultation Question 14:

Not Answered

Please provide your views below:

22 Consultation Question 15:

Yes

Please provide your views below:

Not Answered

Please share your views below:

23 Consultation Question 16:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Not Answered

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

26 Consultation Question 19:

Not Answered

Please provide your views below:

Please provide your views below:

27 Consultation Question 20:

Not Answered

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

29 Consultation Question 22:

Please provide your views below:

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

Not Answered

Please provide your views below:

34 Consultation Question 27:

Not Answered

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Not Answered

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Not Answered

Please provide your views below:

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

57 Consultation Question 49:

Not Answered

Please provide your views below:

Please provide your views below:

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

59 Consultation Question 51:

Yes

Please provide your views below:

Please provide your views below:

60 Consultation Question 52:

Please provide your views below:

Please provide your views below:

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

Yes we agree

63 Consultation Question 55:

Not Answered

Please provide your views below:

Yes

Please provide your views below:

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Yes

Please provide your views below:

Please provide your views below:

65 Consultation Question 57:

Please provide your views below:

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Yes

Please provide views below:

67 Consultation Question 59:

Not Answered

Please provide views below:

Please provide views below:

Not Answered

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Not Answered

Please provide your views below:

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Not Answered

Please provide views below:

70 Consultation Question 62:

Please provide your views below:

Please provide your views below:

71 Consultation Question 63:

Not Answered

Please provide your views below:

Please provide your views below:

Not Answered

Please provide your views below:

72 Consultation Question 64:

Yes

Please provide your views below:

Please provide your views below:

Yes

Please provide your views below:

73 Consultation Question 65:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on costs actually incurred by the surrogate, and only on production of receipts.

Please provide your views below:

81 Consultation Question 73:

Please provide your views below:

82 Consultation Question 74:

Please provide your views below:

83 Consultation Question 75:

Please provide your views below:

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

85 Consultation Question 77:

Please provide your views below:

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

Please provide your views below:

Please provide your views below:

Not Answered

Please provide your views below:

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

89 Consultation Question 81:

Please provide your views below:

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

Not Answered

Please provide your views below:

Please provide any views below:

91 Consultation Question 83:

Please provide views below:

Not Answered

Please provide your views below:

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Not Answered

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

95 Consultation Question 87:

Please provide your views below:

96 Consultation Question 88:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

Not Answered

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

Short Form Questionnaire: Law Commissions' Surrogacy Consultation



This form is an extract of the longer form for comments and responses to the Law Commission's and the Scottish Law Commission's consultation about reforming surrogacy law. If you would like to respond to the full version of our consultation questionnaire, please use the online form: https://consult.justice.gov.uk/law-commission/surrogacy. Please see our websites for further details, and for links to download the full consultation paper: https://www.lawcom.gov.uk/project/surrogacy/ and https://www.scotlawcom.gov.uk/law-reform/law-reform-projects/joint-projects/surrogacy/.

We have selected 46 questions which may be of particular interest of **those with lived experience of surrogacy arrangements**: surrogates, intended parents, family members and adult children born of surrogacy arrangements. You do not need to answer all the questions if you do not want to, and you can write as much or as little as you would like in response to our questions.

Please note that we may publish or disclose information you provide us in response to this consultation, including personal information. We ask consultees, when providing their responses, if they could avoid including personal identifying information in the text of their response, particularly where this may reveal the identities of other people involved in their surrogacy arrangement.

For more information about how we consult and how we may use responses to the consultation, please see page i – ii of the Consultation Paper.

HOW TO SUBMIT YOUR RESPONSE USING THIS QUESTIONNAIRE

Type your response into the text fields below and then save your completed form. When you have completed your response, email the completed form as an attachment to surrogacy@lawcommission.gov.uk.

The closing date for submitting a response to our consultation is 11 October 2019.

QUESTIONS ABOUT YOU

What is your name? [redacted]

If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation? COTS- Childlesness Overcome Through Surrogacy

Are you responding to this consultation in a personal capacity or on behalf of your organisation?
Personal

If responding to this consultation in a personal capacity, which term below best describes you?
Parent of biological Twins from Surrogacy

What is your email address?
[redacted]

What is your telephone number?
[redacted]

If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our **privacy notice**, we take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.
Confidential- due to the intimate nature of Surrogacy. I am happy for you to use my words but not my name.

Question No.	Consultation Question
Q1	Consultation Question 7. In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have: (1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth, (2) complied with procedural safeguards for the agreement, and (3) met eligibility requirements, on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object. Do consultees agree?
Your Response to Q1	**YES (AGREE) that the parents should be the legal parents but without the surrogates right to object. Surrogacy is not an easy process, though it is wonderful. The parents who go down this path are extraordinarily brave and should be protected by the law. A lot of the the major stress caused for over a year for intended parents is absolutely unnecessary, due to antiquated laws. Considering that it is the intended parents that have trusted a surrogate with their (in our case) embryo/s and the surrogate has agreed at the start of the arrangement to give the baby to the intended parents, there**

	should not be an option for the baby to be kept by the surrogate- at all. A surrogate should only go into an arrangement knowing that the only option at the end is to give the baby to the biological or intended parents. If at the beginning the surrogate is unsure of how she will feel at the end, then she must not go into the arrangement. Having a law in place that ensures that the intended parents are the legal parents, immediately after the birth, will weed out surrogates that are not sure, going into the arrangement if they will want to keep the baby or not. This will also stop all of the unnecessary bad press that surrogacy gets when actually it is a beautiful thing. As far as I am aware in America the surrogate does not have the right to object or to keep the baby and I believe that, is a much better way. It is hard enough for the intended parents to trust a surrogate (usually a stranger to begin with) to take the optimum care of their child, eg: to eat healithy, not smoke, not drink etc. Having the surrogate also be able to keep the child at the end is unecessary and unfair to all intended parents biological or otherwise. Of the many surrogates that I have spoken to about this issue, they feel the same way.
Q2	Consultation Question 11. We provisionally propose that: (1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child; (2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and (3) the defined period should be the applicable period for birth registration less one week. Do consultees agree?
Your Response to Q2	**NO, STRONGLY DISAGREE (1) (2) (3)**
Q3	Consultation Question 12. We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that: (1) the surrogate will be the legal parent of the child; (2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and (3) the intended parents would be able to make an application for a parental order to obtain legal parenthood. Do consultees agree?

Your Response to Q3	**Click or tap here to enter text.**
Q4	Consultation Question 15. We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child. Do consultees agree? We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.
Your Response to Q4	**Click or tap here to enter text.**
Q5	Consultation Question 27. We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway: (1) the intended parents should acquire parental responsibility on the birth of the child; and (2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order. Do consultees agree?
Your Response to Q5	**Click or tap here to enter text.**
Q6	Consultation Question 28. We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object. Do consultees agree?
Your Response to Q6	**Click or tap here to enter text.**
Q7	Consultation Question 29. For all surrogacy arrangements, we invite consultees' views as to: (1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the

	intended parents, during the period in which parental responsibility is shared; and (2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.
Your Response to Q7	?
Q8	Consultation Question 55. We provisionally propose that: (1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available; (2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances: (a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or (b) following a determination by the court that the child should live with the intended parents; and (3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007. Do consultees agree?
Your Response to Q8	**Click or tap here to enter text.**
Q9	Consultation Question 30. We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway. Do consultees agree?
Your Response to Q9	**Click or tap here to enter text.**
Q10	Consultation Question 32. We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway. We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

Your Response to Q10	**Click or tap here to enter text.**
Q11	Consultation Question 67. We provisionally propose that, as a condition of being eligible for entry into the new pathway: (1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and (2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15. Do consultees agree?
Your Response to Q11	**AGREE (1) & (2)**
Q12	Consultation Question 68. We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?
Your Response to Q12	**AGREE**
Q13	Consultation Question 88. We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate. Do consultees agree? We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle. Do consultees agree?
Your Response to Q13	**DO NOT AGREE TO IT NOT BEING DEPENDANT ON LIFESTYLE. This is a matter of health risk to an unborn child. If a surrogate has said she will not smoke and she does so or that she will not drink and then does so this can cause health risks that the intended parents may have to deal with through no fault of their own. This is also hugely unfair to the unborn child. There should be financial consequences if the surrogate does not adhere to what has been agreed at the start of the arrangement. If the surrogate has no consequences then there is nothing to deter them to make false promises and this could potentially have devastating outcomes in worst case senarios.**

Q14	Consultation Question 42. We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?
Your Response to Q14	**AGREE/ DISAGREE The ban should be lifted but with certain laws in places to stop manipulation. This is a tricky subject, advertising and marketing can and many times do, use psychological factors to manipulate people to make decisions that they would not otherwise make. This is in respect to the life of a child. I feel that the people who decide to be a surrogate should come into it because they have a strong urge to do good in the world and to help people have the joy and gift of children. If they come into the arrangement just for money or other reasons that are not pure, then it not only affects the intended parents but the child to be born -if things go wrong. There is a massive shortage of surrogates in the UK and there needs to be a way for valid surrogacy agencies such as COTS to be able to get their message out to the population in a controlled, positive way. Not for anyone, anywhere and on any media to be able to- with any intention.**
Q15	Consultation Question 62. We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity: (1) for cases under the new pathway to parenthood; and/or (2) for cases where a post-birth parental order application is made. We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.
Your Response to Q15	**Click or tap here to enter text.**
Q16	Consultation Question 70. We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.
Your Response to Q16	**STRONGLY AGREE How would a woman know what their experience of pregnancy would be and how the hormones for bonding would feel if they have never experienced it for themselves. I think that it is wildly risky and unresponsible to go into a surrogacy arrangement with a person who has not completed their own family first. It is also not fair on the child if there are people fighting over who should be the rightful parent, because the law has allowed them to enter into surrogacy with a surrogate who does not have the maturity or life experience to handle the ups and downs of surrogacy and come through the other end with a positive outcome for all involved- including and most importantly the child.**
Q17	Consultation Question 33. We provisionally propose that: (1) there should be regulated surrogacy organisations;

	(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and (3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation. Do consultees agree?
Your Response to Q17	**AGREE there should be regulated surrogacy organisations and regulated contracts and agreement forms.** **There is massive peace of mind for new parents to have an amazing agency such as COTS guide them through all the laws and emotions of surrogacy and have an agreement from the start that is signed and agreed to by the surrogate and the parents.** **This is vital.** **No viable business would go into business with others without some form of contract to ensure that everyone is on the same page and to avoid unnecessary problems arising along the road. This is far more important than business this is the most important thing in most peoles lives- (family). Therefore, there should be contracts and agreement forms because once the surrogate is pregnant there is no turning back. The life, health and emotional wellbeing of a child is at stake. This is just common sense when you remember that know matter how great your relationship with a surrogate, they are still in most cases a stranger to begin with.** **There is also peace of mind for new parents and those conducting a sibling journey knowing that if things don't happen as expected, that there are people to counsel the surrogate to make the right decisions and to help the intended parents too.**
Q18	Consultation Question 35. We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?
Your Response to Q18	**AGREE**
Q19	Consultation Question 37. We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree? We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.
Your Response to Q19	**AGREE. [redacted] COTS has created an incredible legacy with over 1000 births spreading joy and giving families like ourselves the gift of children and there really is no greater gift. [redacted] the extraordinary surrogates themsleves have helped so many people, long may it continue. It is worth noting that the positive effects of the wonderful children born through surrogacy due**

	to the aultristic surrogates and agencies such as COTS not only create lifelong joy for the parents but also for the grandparents and other surrounding family members. There is also a positive affect for generations as those precious children become parents and grandparents themselves so the fact that the laws are being reviewed is wonderful.
Q20	Consultation Question 59. We provisionally propose that the new pathway – (1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but (2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility. Do consultees agree? We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements. We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements. Do consultees agree?
Your Response to Q20	**Click or tap here to enter text.**
Q21	Consultation Question 46. We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings. Do consultees agree?
Your Response to Q21	**DISAGREE**
Q22	Consultation Question 47. We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors. Do consultees agree? We provisionally propose that: (1) the register should be maintained by the Authority;

	(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include: (a) identifying information about all the parties to the surrogacy arrangement, and (b) non-identifying information about those who have contributed gametes to the conception of the child; and (3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies. Do consultees agree?
Your Response to Q22	**Click or tap here to enter text.**
Q23	Consultation Question 48. We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.
Your Response to Q23	**DISAGREE**
Q24	Consultation Question 49. We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request. Do consultees agree? We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances: (1) where his or her legal parents have consented; (2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or (3) in any other circumstances.
Your Response to Q24	**DISAGREE**

Q25	Consultation Question 51. We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so. Do consultees agree? We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.
Your Response to Q25	**Click or tap here to enter text.**
Q26	Consultation Question 52. We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so: (1) if they are genetically related through the surrogate; and/or (2) if they are not genetically related through the surrogate.
Your Response to Q26	**Click or tap here to enter text.**
Q27	Consultation Question 53. For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.
Your Response to Q27	**Click or tap here to enter text.**
Q28	Consultation Question 72. We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be: (1) based on an allowance; (2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or (3) based on costs actually incurred by the surrogate, and only on production of receipts.
Your Response to Q28	**AGREE (1) OR (3) ONLY**

Q29	Consultation Question 73. We invite consultees' views as to: (1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and (2) the types of expenditure which should be considered "essential".
Your Response to Q29	**AGREE. There are lots of costs to be factored in. Examples: childcare for the surrogates own children if the surrogate is on bed rest or has to leave work due the pregnancy, receipts for parking and petrol allowance to attend appointments, pregnancy clothing etc. I feel that the current advice from COTS on this is fair as long as the surrogate agrees.**
Q30	Consultation Question 74. We invite consultees' views as to: (1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and (2) the types of expenditure which should be considered additional, rather than essential.
Your Response to Q30	**If possible intended parents should be allowed if they wish to pay additional expenses if they are economically viable for them. For example we would have liked to have paid for a cleaner to give our surrogate some rest time near the end, as she was carrying twins, but we were concerned about the law. She did not mention this to us but we would have liked to offer. Also there are families who cannot afford even more expense in the process and so it would be fair to try to decide the costs upfront perhaps with some wiggle room, so that those families don't have to go into debt unexpectedly.**
Q31	Consultation Question 75. We invite consultees' views as to: (1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and (2) the types of cost which should be included within this category.
Your Response to Q31	**Click or tap here to enter text.**
Q32	Consultation Question 76. We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).
Your Response to Q32	**Click or tap here to enter text.**

Q33	Consultation Question 77. We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings: (1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or (2) other lost potential earnings (as defined in paragraph 15.36 above).
Your Response to Q33	**Click or tap here to enter text.**
Q34	Consultation Question 78. We invite consultees to share their experiences: (1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and (2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.
Your Response to Q34	**Click or tap here to enter text.**
Q35	Consultation Question 79. We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following: (1) pain and inconvenience arising from the pregnancy and childbirth; (2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or (3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy. We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation. We invite consultees' views as to whether the level of compensation payable should be: (1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or (2) left to the parties to negotiate.

Your Response to Q35	**AGREE (1) I believe that they way the COTS agreement form was setup when we did it in 2014 was very fair and covered possible unexpected outcomes too. There should be a cap otherwise parents who need to do surrogacy may be put off even starting the process if they have no idea if they could even afford it. If the parents were to get a third of the way way along the process and having found the perfect surrogate and built a great relationship of trust and respect just to find out that they cant afford to proceed. This would be a massive bottle-neck in the whole process. The other thing is that if surrogates are not doing the process to help the couple, but for financial reasons then they may not have the same respect for the parents wishes such as not smoking or not drinking etc. This is wildly unfair on the unborn child and changes the whole gift of surrocagy into something ugly.**
Q36	Consultation Question 80. We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.
Your Response to Q36	**Click or tap here to enter text.**
Q37	Consultation Question 81. We invite consultees' views as to whether: (1) intended parents should be able to buy gifts for the surrogate; and (2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.
Your Response to Q37	**Yes modest gifts, otherwise some surrogates may cherry pick the richest parents, which would not be a fair for all couples attempting surrogacy. This is in the worst case senario and relates to the end of my previous response to question 35.**
Q38	Consultation Question 82. We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be: (1) any sum agreed between the parties to the surrogacy; or (2) a fixed fee set by the regulator. We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee: (1) no other payments; (2) essential costs relating to the pregnancy;

	(3) additional costs relating to the pregnancy; (4) lost earnings; (5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or (6) gifts.
Your Response to Q38	**A fixed fee but with some wiggle room such as what COTS suggested in 2014 but with inflation taken into account.**
Q39	Consultation Question 84. We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?
Your Response to Q39	**Click or tap here to enter text.**
Q40	Consultation Question 85. We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.
Your Response to Q40	**Click or tap here to enter text.**
Q41	Consultation Question 92. We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child. Do consultees agree?
Your Response to Q41	**AGREE**
Q42	Consultation Question 94. We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth. Do consultees agree?

	We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules. Do consultees agree? We provisionally propose that: (1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or (2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate. Do consultees agree? We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.
Your Response to Q42	**Click or tap here to enter text.**
Q43	Consultation Question 95. We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child. Do consultees agree?
Your Response to Q43	**Click or tap here to enter text.**
Q44	Consultation Question 97. We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?
Your Response to Q44	**AGREE**
Q45	Consultation Question 99. We provisionally propose that: the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal

	parents in the UK, without it being necessary for the intended parents to apply for a parental order, but before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law. Do consultees agree?
Your Response to Q45	**AGREE TO BOTH PARAGRAPHS**
Q46	Consultation Question 107. We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area. We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales. We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.
Your Response to Q46	**The intended parents should have immediate and full access to their child as we did. It should be agreed before-hand with the surrogate if the parents can be present for the birth, as we were. The midwives who were wonderful with us all, should treat the intended parents and the surrogate with equal respect throughout.**

END OF QUESTIONNAIRE – HOW TO SUBMIT

Thank you for completing this form. To submit it as a formal response to the Law Commission, save your completed form and email it as an attachment to surrogacy@lawcommission.gov.uk. Please note that the deadline for responding to our consultation is **11 October 2019**.

Response ID ANON-2V7F-Y8BK-3

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 20:21:07

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

N/a

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

International surrogacy should essentially be discouraged as it is highly likely to involve exploitation of women in poorer parts of the world leading to financial incentives rather than altruistic ones. A High Court judge should definitely oversee these proceedings to make this be seen as a highly exceptional circumstance rather than a regular one.

Please provide your views below:

No - it should be automatically allocated to High Court judges.

9 Consultation Question 2:

Please provide your views below:

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

No

Please provide your views below:

Awarding parental responsibility should be considered carefully and as such should require more than an initial hearing to be awarded.

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Not Answered

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

A woman who has just given birth may be feeling strong emotions. They should not be obliged to give up their new born baby. They should not need to object to other's becoming the child's legal parents. The situation should be that the mother is the legal mother up until they give up their parental rights of their own accord.
They should have the absolute right to change their mind about giving up their baby for surrogacy and as such should be under no legal pressure to give up the baby.

15 Consultation Question 8:

Yes

Please provide your views below:

Any such agreement should keep records for as long a time as possible. The whole situation should be clearly documented.

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Yes

Please provide your views below:

No child should be intentionally created such that their parentage is anonymous. As such the origin of the gametes (eggs or sperm) should be recorded.

Children who do not have this knowledge often experience distress, to know that it was not accidental but deliberate and legally sanctioned would exacerbate distress. This should not be acceptable in a regulated process.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

No child should be intentionally created such that their parentage is anonymous. As such the origin of the gametes should be recorded.

Children who do not have this knowledge often experience distress, to know that it was not accidental but deliberate and legally sanctioned would exacerbate distress. This should not be acceptable in a regulated process.

18 Consultation Question 11:

No

Please provide your views below:

A woman should be under no pressure at all to give up legal parental responsibility. If she decides during the pregnancy/post birth that she wants to keep the baby to bring up then that is her prerogative. She does not need to put this in writing.

The intended surrogate parents are entirely reliant on her agreeing to give up the baby post-birth and that is something they have to live with when they ask a woman to give birth for them.

19 Consultation Question 12:

Other

Please provide your views below:

The surrogate should not need to object - it is up to her to give up her rights to parental responsibility voluntarily, if she doesn't then the baby is automatically hers.

If the intended parents have a biological link to the child via sperm or egg then I think it is reasonable for them to be able to make an application to obtain legal parenthood and a co-parenting arrangement would be put in place.

20 Consultation Question 13:

Other

Please provide your views below:

This is just wrong - the surrogate is the birth mother and retains parental responsibility until she gives it up. The intended parents should not be able to obtain parental responsibility without the express permission of the birth mother.

21 Consultation Question 14:

Other

Please provide your views below:

The welfare of the child is paramount - their welfare should be the top priority at all times in the process and this should be considered both immediately after birth, during the process to pass the child to the intended parents and after the intended parents have looked after the child for a while.

Ideally this process would not happen at all as deliberately removing a child from the birth mother is not good for a child's brain development and should only be done when a biological parent is not a fit parent. It should not be a planned event.

22 Consultation Question 15:

Yes

Please provide your views below:

The birth mother is obviously the parent, anyone else involved would need to apply for parental responsibility under the specific circumstances.

No

Please share your views below:

The birth mother is obviously the parent, anyone else involved should need to apply for parental responsibility under the specific circumstances.

23 Consultation Question 16:

No

Please provide your views below:

The birth mother is the mother unless she voluntarily gives up her parental responsibility and passes it to the intended parents.

Other

Please provide your views below:

I think this should happen dependent on the birth mother's views. If she just wants her name on the certificate then that is what should happen.

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Yes

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

The intended parents should be required to make an application for a parental order. The assumption should be that the mother did not give up her rights and that they are not parents until the court has agreed it become so.

26 Consultation Question 19:

No

Please provide your views below:

The intended parents were not actually the parents - they are both dead before the child is born. The surrogate mother and the biological parent who provided the sperm should be recorded. The record of birth should reflect reality, not a fiction.

Please provide your views below:

27 Consultation Question 20:

Not Answered

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

The birth mother should definitely be recognised as the parent. Ideally the birth mother should be involved in caring for the child so that the child is not removed from the mother it recognises shortly after birth causing attachment issues.

It makes sense that the intended parents, especially if they are the producers of the gametes should also be allowed to have parental responsibility.

29 Consultation Question 22:

Please provide your views below:

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

Not Answered

Please provide your views below:

34 Consultation Question 27:

Not Answered

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right

to object, assuming that she does not exercise her right to object.Do consultees agree?

Not Answered

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

No

Please provide your views below:

I disagree with the new pathway so no the new arrangements should not use the new pathway.

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

n/a

39 Consultation Question 32:

Please provide your views below:

I do not think independent surrogacy should be encouraged - it certainly shouldn't involve changing the legal parents before birth or any kinds of payment.

Please provide your views below:

n/a

40 Consultation Question 33:

No

Please provide your views below:

A regulated organisation would have to advertise for surrogates. This will slowly put pressure on poor women to become exploited in this way. Producing babies deliberately to be handed over away from their birth mother should not be anything the state should have any part in. I would consider it akin to regulated prostitution services, although ones that harm both the mother and the child, as well as having unknown effects on other siblings/relations.

Other

Please provide your views below:

There should not be any regulated surrogacy organisations. The state should not be in the business of effectively producing and selling babies for those who cannot conceive naturally.

Other

Please provide your views below:

There should not be any surrogacy organisations. It's immoral as surrogacy harms both the children produced and the mothers who are exploited to produce them.

41 Consultation Question 34:

Please provide your views below:

There should not be any regulated surrogacy organisations. The state should not be training people to produce and remove babies from their mothers.

Please provide your views below:

No other responsibilities the whole idea of this job is immoral.

Please provide your views below:

See previous response.

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Other

Please provide your views below:

There should be no regulated surrogacy organisations. Whether non-profit making or not the organisation would need to ensure surrogacy was promoted for the organisation to continue to exist. That means that for survival the organisation would have an incentive to promote surrogacy. That is the production of babies to satisfy adults who are unable to conceive themselves. No-one has a right to a baby. The child's interest must come first and surrogacy is not in the interests of children.

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

There should be no regulated surrogacy organisations. Whether non-profit making or not the organisation would need to ensure surrogacy was promoted for the organisation to continue to exist. That means that for survival the organisation would have an incentive to promote surrogacy. That is the production of babies to satisfy adults who are unable to conceive themselves. No-one has a right to a baby. The child's interest must come first and surrogacy is not in the interests of children.

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Other

Please provide your views below:

There should be no regulated surrogacy organisations. Whether non-profit making or not the organisation would need to ensure surrogacy was promoted for the organisation to continue to exist. That means that for survival the organisation would have an incentive to promote surrogacy. That is the production of babies to satisfy adults who are unable to conceive themselves. No-one has a right to a baby. The child's interest must come first and surrogacy is not in the interests of children.

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

Think about what you are suggesting. That people should have a role to match up women whose bodies others intend to use to produce babies. Once the baby is born the baby is removed from the mother who then has no further role in the child's life.

This is not in the best interests of the child and should not be considered a reasonable thing to happen in a civilised society.

There should be no surrogacy organisations, regardless of whether they are regulated or not. There should be no 'matching services'.

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

Criminal definitely. No-one should be matching women to have babies for people they don't know. It's both dangerous for the woman, damaging to the child and thus immoral. It should be a criminal offence similar to trafficking to take part in this.

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

No

Please provide your views below:

There should be no regulated surrogacy organisations as mentioned above. Therefore there is no need for the HFEA to oversee such.

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

Surrogacy agreements should NEVER be enforceable.

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

If you allow people to charge to arrange, negotiate or facilitate surrogacy arrangements you are giving them an incentive to arrange surrogacy.

Surrogacy involves the exploitation of women's bodies and is harmful to children. No-one should have any incentive to make it happen.

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I see this as similar to the ban on betting/gambling being lifted. Entirely immoral. What next, advertising prostitution? Actually, I half wish I hadn't put that as I suspect it will give some people ideas.

We need to learn respect for humans, respect for women and respect for children. Surrogacy is entirely about adults' selfish wants that they can't have without exploiting women. It should not happen and definitely should not be advertised.

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Other

Please provide your views below:

The child should absolutely be able to access their original birth certificate at the age of 18. I actually think the parents should explain their origins from an early age - if anything it should be a criminal offence to ever pretend the child was born in any other way.

Suddenly discovering your parents aren't who you thought they were as a young adult is absolutely devastating and the state should do everything they can to prevent it. It should be like with adoption, where the child knows they have been adopted.

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Other

Please provide your views below:

The intended parents should not be on the birth certificate - they are not the parents. The actual parents, birth mother, donor of egg and donor of sperm should be recorded.

There should be an adoption type birth certificate for the new parents once the child has been handed over.

It is utterly immoral to pretend in any way that this didn't happen.

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

Not sure exactly what the current process is.

In my opinion it should be:
register child as birth mother, donor of egg (if there is one) and sperm donor.

Then a second certificate similar to an adoption certificate to register the parents who commissioned the baby.

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

If anything 18 is too late. The child should have access to full information as early as they are competent to understand it and definitely full access to documentation which details how their birth was planned once they are 18.

Counselling should be provided as well.

55 Consultation Question 47:

Yes

Please provide your views below:

No

Please provide your views below:

There should not be any anonymous donors of gametes. This is the child's heritage. If the producers of said gametes want to remain anonymous then the gametes should not be used.

This should be an open and transparent situation. Anyone not willing to be open about it shouldn't be involved.

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

There should be no anonymous information -- the chid and everyone involved should be able to find out who the parents (biological) and surrogate mother were.

57 Consultation Question 49:

Other

Please provide your views below:

I agree they should be able to access this information. They should be able to get it earlier if possible - I don't see why a young person should grow up not knowing who their biological parents are but knowing they can find this out when they are 18. This is the kind of traumatic situation that adopted children have to deal with - but adopted children were not created deliberately for adoption. They were in a situation where the real parents couldn't cope. Surrogacy is creating a similar level of suffering for selfish adult reasons.

Please provide your views below:

Yes - a child should know the information about their origins as soon as they are able to ask the questions.

I would definitely question the idea of creating a process which is deliberately going to create traumatised children who will need counselling before finding out about their parentage. This can't possibly be right.

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

The very fact you are asking this question shows the problems caused by surrogacy. I hadn't even got as far of thinking of such things.

To most people's minds surrogacy is an extremely rare event, usually done for a sibling who can't have children for some reason.

This suggests you are thinking about women producing multiple children for multiple families. This is an awful prospect of exploitation of women and much suffering for children removed from their birth mother. This should not be promoted.

59 Consultation Question 51:

Yes

Please provide your views below:

Although this is an awful prospect for the children involved. Anyone who promotes surrogacy should be ashamed of themselves and should realise that it is not something which should happen.

Please provide your views below:

Absolutely. The very idea that you are asking this shows you have thought deeply about all the possible people who could be affected by surrogacy. None of these are happy scenarios, it will all be traumatic like adoption and is completely unnecessary. No-one has a right to have a child produced for them.

60 Consultation Question 52:

Please provide your views below:

Absolutely - these are siblings. Actually, they should grow up knowing each other as siblings and as such the rules around surrogacy should ensure this happens.

Please provide your views below:

Yes they should - the child should be able to know who else had the same mother as them. Basically, this shouldn't be happening as women are being exploited and children's needs are not really being taken into consideration.

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

How can a parent not be party to an application for a parental order? this sounds very messy.

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

Yes. The parental order application should occur depending on what is in the best interests of the child. If this isn't within 6 months then it shouldn't happen until after 6 months.

63 Consultation Question 55:

No

Please provide your views below:

If the surrogate cannot be found or is found to be incapable of giving agreement then the child should be treated as it would be if it was abandoned or orphaned. It should be a matter of much concern if the mother of a child "cannot be found". This could be hiding the forced exploitation of women or child trafficking. We should not accept unfound mothers as normal.

Other

Please provide your views below:

The consent of the surrogate should ONLY be subject to the welfare of the child. What happens should always be in the best interests of the child. If the mother regrets giving up the child and doesn't want to give up parental responsibility then that should be dealt with in a way which is best for both the mother and the child. It is a risk the surrogate parents take that the surrogate may not just helpfully disappear once the child is born.

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Other

Please provide your views below:

We can't possibly monitor or check on a child who isn't due to be kept in the UK, at least as an intention. Anyone involved in surrogacy should be permanent residents of the UK, not anyone who has recently arrived.

Please provide your views below:

Given that we're about to leave the EU (possibly!) we should only deal with people who are already habitually resident in the UK and intend to stay here. I would definitely be quite sceptical about someone who had only been here 3 months trying to arrange a surrogate.

65 Consultation Question 57:

Please provide your views below:

They should not be changed.

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Other

Please provide views below:

The intended parents should not be making any declarations about the child prior to the child being born.

67 Consultation Question 59:

No

Please provide views below:

There should not be a new pathway. If intended parents have no genetic link to the child they are commissioning then they should not be looking to get others to provide a baby for them, they should look at adopting a child as that is precisely what they are intending to do, they just want a shiny new child created for them.

There is no medical necessity for surrogacy - no-one NEEDS to have a baby, people WANT to have a baby. People need to learn to live with reality not exploit women for their own ends.

Please provide views below:

No, double donation is just creating a child which is planned to have no genetic link to anyone planning to be its parent. This should not be happening for no reason. Obviously adoption is a necessity when a child is not wanted or neglected. We should not be producing children for people who can't have them just because they want one.

Other

Please provide views below:

We should not support international surrogacy arrangements in any shape or form whatsoever. The risk of child trafficking, huge exploitation of women and general misery caused by it is too high.

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Other

Please provide your views below:

There should be a genetic link in cases of surrogacy. However, it is not a necessity and there is no reason that anyone 'needs' a child.

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Other

Please provide views below:

Double donation should not be permitted, there is not a medical necessity. A medical necessity is something which needs to be done to maintain someone's health, no-one is at risk from NOT having a baby. The people who want the baby are not putting their health at risk to produce one. The only person who will end up with medical needs is the surrogate mother.

70 Consultation Question 62:

Please provide your views below:

Surrogacy is not a medical necessity. The surrogate mother's health is at risk during the pregnancy and birth, the commissioning adults are not at risk of medical issues from not having a baby.

Please provide your views below:

See above - it is not a medical necessity, anymore than breast enlargement or hair transplant procedures are.

71 Consultation Question 63:

Other

Please provide your views below:

The new pathway is not needed.

If surrogacy does occur the information about the child's genetic parents, and surrogate and commissioning adults should all be recorded.

Please provide your views below:

The new pathway should not be needed, but (1) and (2) make sense if surrogacy does happen.

Yes

Please provide your views below:

The details of everyone involved should be recorded.

72 Consultation Question 64:

Other

Please provide your views below:

Surrogacy should not be happening. It isn't needed, it is just satisfying the wants of adults who can't cope with not being able to produce children naturally.

If allowed to occur it should be made clear that the welfare of the child is paramount. A child with parents over the age of 50 will be dealing with elderly parents from a young age, which is not particularly natural and not fair on the child. So an age limit should be included to ensure that parents are not too old.

Please provide your views below:

Yes - it should probably be 40 to 45, as not many people conceive naturally beyond that age. If people haven't sorted out wanting children before that age then tough, they will have to deal with it. It isn't children's fault that most people spend their 20s getting drunk and being "too young" to take on responsibility and hence end up only thinking about children once they are infertile.

I

No

Please provide your views below:

Surrogacy should not be allowed in the first place, but if it is it should be for adults who are capable of giving a child a stable home. 18 is too young to do this in most cases, so surrogacy should not be available until age 21 or even older.

73 Consultation Question 65:

Other

Please provide your views below:

Obviously surrogates should be over 18. As someone who works in a school I would be reporting a pregnant under 18 as a safeguarding concern themselves if they said they were a surrogate.

Surrogacy involves the exploitation of women, it should only be allowed in a small number of cases. A typical woman who MAY be able to cope with surrogacy would be someone who has had children of her own already, found pregnancy relatively easy and had straightforward births. No-one should be considering it who is doing it for the first time - they have no idea how risky it will be for them.

Other

Please provide your views below:

Obviously surrogates should be over 18. As someone who works in a school I would be reporting a pregnant under 18 as a safeguarding concern themselves if they said they were a surrogate.

Surrogacy involves the exploitation of women, it should only be allowed in a small number of cases. A typical woman who MAY be able to cope with surrogacy would be someone who has had children of her own already, found pregnancy relatively easy and had straightforward births. No-one should be considering it who is doing it for the first time - they have no idea how risky it will be for them.

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Other

Please provide your views below:

I don't believe that there should be a 'new pathway' for surrogacy. If surrogacy does occur then medical testing to find out if the pregnancy is likely to be safe for the surrogate mother is the most important thing. Why would medical testing be done for the child? Would that be in the best interests of the child or because the commissioning adults want a perfect baby?

Please provide your views below:

75 Consultation Question 67:

Yes

Please provide your views below:

Surrogacy is the exploitation of women's bodies to provide children for those who aren't capable of conceiving naturally. As such this could be traumatic for the woman involved and her partner. Counselling should definitely be a requirement before a surrogacy arrangement is made. If the true implications of surrogacy are made clear I imagine very few people would be willing to go ahead.

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Other

Please provide your views below:

I do not agree with a legal framework for surrogacy.
There should be no legally enforceable agreement entered into. If the surrogate mother decides on giving birth that she wants to keep the baby then that is her prerogative. There can be a provisional document that she intends to give the baby to the commissioning adults but it should not be a legally enforceable document. Obviously all parties involved should get legal advice as to what the laws are around their arrangement.

77 Consultation Question 69:

Other

Please provide your views below:

This just shows how bizarre this situation is. That you need to check if people commissioning or agreeing to produce a baby are already criminals. The reason this is needed is that they do not have genuine relationships with each other. The welfare of a child produced in this way is not the highest priority - very few people would have a child without knowing a lot about the background of the person they are trying to conceive with.

The state should not be sanctioning the production of babies for people who cannot conceive naturally.

Please provide your views below:

Really? What list of offences do you want? This is just ridiculous - this is not in the interests of women or children at all.

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

I cannot believe you are considering suggesting that a woman could be commissioned to handover their first child, their first birth. The first pregnancy will change a woman's emotions for months if not years, change her body permanently, potentially risk her life. And people (men?) are considering this for someone who has never given birth before, and having had these changes, and been through the violent painful process of giving birth (my thoughts, merely a 3 hour labour first time), you want her to hand over this baby to other people to bring up?

This is a crazy proposal. The alternative is just as bad, you must have your own children in order to give one up. What will those children think? Will seeing their mother pregnant and maybe looking after their tiny sibling and just be fine seeing it handed over to another couple to parent? For no other reason than the other couple wanted a child?

Is the potential trauma here worth it for anyone?

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

No

Please provide your views below:

This is ridiculous!! You just know that at some point a woman will be mentally unstable enough to want to give birth repeatedly and will do it about 20 times putting herself in increasing danger each time.

Or traffickers will use a woman in this way.

To do it once must be unbelievably painful, multiple times would just make most people's lives unbearably sad. We should not do this as a society.

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on costs actually incurred by the surrogate, and only on production of receipts.

Please provide your views below:

Surrogacy is not a necessity and should not be condoned by society. If people are unable to conceive that is something they need to learn to come to terms with - it is not acceptable for them to exploit poor women to produce a child for them.

If payments above actual expenses incurred then the surrogate is giving birth for payment - this will lead to rich people paying poor people to take the physical risks of childbirth for them. This is exploitation of poor people and regards babies as a commodity to be ordered. Our lives should not be treated in this insulting way - not the women who are expected to give birth or the children produced in this way.

Payment should not be used as an incentive for people to put themselves at risk of physical and emotional harm.

81 Consultation Question 73:

Please provide your views below:

I do not think surrogacy should be allowed and as such payments shouldn't take place.

If it does occur only essential costs should be allowed. I would imagine this would include reimbursement for time off work, travel costs to hospital, cost of extra clothes and food required during pregnancy and similar essentials.

82 Consultation Question 74:

Please provide your views below:

No. There should not be payment for babies. People are not commodities to be bought. If this was allowed then rich would exploit poor and people would be tempted to put themselves at risk of physical and emotional harm for money.

The humanity of the child being produced in this way is being entirely overlooked.

83 Consultation Question 75:

Please provide your views below:

See previous questions re costs - I am not going to work out what costs are unique to pregnancy,

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

Yes - although I do not think that anyone should be paid for pregnancy, I do not see why a surrogate mother should lose money due to being pregnant for another person. This is a cost the surrogate mother is being forced to pay.

Actually - having written that I wonder if even 'lost earnings' would mean a woman would be more likely to agree to being a surrogate mother - I do not think this should be encouraged at all.

85 Consultation Question 77:

Please provide your views below:

People should not be paying for babies!

86 Consultation Question 78:

Please provide your views below:

This again highlights why any pregnant woman should be pregnant for herself. I do not really care how you deal with the entitlement to means tested benefits for surrogacy. That's not true - I do care but because women should not be put in this position at all, so I will not comment on it.

No woman on means tested welfare benefits should be having babies for others. It is extremely hard to live on welfare benefits and pregnancy puts another strain on that. What are the options? That the woman is given enough money to take her off benefits for the duration of the pregnancy? So she is better off pregnant? So there is a financial incentive for her to do this repeatedly?

And the emotional strain of that would be awful.

87 Consultation Question 79:

Please provide your views below:

This is horrific. It details specifically how painful and exploitative surrogacy is. Note that this is only something women can do - I cannot imagine a world in which men would be discussing whether men should be compensated or not for medical complications for dangerous bodily procedures which they aren't even doing for themselves.

Please provide your views below:

Surrogacy is exploitation of women, money will only make that worse as then there is an incentive for more exploitation, lack of money is insulting for the pain and medical problems which are associated with pregnancy and birth.

This should not be condoned by society at all.

Not Answered

Please provide your views below:

See previous answers, this is horrific.

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

Really think about what you are suggesting. That people should commission others to risk their lives, and then pay when the worst happens?

This should not be allowed, surrogacy is a selfish solution. The problem of not being able to have a child is one that needs to be dealt with by acceptance, not exploiting a woman with her death as a possible result.

89 Consultation Question 81:

Please provide your views below:

Refer to my previous answers - this whole thing is a sick joke.

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

Absolutely not. Note that it is women's bodies you are talking about. But sadly in our society the most vulnerable women are often in difficult relationships with controlling men. By giving a financial incentive to have a baby a woman could easily come under pressure to 'earn' for the couple.

This is equivalent to prostitution.

Not Answered

Please provide your views below:

I can't believe I have just read this question. It is just disgusting and doesn't treat women or human life with any respect whatsoever.

Please provide any views below:

See previous answers.

91 Consultation Question 83:

Please provide views below:

There should be no payment for babies. The questions which come out of this tell you all you need to know about how disgusting this proposal is. This question treats human life with no respect whatsoever. A woman's body is not for rent. Babies are not for sale.
Would you consult on bringing back slavery?

Not Answered

Please provide your views below:

There should be no payment for babies. The questions which come out of this tell you all you need to know about how disgusting this proposal is. This question treats human life with no respect whatsoever. A woman's body is not for rent. Babies are not for sale.
Would you consult on bringing back slavery?

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Other

Please provide your views below:

There should be no payment for babies. The questions which come out of this tell you all you need to know about how disgusting this proposal is. This question treats human life with no respect whatsoever. A woman's body is not for rent. Babies are not for sale.
Would you consult on bringing back slavery?

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

There should be no payment for babies. The questions which come out of this tell you all you need to know about how disgusting this proposal is. This question treats human life with no respect whatsoever. A woman's body is not for rent. Babies are not for sale.
Would you consult on bringing back slavery?

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

There should be no payment for babies. The questions which come out of this tell you all you need to know about how disgusting this proposal is. This question treats human life with no respect whatsoever. A woman's body is not for rent. Babies are not for sale.
Would you consult on bringing back slavery?

95 Consultation Question 87:

Please provide your views below:

There should be no payment for babies. The questions which come out of this tell you all you need to know about how disgusting this proposal is. This question treats human life with no respect whatsoever. A woman's body is not for rent. Babies are not for sale.
Would you consult on bringing back slavery?

96 Consultation Question 88:

Other

Please provide your views below:

There should be no payment for babies. The questions which come out of this tell you all you need to know about how disgusting this proposal is. This question treats human life with no respect whatsoever. A woman's body is not for rent. Babies are not for sale.
Would you consult on bringing back slavery?

Other

Please provide your views below:

There should be no payment for babies. The questions which come out of this tell you all you need to know about how disgusting this proposal is. This question treats human life with no respect whatsoever. A woman's body is not for rent. Babies are not for sale.
Would you consult on bringing back slavery?

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

n/a

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

n/a

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

n/a

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

No

Please provide your views below:

There should be NO international surrogacy at all. International surrogacy only exists because of either lax rules elsewhere or massive differences in prosperity which makes it easier for people to buy women to produce babies for them.

This is highly exploitative and dangerous for the women. Our country has no way of knowing the pressures the women are under or if they are safe or how they are being treated. We should not even consider allowing people to bring 'surrogate' or trafficked? babies into this country.

There is also the problem of babies being rejected if not good enough, e.g. with Down's Syndrome.

The UK should not support this in anyway whatsoever.

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

No

Please provide your views below:

here should be NO international surrogacy at all. International surrogacy only exists because of either lax rules elsewhere or massive differences in prosperity which makes it easier for people to buy women to produce babies for them.

This is highly exploitative and dangerous for the women. Our country has no way of knowing the pressures the women are under or if they are safe or how they are being treated. We should not even consider allowing people to bring 'surrogate' or trafficked? babies into this country.

There is also the problem of babies being rejected if not good enough, e.g. with Down's Syndrome.

The UK should not support this in anyway whatsoever.

No

Please provide your views below:

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This is highly exploitative and dangerous for the women. Our country has no way of knowing the pressures the women are under or if they are safe or how they are being treated. We should not even consider allowing people to bring 'surrogate' or trafficked? babies into this country.

There is also the problem of babies being rejected if not good enough, e.g. with Down's Syndrome.

The UK should not support this in anyway whatsoever.

Other

Please provide your views below:

here should be NO international surrogacy at all. International surrogacy only exists because of either lax rules elsewhere or massive differences in prosperity which makes it easier for people to buy women to produce babies for them.

This is highly exploitative and dangerous for the women. Our country has no way of knowing the pressures the women are under or if they are safe or how they are being treated. We should not even consider allowing people to bring 'surrogate' or trafficked? babies into this country.

There is also the problem of babies being rejected if not good enough, e.g. with Down's Syndrome.

The UK should not support this in anyway whatsoever.

Other

Please provide your views below:

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This is highly exploitative and dangerous for the women. Our country has no way of knowing the pressures the women are under or if they are safe or how they are being treated. We should not even consider allowing people to bring 'surrogate' or trafficked? babies into this country.

There is also the problem of babies being rejected if not good enough, e.g. with Down's Syndrome.

The UK should not support this in anyway whatsoever.

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This is highly exploitative and dangerous for the women. Our country has no way of knowing the pressures the women are under or if they are safe or how they are being treated. We should not even consider allowing people to bring 'surrogate' or trafficked? babies into this country.

There is also the problem of babies being rejected if not good enough, e.g. with Down's Syndrome.

The UK should not support this in anyway whatsoever.

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

Other

Please provide your views below:

here should be NO international surrogacy at all. International surrogacy only exists because of either lax rules elsewhere or massive differences in prosperity which makes it easier for people to buy women to produce babies for them.

This is highly exploitative and dangerous for the women. Our country has no way of knowing the pressures the women are under or if they are safe or how they are being treated. We should not even consider allowing people to bring 'surrogate' or trafficked? babies into this country.

There is also the problem of babies being rejected if not good enough, e.g. with Down's Syndrome.

The UK should not support this in anyway whatsoever.

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

No

Please provide your views below:

here should be NO international surrogacy at all. International surrogacy only exists because of either lax rules elsewhere or massive differences in prosperity which makes it easier for people to buy women to produce babies for them.

This is highly exploitative and dangerous for the women. Our country has no way of knowing the pressures the women are under or if they are safe or how they are being treated. We should not even consider allowing people to bring 'surrogate' or trafficked? babies into this country.

There is also the problem of babies being rejected if not good enough, e.g. with Down's Syndrome.

The UK should not support this in anyway whatsoever.

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Yes

Please provide your views below:

here should be NO international surrogacy at all. International surrogacy only exists because of either lax rules elsewhere or massive differences in prosperity which makes it easier for people to buy women to produce babies for them.

This is highly exploitative and dangerous for the women. Our country has no way of knowing the pressures the women are under or if they are safe or how they are being treated. We should not even consider allowing people to bring 'surrogate' or trafficked? babies into this country.

There is also the problem of babies being rejected if not good enough, e.g. with Down's Syndrome.

The UK should not support this in anyway whatsoever.

107 Consultation Question 99:

No

Please provide your views below:

here should be NO international surrogacy at all. International surrogacy only exists because of either lax rules elsewhere or massive differences in prosperity which makes it easier for people to buy women to produce babies for them.

This is highly exploitative and dangerous for the women. Our country has no way of knowing the pressures the women are under or if they are safe or how they are being treated. We should not even consider allowing people to bring 'surrogate' or trafficked? babies into this country.

There is also the problem of babies being rejected if not good enough, e.g. with Down's Syndrome.

The UK should not support this in anyway whatsoever.

108 Consultation Question 100:

Please provide your views below:

Please provide your views below:

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

Not Answered

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

I am very concerned that the proposals will have the effect of increasing surrogacy. This is only going to harm women, as they will be exploited by having children which are not their own.

This will have an immediate physical impact on the woman. Followed by an long-term emotional impact of not being the parent to her child.

The impact on the child will be severe abandonment issues if the child is removed from the mother at a young age before properly bonding, similar to removing a child for adoption. As someone who works in a secondary school I see the lasting impact of a difficult start in life and surrogacy is likely to have the same impact.

There is also the problem that women's bodies are increasingly seen as a commodity to be bought and sold. If agencies are created to facilitate more surrogate arrangements then more women will be surrogates, there will be a pressure to allow advertising, then to allow payments. Finally babies will be paid for at the expense of women. Once this happens younger women will be pressured into seeing it as 'work'. People already regard women's bodies as things to be paid for - see the common mantra 'sex work is work'. It completely disregards that a woman's bodily integrity should be sacrosanct.

This is not a happy scenario that I am painting. For each 'happy' couple with a new baby will be a whole raft of pain and heartache.

Please think very carefully about what kind of legacy you want to leave.

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

Name (Required)

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

[Name of organisation if relevant.]

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

- This is a personal response

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response

- Other individual

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a

result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.15 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.16 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.17 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.18 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.19 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.20 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.21 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.22 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.23 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.24 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.25 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.26 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.27 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.28 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.29 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.30 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.31 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.32 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.33 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.34 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.35 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.36 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.37 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.38 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.39 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.40 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving derive income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.41 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.42 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.43 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.44 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.45 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.46 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.47 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.48 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.49 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.50 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.51 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.52 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.53 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.54 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.55 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.56 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.57 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.58 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.59 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.60 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.61 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.62 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.63 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.64 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.65 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.66 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.67 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.68 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.69 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.70 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.71 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.72 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.73 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.74 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.75 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.76 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.77 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.78 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.79 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.80 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.81 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.82 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.83 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.84 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.85 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.86 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.87 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.88 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.89 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.90 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.91 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.92 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway. Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.93 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.94 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.95 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.96 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.97 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.98 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.99 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.100 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother compensation.

1.101 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother compensation.

1.102 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother compensation.

Paragraph 15.53

Consultation Question 80.

1.103 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.104 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.105 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.106 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

Leave both check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.107 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;
(2) essential costs relating to the pregnancy;
(3) additional costs relating to the pregnancy;
(4) lost earnings;
(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or
(6) gifts.

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.108 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.109 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.110 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.111 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.112 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.113 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.114 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.115 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. The idea that a 'surrogacy agreement' could place restrictions on the birth mother's lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.116 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.117 We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.118 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.119 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.120 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.121 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.122 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.123 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.124 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.125 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.126 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.127 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.128 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.129 We provisionally propose that:

1.130 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.131 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.132 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.133 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.134 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.135 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.136 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.137 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.138 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.139 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.140 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself. There appears to have been no evaluation of the size of the additional costs to the NHS and society.

1.141 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.142 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.143 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.144 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.145 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.146 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.147 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.148 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.149 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.150 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.151 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.152 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.153 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.154 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.155 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have

an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y81P-Q

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 20:29:12

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

N/A

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

I don't care about this information being confidential.

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

Not Answered

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

Please provide your views below:

I am against surrogacy because of my former profession as a Psychotherapist. I believe that not only is it cruel to deprive children of a mother, but that the separation of a child from its mother to be handed over to a stranger is deeply harmful to a child.

I know from my experience that being gestating in the womb of someone who intends to give you away is deeply damaging to the baby's formation of a healthy sense of self. I have counsellor many people who are were restated in the wombs of mother's who intended to give them up for adoption end up with a deep sense of being unwanted. This will probably be the same for children during surrogacy. They are being bred to be given away - this is a terrible foundational wound in the psyche- known as a 'Primal Wound. It is well established as a distinct effect of being given away by your birth mother. If my own mother didn't want me, I must be worthless.

Babies are not objects with no feelings. They will know they are being gestated as a commodity, although they cannot "mentalise" these feelings. Separating a child from its mother is a profound trauma. This is well established in the research.

Also, the message given to children born via surrogacy is that women are no more than breeding machines. A girl born in this way will inherit a belief that her womb is a commodity, and that having children naturally is problematic. I read an interview with a girl born to two gay fathers who said she only wanted children if she could have them by surrogates. Clearly, she had absorbed a view that childbirth is problematic. This is deeply destructive to a girls sense of self worth.

Similarly, boys born in this way will inherit a view that women are just breeding machines.

There is no substitute for a mother in a child's life - this is a major problem when gay men have children.

Finally, it would be quite possible for paedophiles to pose as gay men to use get a surrogate to produce children for them to abuse.

I think there is something deeply immoral about having a child with the intention of giving it away. This is not the same as a woman who decides to have the child adopted bcs she cannot cope. A child conceived to be given away will absorb a sense that they are merely a commodity. If you look at the Them Before Us movement, you will see that the sense of being a commodity is source of great distress to the products of surrogacy.

Most gay when will use egg donation to implant into the surrogate. Thus the child is deprived of knowing it's DNA lineage.

If you want scientific studies which back up my views, please contact me.

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

Name (Required)

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

N/A

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

- This is a personal response

If other, please provide details:

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

- Legal practitioner

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This

contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and

rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female

students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

I profoundly disagree with the proposals for the 'new pathway'.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

Leave both check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

I profoundly disagree with the proposals for the 'new pathway'. The idea that a 'surrogacy agreement' could place restrictions on the birth mother's lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y83P-S

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 20:32:55

About you

1 What is your name?

Name:
Rebecca Knight

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

Wendy Hopkins Family Law Practice

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Legal practitioner

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

N/A

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

Please provide your views below:

Agreed. Given the fact that the safeguarding used for domestic arrangements is not guaranteed internationally, such safeguarding should remain for the parental order process.

9 Consultation Question 2:

Please provide your views below:

Cases should remain with lay justices in the hope that given Court time it will mean the process will be dealt with more quickly.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

Whilst it would be hoped that the parental order process could be shortened across the board, it has to be recognised that there are risks of there being an abuse of process with international arrangements unless the subject country has reciprocal safeguarding to domestic arrangements. Therefore, the continued involvement of the judiciary at its current level should remain in this context.

11 Consultation Question 4:

Yes

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

Yes

Please provide your views below:

15 Consultation Question 8:

Yes

Please provide your views below:

100 years; or

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

No

Please provide your views below:

No there should not be a prohibition on using the pathway if donated gametes have been provided - anonymous or otherwise. The child can find out the relevant information about their history at the appropriate time with their parents explaining to them the process they faced in conception and the decisions they made during that time.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

No there should not be a prohibition on using the pathway if donated sperm has been provided - anonymous or otherwise. The child can find out the relevant information about their history at the appropriate time with their parents explaining to them the process they faced in conception and the decisions they made during that time.

18 Consultation Question 11:

Yes

Please provide your views below:

The surrogate's right to object has to remain post birth so this appears the only way to deal with the issue of consent but in a far quicker way.

19 Consultation Question 12:

Yes

Please provide your views below:

20 Consultation Question 13:

Other

Please provide your views below:

If there is an issue over capacity prior to the entering of the pathway, the surrogacy should not take place with that surrogate mother. On the basis that the process would have started on the pathway, then the proposed regulatory body should be involved with the issue of capacity prior to the surrogacy starting.

21 Consultation Question 14:

Yes

Please provide your views below:

22 Consultation Question 15:

Yes

Please provide your views below:

No

Please share your views below:

The spouse or civil partner should not be the legal parent for the child at any point. If the surrogate objects then it should be one or other of the intended parents who should become a legal parent.

23 Consultation Question 16:

Yes

Please provide your views below:

Yes

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Yes

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

At such a traumatic time, as long as the pathway has been followed throughout, then the intended parents should be registered as the parents without the need of applying for a parental order as it will only delay the likely inevitable of them being provided with the parental order in any event.

26 Consultation Question 19:

Yes

Please provide your views below:

Please provide your views below:

27 Consultation Question 20:

Yes

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

29 Consultation Question 22:

Please provide your views below:

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

The intended parents should be added to s.10

33 Consultation Question 26:

Yes

Please provide your views below:

34 Consultation Question 27:

Yes

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

No

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Yes

Please provide your views below:

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

Yes as long as legal advice and counselling has taken place to deal with the issue of capacity and consent

Please provide your views below:

With use of a surrogacy arrangement and a declaration of receiving independent legal advice taking account of the stages of the new pathway. The possibility of a declaration of capacity from a counsellor may also assist.

40 Consultation Question 33:

Yes

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

41 Consultation Question 34:

representing the organisation to, and liaising with, the regulator;, managing the regulated surrogacy organisation with sufficient care, competence and skill;, ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;, training any staff, including that of the person responsible; and, providing data to the regulator and to such other person as required by law.

Please provide your views below:

Please provide your views below:

Please provide your views below:

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Yes

Please provide your views below:

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Yes

Please provide your views below:

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Yes

Please provide your views below:

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Other

Please provide your views below:

Yes on the basis that the parental order route remains available should there be an issue post birth

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Yes

Please provide your views below:

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Yes

Please provide your views below:

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

No

Please provide your views below:

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

Yes

Please provide your views below:

Yes

Please provide your views below:

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

The right to privacy must remain so such an inclusion should not take place.

57 Consultation Question 49:

No

Please provide your views below:

The age should be 18 for both

Please provide your views below:

Only with parents consent who can assess the level of maturity of their child.

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

The issue is more with a genetic link as opposed to surrogate mother. No genetic link has passed by using the same surrogate and most surrogates do not see themselves as mothers/parents in any event.

59 Consultation Question 51:

Yes

Please provide your views below:

Please provide your views below:

60 Consultation Question 52:

Please provide your views below:

Please provide your views below:

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

Yes

63 Consultation Question 55:

Yes

Please provide your views below:

Not Answered

Please provide your views below:

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Yes

Please provide your views below:

Please provide your views below:

Consideration could be given to 6 months habitual residence prior to entering into the pathway

65 Consultation Question 57:

Please provide your views below:

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Yes

Please provide views below:

67 Consultation Question 59:

Yes

Please provide views below:

Please provide views below:

Yes

Yes

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Yes

Please provide your views below:

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Yes

Please provide views below:

70 Consultation Question 62:

Please provide your views below:

Please provide your views below:

71 Consultation Question 63:

Other

Please provide your views below:

Where possible

Please provide your views below:

Yes

Please provide your views below:

72 Consultation Question 64:

Yes

Please provide your views below:

Please provide your views below:

Consideration could be given to a combined age for parents - in line with many of the UK surrogacy clinics recommendations.

Yes

Please provide your views below:

73 Consultation Question 65:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Yes

Please provide your views below:

Please provide your views below:

75 Consultation Question 67:

Yes

Please provide your views below:

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Yes

Please provide your views below:

77 Consultation Question 69:

Yes

Please provide your views below:

Please provide your views below:

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

No

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

Yes

Please provide your views below:

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on an allowance;

Please provide your views below:

81 Consultation Question 73:

Please provide your views below:

82 Consultation Question 74:

Please provide your views below:

Payment of legal fees, loss of earnings, compensation with the details and understanding being clearly set out in a surrogacy agreement, payment of health insurance, maternity pay

83 Consultation Question 75:

Please provide your views below:

Yes - the intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

Yes, this will offer more opportunities for domestic based arrangements

85 Consultation Question 77:

Please provide your views below:

Yes

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

pain and inconvenience arising from the pregnancy and childbirth;, medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or, specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

Please provide your views below:

Please provide your views below:

left to the parties to negotiate.

Please provide your views below:

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

Yes - if the intended parents wish to do this, then they should not be stopped. Clear definitions in a surrogacy agreement will assist.

89 Consultation Question 81:

Please provide your views below:

There should not be a prohibition on gifts.

90 Consultation Question 82:

It should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

a fixed fee set by the regulator.

Please provide your views below:

As payments have not previously been permitted, a fixed fee set by the regulator would more than likely be the safest way of dealing with such payments. Perhaps in time, this can then develop.

essential costs relating to the pregnancy;, additional costs relating to the pregnancy;, lost earnings;, compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or, gifts.

Please provide any views below:

However, this will all depend on what the fixed fee would be and whether it encapsulates the above in any event.

91 Consultation Question 83:

Please provide views below:

Consideration could be given to a staged fee based on the different stages of pregnancy, similar to arrangements in the USA.

in the first trimester of pregnancy only;

Please provide your views below:

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Yes

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

95 Consultation Question 87:

Please provide your views below:

96 Consultation Question 88:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

Due to the costs often incurred by intended parents using international arrangements results in intended parents often starting the parental order process themselves. By doing so, the initial application it not always completed correctly thus resulting in a delay in obtaining the parental order. If domestic based arrangements offered more security for all parties involved and if there is a change on the requirement for legal advice, then hopefully the court process will be more efficient.

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

Yes

Please provide your views below:

This should most certainly happen to speed up the process
as often the child is left with their intended parents for a period of time with their parents not having the legal right to parent their child appropriately and with the surrogate often being thousands of miles away. This is not in the best interest of the child.

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

Yes

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

Please provide your views below:

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

Yes

Please provide your views below:

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Yes

Please provide your views below:

Simply on the basis of safeguarding and not knowing the regulations of the international surrogacy arrangement that are being followed.

107 Consultation Question 99:

Yes

Please provide your views below:

108 Consultation Question 100:

Please provide your views below:

Please provide your views below:

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

No

Please provide your views below:

Parental leave/pay should apply to both intended parents in the same way that there is shared parental pay in non surrogacy births

111 Consultation Question 103:

Please provide your views below:

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

international

Yes

Yes

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

The delay in the intended parents becoming the parents for the child is not in the child's best interests. The likelihood that the intended parents are going to become the legal parents is extremely high so the delay just causes stress and uncertainty for the intended parents when they should be enjoying their new baby.

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

It is not always an option for a genetic link and this should not be needed to enter into a surrogacy arrangement - new pathway or not.

Please provide your views below:

This should be removed in both situations

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

Name (Required)

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

[NO

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

- This is a personal response

If other, please provide details:

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

- Social worker

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these

cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I strongly disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along the child's biological father– and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's

recommendations.* All children should have the right to have both their biological parents named on their birth certificates, so they can know their biological heritage.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with the child's biological father– and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's

recommendations.* All children should have the right to have both their biological parents named on their birth certificates, so they can know their biological heritage.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth along with the biological father, and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth along with the biological father, and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth along with the biological father, and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I disagree with this proposal. The birth mother and biological father should be the legal parents at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the

child, as recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother and biological father should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child along with the biological father, but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I disagree with the proposals for the 'new pathway'. The birth mother and biological father should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services

for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I strongly disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and the biological father as the father, and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk

of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement and give the names of the biological father and mother, as the child (especially as an adult) has the absolute right to know their biological heritagee

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother and biological father to be recorded as the mother and father on the original birth certificate. Such proposals could lead to the facilitation of the sale of children.

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of parental rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of parental rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I p disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I disagree with the proposals for the 'new pathway'. The idea that a 'surrogacy agreement' could place restrictions on the birth mother's lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y815-V

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 20:36:14

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

High Court

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

No

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

No

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

15 Consultation Question 8:

No

Please provide your views below:

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

No

Please provide your views below:

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

18 Consultation Question 11:

Not Answered

Please provide your views below:

19 Consultation Question 12:

Not Answered

Please provide your views below:

20 Consultation Question 13:

No

Please provide your views below:

21 Consultation Question 14:

No

Please provide your views below:

22 Consultation Question 15:

No

Please provide your views below:

Not Answered

Please share your views below:

23 Consultation Question 16:

No

Please provide your views below:

No

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

No

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

26 Consultation Question 19:

No

Please provide your views below:

Please provide your views below:

27 Consultation Question 20:

No

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

29 Consultation Question 22:

Please provide your views below:

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

No

Please provide your views below:

34 Consultation Question 27:

No

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Yes

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

No

Please provide your views below:

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

Please provide your views below:

40 Consultation Question 33:

No

Please provide your views below:

Other

Please provide your views below:

Other

Please provide your views below:

41 Consultation Question 34:

Please provide your views below:

Please provide your views below:

Please provide your views below:

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Other

Please provide your views below:

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Other

Please provide your views below:

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Other

Please provide your views below:

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Other

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

Yes

Please provide your views below:

Yes

Please provide your views below:

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

57 Consultation Question 49:

Yes

Please provide your views below:

Please provide your views below:

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

Yes, to avoid incest etc

59 Consultation Question 51:

Yes

Please provide your views below:

Please provide your views below:

60 Consultation Question 52:

Please provide your views below:

Please provide your views below:

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

No

63 Consultation Question 55:

No

Please provide your views below:

No

Please provide your views below:

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Other

Please provide your views below:

Please provide your views below:

65 Consultation Question 57:

Please provide your views below:

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Other

Please provide views below:

67 Consultation Question 59:

No

Please provide views below:

Please provide views below:

No

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

No

Please provide your views below:

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Other

Please provide views below:

70 Consultation Question 62:

Please provide your views below:

Please provide your views below:

71 Consultation Question 63:

No

Please provide your views below:

Please provide your views below:

Other

Please provide your views below:

72 Consultation Question 64:

Other

Please provide your views below:

Please provide your views below:

Other

Please provide your views below:

73 Consultation Question 65:

Other

Please provide your views below:

Other

Please provide your views below:

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Other

Please provide your views below:

Please provide your views below:

75 Consultation Question 67:

Other

Please provide your views below:

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Other

Please provide your views below:

77 Consultation Question 69:

Other

Please provide your views below:

Please provide your views below:

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

Other

Please provide your views below:

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

Not Answered

Please provide your views below:

Babies should never be bought or sold

81 Consultation Question 73:

Please provide your views below:

Babies should never be bought or sold

82 Consultation Question 74:

Please provide your views below:

Babies should never be bought or sold

83 Consultation Question 75:

Please provide your views below:

Babies should never be bought or sold

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

Babies should never be bought or sold

85 Consultation Question 77:

Please provide your views below:

Babies should never be bought or sold

86 Consultation Question 78:

Please provide your views below:

Babies should never be bought or sold

87 Consultation Question 79:

Please provide your views below:

Babies should never be bought or sold

Please provide your views below:

Babies should never be bought or sold

Not Answered

Please provide your views below:

Babies should never be bought or sold

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

Babies should never be bought or sold

89 Consultation Question 81:

Please provide your views below:

Babies should never be bought or sold

90 Consultation Question 82:

Not Answered

Please provide your views below:

Surrogacy is renting a womb from a poor woman. It is wrong on all sides. Babies should never be bought or sold.

Not Answered

Please provide your views below:

Babies should never be bought or sold.

Please provide any views below:

Babies should never be bought or sold

91 Consultation Question 83:

Please provide views below:

Babies should never be bought or sold

Not Answered

Please provide your views below:

Babies should never be bought or sold

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Not Answered

Please provide your views below:

Babies should never be bought or sold

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

Babies should never be bought or sold

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

Babies should never be bought or sold

95 Consultation Question 87:

Please provide your views below:

Babies should never be bought or sold

96 Consultation Question 88:

Other

Please provide your views below:

Babies should never be bought or sold

Other

Please provide your views below:

Babies should never be bought or sold

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

Surrogacy should be outlawed

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

Not Answered

Please provide your views below:

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Please provide your views below:

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

Other

Please provide your views below:

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do

consultees agree?

Other

Please provide your views below:

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Other

Please provide your views below:

107 Consultation Question 99:

Other

Please provide your views below:

108 Consultation Question 100:

Please provide your views below:

Please provide your views below:

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

No

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

A child born of its mother should be that mother's child (or adopted if she is dead and a family member is unable to take the mothers place).

120 Consultation Question 112:

Please provide your views below:

Sickening to think humans are bought, rented or sold.

Please provide your views below:

Commerce in surrogacy is anti-child and anti-woman.

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Funds to buy babies? Wrong.

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

Why are there no questions on the ethics of surrogacy itself? The rightness or wrongness of surrogacy itself is the essential truth to discover. In thus consultation there is no moral foundation. The profiteering enterprise is constructed on the basis of poor women exploited due to extreme need. That is a tragedy for babies and women, and for men too.

Short Form Questionnaire: Law Commissions' Surrogacy Consultation



This form is an extract of the longer form for comments and responses to the Law Commission's and the Scottish Law Commission's consultation about reforming surrogacy law. If you would like to respond to the full version of our consultation questionnaire, please use the online form: https://consult.justice.gov.uk/law-commission/surrogacy. Please see our websites for further details, and for links to download the full consultation paper: https://www.lawcom.gov.uk/project/surrogacy/ and https://www.scotlawcom.gov.uk/law-reform/law-reform-projects/joint-projects/surrogacy/.

We have selected 46 questions which may be of particular interest of **those with lived experience of surrogacy arrangements**: surrogates, intended parents, family members and adult children born of surrogacy arrangements. You do not need to answer all the questions if you do not want to, and you can write as much or as little as you would like in response to our questions.

Please note that we may publish or disclose information you provide us in response to this consultation, including personal information. We ask consultees, when providing their responses, if they could avoid including personal identifying information in the text of their response, particularly where this may reveal the identities of other people involved in their surrogacy arrangement.

For more information about how we consult and how we may use responses to the consultation, please see page i – ii of the Consultation Paper.

HOW TO SUBMIT YOUR RESPONSE USING THIS QUESTIONNAIRE

Type your response into the text fields below and then save your completed form. When you have completed your response, email the completed form as an attachment to surrogacy@lawcommission.gov.uk.

The closing date for submitting a response to our consultation is 11 October 2019.

QUESTIONS ABOUT YOU

What is your name? [redacted]

If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation? Surrogacy UK

Are you responding to this consultation in a personal capacity or on behalf of your organisation?
Personal Capacity as Intended Parents

If responding to this consultation in a personal capacity, which term below best describes you?
Intended Parent

What is your email address?
[redacted]

What is your telephone number?
N/A

If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our **privacy notice**, we take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.
I welcome that our names remain confidential due to the professional nature of [redacted]

Question No.	Consultation Question
Q1	Consultation Question 7. In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have: (1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth, (2) complied with procedural safeguards for the agreement, and (3) met eligibility requirements, on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object. Do consultees agree?
Your Response to Q1	**Yes we both agree that subject to the appropriate agreements and safeguardings in place we strongly believe that the intended parents should be the legal parents of the child at birth. There is a strong question around what is meant by the surrogates right to object, these causes us concern – there should always be a period where IPs and surrogates get to know each other and build a relationship, this is the time where any concerns over the IPS should be picked up. However, during the pregnancy I do recognise that there maybe additional concerns raised by the surrogate therefore this**

	does give a surrogate the right to object but this would need to done through safeguarding and agree time limted and within a framework set out by the regulator.
Q2	Consultation Question 11. We provisionally propose that: (1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child; (2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and (3) the defined period should be the applicable period for birth registration less one week. Do consultees agree?
Your Response to Q2	**Click or tap here to enter text.**
Q3	Consultation Question 12. We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that: (1) the surrogate will be the legal parent of the child; (2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and (3) the intended parents would be able to make an application for a parental order to obtain legal parenthood. Do consultees agree?
Your Response to Q3	**I think this would have to be taken case by case – if there are serious concerns or safeguarding concerns that perhaps come up during the pregnancy which have not been identified in the GTK – then the childs welfare and the surrogate and IPs views both need to be taken into account**
Q4	Consultation Question 15. We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child. Do consultees agree?

	We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.
Your Response to Q4	**Yes we agree with this – this I assume would mean that at birth the child would go into the care of social services. However, we believe that any objections should be of high priority and there should be strict deadlines and timelines attached to any objects, and where possible resolved before the child is born.**
Q5	Consultation Question 27. We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway: (1) the intended parents should acquire parental responsibility on the birth of the child; and (2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order. Do consultees agree?
Your Response to Q5	**Yes we stronglhy agree to question (1), however, if the surrogate exerices her right to object the IPs should continue to have parental responsibility for the child (2), we agree with statement, however, I assmume that this arrangement however, would follow normal court precedings if the objection by the surrogate was due to safeguarding concerns or to protect the welface of the child then normal assessments by Social Services would apply?**
Q6	Consultation Question 28. We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object. Do consultees agree?
Your Response to Q6	**No – this contradicts the previous statements regarding the parental responsibility being the IPs from birth (Consultation 27), We do believe that there should be a very short window (1 week) where a surrogate could exercise her right to object, but the IPs should have parental responsibility and social services exercise their right if the object is one that is a safeguarding or legal concern therefore putting the child at risk**
Q7	Consultation Question 29. For all surrogacy arrangements, we invite consultees' views as to: (1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and (2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

Your Response to Q7	**We believe that under the new pathway we feel that it's not appropriate for the surrogate to have a period of time where she has shared parental responsibility for the child with the IP, this conflicts with Surrogates not wanting to have any parental responsibility. And IPs should at birth be the legal parents**
Q8	Consultation Question 55. We provisionally propose that: (1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available; (2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances: (a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or (b) following a determination by the court that the child should live with the intended parents; and (3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007. Do consultees agree?
Your Response to Q8	**We support proposals that prevent the surrogate's civil partner of spouse being a legal parent in either the new pathway or the PO route. We believe that the best intrests of the child should always be at the forefront of any decision however.**
Q9	Consultation Question 30. We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway. Do consultees agree?
Your Response to Q9	
Q10	Consultation Question 32. We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway. We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.
Your Response to Q10	**Click or tap here to enter text.**
Q11	Consultation Question 67.

	We provisionally propose that, as a condition of being eligible for entry into the new pathway: (1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and (2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15. Do consultees agree?
Your Response to Q11	**We agree that implications counselling is a valuable part of the surrogacy journey and enables a discussion and questions which potentially you may not ask of each other – personally implications counselling as a helpful part of our current journey** **We believe that the Counsellor should be suitably qualified with experience in surrogacgy working to a code of professional practice.**
Q12	Consultation Question 68. We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?
Your Response to Q12	**We are not sure whether legal advice would add value if not in a independent organisation such as SUK – if may be benefical for those who are independently undertaking journeys and a clear agreement on the IPS and Surrocacys wishes are not recorded.**
Q13	Consultation Question 88. We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate. Do consultees agree? We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle. Do consultees agree?
Your Response to Q13	**In our experience and meeting the Surrogates we have met financial gain would never be a reason why ladies go into surrogacy, its truly built on friendship and**
Q14	Consultation Question 42. We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

	Do consultees agree?
Your Response to Q14	**We have concerns that lifting the ban may increase the number of informal arrangements and ask the Law Commission to consider how it might prevent this risk being realised especially with the increase of social media**
Q15	Consultation Question 62. We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity: (1) for cases under the new pathway to parenthood; and/or (2) for cases where a post-birth parental order application is made. We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.
Your Response to Q15	**Click or tap here to enter text.**
Q16	Consultation Question 70. We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.
Your Response to Q16	**This we believe is a personal choice.**
Q17	Consultation Question 33. We provisionally propose that: (1) there should be regulated surrogacy organisations; (2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and (3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation. Do consultees agree?
Your Response to Q17	**Click or tap here to enter text.**
Q18	Consultation Question 35. We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?
Your Response to Q18	**Yes, we agree with this – however, organisations should be able to ensure that appropriate legal and subject matter expertises are able to be acquired etc.**

Q19	Consultation Question 37. We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree? We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.
Your Response to Q19	**We truly believe that surrocacy is one that is based on trust, mutual respect and, above all, friendship, therefore we believe that matching its not true to this spirt and do not recommend this in the new pathway.**
Q20	Consultation Question 59. We provisionally propose that the new pathway – (1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but (2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility. Do consultees agree? We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements. We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements. Do consultees agree?
Your Response to Q20	**Click or tap here to enter text.**
Q21	Consultation Question 46. We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings. Do consultees agree?
Your Response to Q21	**Click or tap here to enter text.**
Q22	Consultation Question 47.

	We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors. Do consultees agree? We provisionally propose that: (1) the register should be maintained by the Authority; (2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include: (a) identifying information about all the parties to the surrogacy arrangement, and (b) non-identifying information about those who have contributed gametes to the conception of the child; and (3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies. Do consultees agree?
Your Response to Q22	**We truly believe as future IPs that being open and honest about our future child and how they are to be born through surrocacy and the incredible people who helped us along the journey – therefore I believe that having this information accessible is the right one – however, we are cautious that the information provided for a parental order ie. Financial and medical records may not be appropriate.**
Q23	Consultation Question 48. We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.
Your Response to Q23	**Click or tap here to enter text.**
Q24	Consultation Question 49. We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request. Do consultees agree? We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

	(1) where his or her legal parents have consented; (2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or (3) in any other circumstances.
Your Response to Q24	**Click or tap here to enter text.**
Q25	Consultation Question 51. We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so. Do consultees agree? We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.
Your Response to Q25	**Click or tap here to enter text.**
Q26	Consultation Question 52. We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so: (1) if they are genetically related through the surrogate; and/or (2) if they are not genetically related through the surrogate.
Your Response to Q26	**Click or tap here to enter text.**
Q27	Consultation Question 53. For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.
Your Response to Q27	**Click or tap here to enter text.**
Q28	Consultation Question 72. We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

	(1) based on an allowance; (2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or (3) based on costs actually incurred by the surrogate, and only on production of receipts.
Your Response to Q28	**Click or tap here to enter text.**
Q29	Consultation Question 73. We invite consultees' views as to: (1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and (2) the types of expenditure which should be considered "essential".
Your Response to Q29	**Click or tap here to enter text.**
Q30	Consultation Question 74. We invite consultees' views as to: (1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and (2) the types of expenditure which should be considered additional, rather than essential.
Your Response to Q30	**Click or tap here to enter text.**
Q31	Consultation Question 75. We invite consultees' views as to: (1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and (2) the types of cost which should be included within this category.
Your Response to Q31	**Click or tap here to enter text.**
Q32	Consultation Question 76. We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Your Response to Q32	Click or tap here to enter text.
Q33	Consultation Question 77. We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings: (1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or (2) other lost potential earnings (as defined in paragraph 15.36 above).
Your Response to Q33	Click or tap here to enter text.
Q34	Consultation Question 78. We invite consultees to share their experiences: (1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and (2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.
Your Response to Q34	Click or tap here to enter text.
Q35	Consultation Question 79. We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following: (1) pain and inconvenience arising from the pregnancy and childbirth; (2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or (3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy. We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation. We invite consultees' views as to whether the level of compensation payable should be:

	(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or (2) left to the parties to negotiate.
Your Response to Q35	**Click or tap here to enter text.**
Q36	Consultation Question 80. We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.
Your Response to Q36	**Click or tap here to enter text.**
Q37	Consultation Question 81. We invite consultees' views as to whether: (1) intended parents should be able to buy gifts for the surrogate; and (2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.
Your Response to Q37	**Click or tap here to enter text.**
Q38	Consultation Question 82. We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be: (1) any sum agreed between the parties to the surrogacy; or (2) a fixed fee set by the regulator. We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee: (1) no other payments; (2) essential costs relating to the pregnancy; (3) additional costs relating to the pregnancy; (4) lost earnings;

	(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or (6) gifts.
Your Response to Q38	**Click or tap here to enter text.**
Q39	Consultation Question 84. We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?
Your Response to Q39	**Click or tap here to enter text.**
Q40	Consultation Question 85. We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.
Your Response to Q40	**Click or tap here to enter text.**
Q41	Consultation Question 92. We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child. Do consultees agree?
Your Response to Q41	**Click or tap here to enter text.**
Q42	Consultation Question 94. We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth. Do consultees agree? We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules. Do consultees agree?

	We provisionally propose that: (1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or (2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate. Do consultees agree? We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.
Your Response to Q42	**Click or tap here to enter text.**
Q43	Consultation Question 95. We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child. Do consultees agree?
Your Response to Q43	**Click or tap here to enter text.**
Q44	Consultation Question 97. We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?
Your Response to Q44	**Click or tap here to enter text.**
Q45	Consultation Question 99. We provisionally propose that: the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the

	exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law. Do consultees agree?
Your Response to Q45	**Click or tap here to enter text.**
Q46	Consultation Question 107. We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area. We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales. We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.
Your Response to Q46	**Click or tap here to enter text.**

END OF QUESTIONNAIRE – HOW TO SUBMIT

Thank you for completing this form. To submit it as a formal response to the Law Commission, save your completed form and email it as an attachment to surrogacy@lawcommission.gov.uk. Please note that the deadline for responding to our consultation is **11 October 2019**.

Response ID ANON-2V7F-Y81F-D

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 20:39:56

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

There is a history of International surrogacy abuse and exploitation and a high level of scrutiny should be maintained.

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

All international surrogacy cases should require a legal parental order post-birth and be dealt with at the current level of the judiciary, so that parental order processes, involving qualified social work assessments can take place

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

Not Answered

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

Yes. The parental order report should be released to the parties in the proceedings by default. The circumstances under which a court can decide otherwise should be clarified.

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

The Intended parents should not be documented as the legal parents at birth. This would reduce the birth mother to a vessel, a container, such knowledge of which would be detrimental to the mental health of the child, and against the healthy formation of their identity. This proposal weakens the surrogate's right to change her mind.

15 Consultation Question 8:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Yes

Please provide your views below:

The prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements, otherwise this limits the right of the child to discover their genetic identity and may risk attraction to closely related persons.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

The surrogate should have the right to object to the acquisition of legal status by the Intended Parents immediately after the birth and before the baby is handed over. This consultation takes no account of the natural link between birth mother and baby and assumes an immediate hand-over, whether the birth mother objects or not. The birth mother should have the right to change her mind.

18 Consultation Question 11:

Not Answered

Please provide your views below:

19 Consultation Question 12:

Not Answered

Please provide your views below:

20 Consultation Question 13:

Not Answered

Please provide your views below:

21 Consultation Question 14:

Not Answered

Please provide your views below:

22 Consultation Question 15:

Not Answered

Please provide your views below:

Not Answered

Please share your views below:

23 Consultation Question 16:

No

Please provide your views below:

I oppose the proposal that the commissioning parents should be the legal parents of a stillborn baby. Their disappointment will be diminished by the grief of the birth mother who already has a relationship with the child in her womb. What safeguards are planned in the new pathway should the woman surrogate die? What financial protections would there be for the woman's existing children and family?

Not Answered

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Not Answered

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

26 Consultation Question 19:

Not Answered

Please provide your views below:

Please provide your views below:

27 Consultation Question 20:

Not Answered

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

29 Consultation Question 22:

Please provide your views below:

The surrogacy business should be banned not made easier. There is no evidence in the proposed changes that the surrogacy business, which benefits Agencies, lawyers and those commissioning a surrogate (who is expected to carry a child as an altruistic act) should be made easier for those who profit.

The evidence points to banning or severely restricting surrogacy practices as has been done in European countries such as Switzerland, France, Germany and Sweden and further afield in India and Thailand.

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

It is remarkable given the years of current surrogacy enablement in UK that those involved are not, never have been, subject to Adoption and Child Act (ACA) 2002.

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

Not Answered

Please provide your views below:

34 Consultation Question 27:

No

Please provide your views below:

I disagree with the provisional proposal that, where a child is born of a surrogacy arrangement, the Intended Parents should acquire parental responsibility on the birth of the baby. This pathway will take no account of, and fails to recognise, the bond which is formed between mother and baby during and after the gestational period and the right of a child to know the identity of their birth mother.

This pathway will favour the Intended Parents and the removes the right of the child to have a biologically accurate birth record

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

No

Please provide your views below:

The birth mother should retain parental responsibility for the child until the expiry of the period during which she can exercise her right to object.

36 Consultation Question 29:

Please provide your views below:

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Not Answered

Please provide your views below:

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

The views of independent surrogates are unlikely to be well represented, particularly overseas surrogates, mainly poor and uneducated and often exploited.

39 Consultation Question 32:

Please provide your views below:

Consultation is built on a pro-surrogacy bias. There is no hard evidence of the long term impact upon the child who is a surrogate or the mother who gave birth to them. The entitlement to 'found a family' has been reinterpreted to 'found a family=the right to have a child by surrogacy'. The consultation seems to accept that breaching surrogate women's human rights not to experience dehumanising practices is lost in the attempt to covertly enable baby buyers to 'found a family'.

Please provide your views below:

40 Consultation Question 33:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

41 Consultation Question 34:

Please provide your views below:

Please provide your views below:

Please provide your views below:

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Not Answered

Please provide your views below:

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Not Answered

Please provide your views below:

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Other

Please provide your views below:

The prime concern of the consultation is the 'commissioners', so they can have ease of access to buying a baby, not the well being of the woman surrogate. The vast majority of woman surrogates come from poorer circumstances than the 'commissioners' and yet the law wants to describe that as 'altruistic' rather that what it actually is - commercial surrogacy which is not legal.

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Not Answered

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Not Answered

Please provide your views below:

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Not Answered

Please provide your views below:

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Not Answered

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Not Answered

Please provide your views below:

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Not Answered

Please provide your views below:

55 Consultation Question 47:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

57 Consultation Question 49:

Not Answered

Please provide your views below:

Please provide your views below:

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

Children born of surrogacy arrangement, where there is or is not a genetic connection to the birth mother, should have access to all facts relating to their birth heritage and origins. A practice adoption agencies now recognise as key elements for children's rights, security and healthy maturity.

59 Consultation Question 51:

Not Answered

Please provide your views below:

Please provide your views below:

60 Consultation Question 52:

Please provide your views below:

Please provide your views below:

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

Stonewall response: Law Commission Surrogacy Consultation

Introduction

1. Stonewall welcomes the Commission's proposed reforms, which promise to bring the law up to date with social change and current practice. We believe there are several areas that the proposals should be further strengthened to future-proof legislation, and ensure that it fully meets the needs of all children conceived through surrogacy, surrogates and intended parents, including those who are lesbian, gay, bi and trans (LGBT).

2. Stonewall is Britain's largest organisation campaigning for LGBT equality. Because many LGBT couples who wish to have children are unable to conceive without external support, these proposed reforms are likely to be of particular relevance to LGBT communities. This response will set out how the proposals can be further strengthened to meet their needs.

LGBT people and surrogacy

3. In light of previous legal reforms, including the Human Fertilisation and Embryology Act 2008, the Adoption and Children Act (2002) and Adoption and Children (Scotland) Act 2007, a growing number of LGBT couples and individuals are becoming parents. The Office for National Statistics estimates that there are now roughly 26,000 same-sex parent families in the UK (Labour Force Survey 2018), a figure that has been steadily rising over the past 20 years.

4. In line with this, a growing number of LGBT people have pursued, or are keen to pursue, surrogacy arrangements, as many are unable to conceive without external support. Surrogacy UK found that, as of July 2018, 20 per cent of the 409 intended parent couples who had joined them since 2009 were same-sex cis male couples, while Brilliant Beginnings and COTS Surrogacy UK reported that roughly half of their intended parents were same-sex couples.

5. However, there are multiple challenges involved in conceiving through surrogacy in the UK, including: surrogacy arrangements currently not being recognised in law; and intended parents not being granted legal parenthood until 6-12 months following the child's birth – creating significant legal uncertainty at a crucial time in the child's life.

6. Due to limited access to surrogacy arrangements in the UK, many people living in the UK travel abroad to seek surrogacy arrangements (Surrogacy UK, 2018); given the proportion of intended parents who are LGBT, it is likely that many of those travelling abroad are LGBT. However, the cost of accessing surrogacy in many countries with regulated surrogacy systems is often considerably more expensive than in the UK (Surrogacy UK, 2018) – for example, analysis of Cafcass data undertaken by Surrogacy UK in 2018 found that the mean cost for accessing surrogacy in the USA was £39,875, although Surrogacy UK acknowledges this is likely to be even higher in practice. Some people instead travel to countries where surrogacy is less expensive and often unregulated – this includes countries such as Russia and Nigeria (Surrogacy UK, 2018), which have anti-LGBT laws. Accessing surrogacy abroad can also create significant complications over legal parenthood and immigration rights for the child when returning to the UK.

7. These challenges can deter LGBT people from accessing surrogacy, or make their experience of accessing surrogacy difficult and even dangerous. Stonewall therefore welcomes the Commission's proposed reforms, which promise to bring surrogacy legislation up to date with social change and current practice, to best meet the needs of all children conceived through surrogacy, surrogates and intended parents, including those who are LGBT.

Stonewall response to the Commission's proposals

Question 5

8. Stonewall welcomes the Commission's proposals to improve the parental order process, including the proposal that the rule currently contained in rule 16.35(5) of the FPR should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Question 6

9. Stonewall agrees that the current inconsistency in parental order applications in Scotland regarding where the responsibility lies for the payment of expenses for curators *ad litem* and reporting officers in is inappropriate. **We would appreciate greater clarity on the difference between the cases in which the responsibility for expenses would lie with the local authority and those in which responsibility would lie with the applicants, and the justification for this difference. However, ultimately, we would support a consistent approach whereby the expenses for curators *ad litem* and reporting officers in Scottish parental order proceedings are borne by the public purse.** Where such expenses would fall on the applicants, this places a further financial burden on LGBT people looking to become parents through surrogacy.

10. **Stonewall welcomes the proposal outlined in Chapter 8 for all intended parents to automatically acquire parental rights and responsibilities (PRRs) if the child is living with or being cared for by them, and alternative proposals for PRRs to be able to be granted at initial hearings**. In recognising that the current petition procedure in Scotland does not lend itself to the proposal to grant PRRs at the initial hearing, we support proposals to make statutory provisions to allow interim orders for PRRs to be made at the initial or subsequent hearings. Acquiring these rights and responsibilities as early as possible is crucial for intended parents, particularly in cases where intended parents would wish to exercise authority over important decisions early in the child's life, such as medical treatments.

11. Stonewall is concerned that by requiring some intended parents in Scotland to instruct a solicitor to act on their behalf when applying for a parental order, they can face higher costs through the parental order procedure than they would by making an application in England and Wales, where paperwork can be completed by the applicants without the involvement of a solicitor. Where the court fee for a parental order application in England and Wales is quoted as £215 in Schedule 1 of the Family Proceedings Fees (Amendment) Order 2014, Surrogacy UK state that costs in Scotland can reach £3,000.

12. **While we are aware that intended parents are not required to instruct a solicitor in every case, we would appreciate consideration being made over the necessity and fairness of this aspect of the procedure, in addition to greater consistency and clarity as to the costs incurred by intended parents through the parental order procedure in Scotland.**

Question 7

13. **Stonewall strongly agrees with the proposal that the intended parents should be the legal parents of the child as soon as practicable upon the birth of the child,** in cases where the intended parents and surrogate have entered into an

agreement including the prescribed information, complied with procedural safeguards for the agreement, and met eligibility requirements, prior to the conception of the child.

Questions 11-13

14. Given that the period of objection in England, Scotland and Wales covers a crucial time in a child's life (the first several weeks of their life – a time in which a child could be in neonatal care, for example), we believe that establishing clarity on who a child's legal parents are as soon as possible is essential. **To provide this legal clarity in a timely manner, we recommend that a process is introduced in which the surrogate could consent positively within this period of objection to confirm the intended parents' legal parenthood and allow the intended parents to register the child's birth immediately thereafter.**

Question 15

15. Stonewall welcomes the Commission's proposal to end the current rule that in instances where a surrogate has exercised their right to object, a surrogate's spouse or civil partner is automatically the legal parent of the child.

Question 25

16. **Stonewall recommends that section 10 of the Children Act 1989 is amended to add the intended parents to the category of those who can apply for a section 8 order without leave, to bring legislation in England and Wales in line with current practice in Scotland, where the law is already sufficiently flexible to afford intended parents the right to apply for a residence order without seeking the leave of the court.**

Question 26

17. **As in our response to Question 6, Stonewall warmly welcomes the proposal that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where the child is living with them or being cared for by them, and they intend to apply for a parental order.**

Questions 33, 34 and 35

18. Stonewall warmly welcomes the Commission's proposals that there should be regulated surrogacy associations, that these should be not-for-profit, and that each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Question 39

19. Stonewall agrees with the proposal that the remit of the Human Fertilisation and Embryology Authority should be expanded to include the regulation of regulated surrogacy organisations. **To help the Authority comply with its duties under the Equality Act 2010 and Public Sector Equality Duty with respect to surrogacy regulation, we strongly recommend that the Authority publishes:**

- **Equality objectives outlining they will actively eliminate discrimination against, and promote equality of opportunity for, people with protected characteristics (including LGBT people) accessing surrogacy through regulated organisations.**

- **Equality data outlining how many people with protected characteristics (including LGBT people) are applying for and accessing surrogacy arrangements through regulated organisations, the outcome of their applications and subsequent surrogacy arrangements, and the quality of their experiences when applying for, and accessing, surrogacy arrangements.**

20. **To support regulated organisations to effectively meet the needs of potential and current clients with protected characteristics, including those who are LGBT, we strongly recommend that the Authority's Code of Practice, as it applies to regulated surrogacy organisations, should:**

- **Require each regulated organisation to collect demographic data on all its prospective and current clients which covers all the protected characteristics, including the sexual orientation and trans status of its clients (which should be voluntary).**

- **Provide practical supplementary guidance for regulated organisations on how to meet their duties under the Equality Act 2010, including how to monitor clients' sexual orientation and trans status sensitively, the specific legal requirements under the Equality Act 2010 not to discriminate against people with protected characteristics (including LGBT people), and how to meet the specific needs of LGBT people accessing their services. The HFEA should encourage regulated organisations, while not public bodies, to seek to meet the expectations of the Public Sector Equality Duty – in a similar way to the way in which Ofsted assesses all schools in England, including those which aren't state funded, against the objectives of the Public Sector Equality Duty.**

Question 45

21. We welcome the opportunity to contribute our views on whether the birth registration system in England and Wales requires further reform.

22. Currently, UK law does not always give trans parents flexibility to choose whether they would like to be registered as their child's father, mother or parent on their child's birth certificate – for example, under the current law, a trans man who gave birth to a child would be registered as his child's 'mother', even if he has obtained legal gender recognition and consequently updated his birth certificate to reflect his gender identity (as was upheld in R (on the application of TT) -v- The Registrar General for England and Wales and others, 2019. It is unclear at this stage (October 2019) whether this ruling will be appealed, and if so, what the outcome of this appeal will be).

23. This can be deeply distressing, and creates a significant inconsistency whereby a trans person can have full recognition on some legal documents, but not others. This means that, for trans parents, there is a risk of being 'outed' by their child's legal documentation – even when other areas of the law recognise the importance of privacy (for example, Section 22 of the Gender Recognition Act states that it is an offence for a person who has acquired protected information in an official capacity to disclose about an individual's application for a Gender Recognition Certificate or their legal gender prior to obtaining a full Certificate). **It is therefore essential that birth registration legislation is**

updated to ensure that all trans parents are recognised for who they are when registering their child's birth, and to ensure consistency with the rest of their legal documentation.

Question 54

24. Stonewall welcomes the proposal to abolish the six-month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application, to afford more flexibility to the intended parents, without the limitation of an arbitrary time limit.

Questions 66, 67, 68 and 69

25. Stonewall believes that the eligibility criteria for the new pathway are sensible and appropriate.

Questions 92 and 94

26. Stonewall welcomes the proposals that it should be possible to begin the process for applying for a UK passport or a UK visa in respect of a child born through an international surrogacy arrangement, before the child is born.

Questions 98 and 99

27. However, we are concerned that under the current proposals, intended parents of children born through surrogacy arrangements overseas will still have to apply for a parental order in the UK following the child's birth to be granted legal parenthood – this can take between six and 12 months, which covers a crucial time in a child's early life.

28. We welcome the proposal that the Secretary of State will have the powers set out in 16.94 to recognise the intended parents of children born through surrogacy arrangements overseas, who are recognised as the legal parents of the child in the country of the child's birth, as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order (provided that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law). However, we are concerned that this provision will not apply for intended parents of children born through surrogacy in countries which do not satisfy this criteria – leaving these parents, who may not be able to afford to access surrogacy arrangements in countries with regulated surrogacy systems, without access to legal parenthood at a crucial time in a child's life.

29. **We therefore strongly recommend that, for intended parents seeking surrogacy arrangements in countries where they would not be recognised as the legal parents of the child, a judicial process in the UK family courts is introduced to allow any intended parents who access surrogacy arrangements abroad to apply for legal parenthood before the child is born, so that they can automatically become the legal parents of the child in the UK when the child is born (provided they have entered into a formal agreement with the surrogate, complied with procedural safeguards for the agreement, and met eligibility requirements, as with the proposed new domestic surrogacy pathway).**

For more information, please contact:
[redacted]

Stonewall

[redacted]

Response ID ANON-2V7F-Y8VA-D

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 20:40:49

About you

1 What is your name?

Name:
Kingsley Napley LLP

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

Completed by Connie Atkinson and Sarah Dodds in the family team with input from Katie Newbury in teh immigration team.

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a response on behalf of an organisation

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Not Answered

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Other

Please provide your views below:

We do not consider it necessary for all international surrogacy arrangements to be dealth with in the High Court. For example, many of the straightforward US cases could be dealt with by lower courts. However, we believe that the system whereby a number of specialist judges who deal with the surrogacy work is a good system and (broadly) ensures consistency. Those judges also usually afford some flexibility with listing and try to ensure that parents are not waiting months for a hearing. If the more straightforward international cases were dealt with by lower courts, we would like to see a few specialist judges allocated. Also, we would want to make sure that the listing in the lower court (eg the Central Family Court in London) doesn't mean that parents are waiting for longer than they would be in the Hugh Court.

Please provide your views below:

Agreed - see above.

9 Consultation Question 2:

Please provide your views below:

Most of our cases involve international surrogacy arrangements and so we do not feel able to comment.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

Yes

Please provide your views below:

In realist they are exercising PR as soon as the child is born and so the legal position to reflect this.

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

We have never had a case where the POR's report has not been released to the parties. As referred to at para 6.69, it would be too late for directions to be given for its release at (or even shortly before) the final hearing. We draft our first hearing directions to say that the POR's report should be filed and served on the parties.
We are concerned about the potential delay and burden on the court to review the report before considering whether the (new) default rule should apply. However we feel that such a default rule would be much better than the current position.

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

Yes

Please provide your views below:

We believe that this strikes a balance between providing more certainty to intended parents whilst also protecting the surrogate. It allows the intentions of all parties to be recorded and recognised at birth and removes the split between legal and social parenthood which currently exists following most surrogate births until a parental order is made.

15 Consultation Question 8:

Yes

Please provide your views below:

A requirement to keep records for 100 years could be too onerous and we believe that a shorter period may be sufficient. Part of the purpose of retaining the records is so that the registrar can confirm that the intended parents are indeed the legal parents. This will be done quite quickly after birth and so records wouldn't need to be kept for 100 years. We suggest that records could be kept until the child is over the age of 21.

Another period

Please provide your views below:

A requirement to keep records for 100 years could be too onerous and we believe that a shorter period may be sufficient. Part of the purpose of retaining the records is so that the registrar can confirm that the intended parents are indeed the legal parents. This will be done quite quickly after birth adn so records wouldn't need to be kept for 100 years. We suggest that records could be kept until the child is over the age of 21.

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Not Answered

Please provide your views below:

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

18 Consultation Question 11:

Yes

Please provide your views below:

We agree. Is there going to be a transitional process/provision? We are concerned that it may take time for hospitals to understand what information to provide and for registrars to use it correctly when registering the births. If there is any risk of mistake or misunderstanding while the new law is being implemented, we may end up advising clients to obtain the surrogate's express consent as a precaution. We think 5 weeks as a timeframe is sufficient. We are not Scottish practitioners but are concerned that 14 days seems very short.

19 Consultation Question 12:

Yes

Please provide your views below:

We agree that the surrogate should be the legal parent if she objects but also agree that one of the intended parents should continue to be a legal parent if they would under the current law. The only way of dealing with such a situaiton is for the intended parents to make an application for a parental order in order that a judge can make a decision taking into account the child's welfare.

20 Consultation Question 13:

Yes

Please provide your views below:

The views within the surrogacy team at Kingsley Napley were mixed. Some felt that if the surrogate is not going to have to give her formal consent then the best way in which to check her capacity during the period in which she had a right to object is to ask for a declaration from the intended parents. Others felt that it was an unreasonable and artificial burden on the intended parents. How are they to know whether the surrogate may have lacked capacity? If there are more obvious circumstances such as the surrogate was unconscious, should the declaration just say this (ie be more specific)?

21 Consultation Question 14:

Yes

Please provide your views below:

We agree that there should be no post-birth welfare checks under the new pathway and believe that the current assessment process as overseen by the clinic or agency is a suitable pre-birth check. However, it does rely on self-certification and so it may also be sensible to add in provision for clinics or agencies to conduct a police record check as CAFCASS would do as part of the current parental order report process. We believe that it would be useful to consider the timing of the welfare check. In surrogacy cases it happens post birth, in natural pregnancies it is ongoing through ante natal appointments and for adoption it takes place throughout proceedings. Is it being suggested that the welfare check only takes place pre conception and nothing further?

22 Consultation Question 15:

Yes

Please provide your views below:

The provisional proposal is agreed and we generally consider that the surrogate spouse or civil partner should not be the legal parent whether within or outside of the new proposed pathway. This does not reflect the situation on the ground and is artificial.

No

Please share your views below:

23 Consultation Question 16:

Yes

Please provide your views below:

Yes

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the

effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Yes

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

We consider that the arrangement should proceed within the new pathway in the event that the surrogate dies in child birth or before the end of the period during which she can exercise her right to object unless she has raised objections before death. This will reflect the agreement reached between the parties at the commencement of the arrangement and throughout and will ensure that the child is not left without a legal parent.

26 Consultation Question 19:

Not Answered

Please provide your views below:

Please provide your views below:

27 Consultation Question 20:

Yes

Please provide your views below:

Yes.
The original intention behind the introduction of s54A applications by single applicants was that such applications were for those who had entered into a surrogacy arrangement on their own.

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

We do not consider that the temporary three parent model would assist in circumstances where the parties' intentions are that the IPs are to be the legal parents.

29 Consultation Question 22:

Please provide your views below:

We would not be against additional oversight but it would also depend on the welfare check point raised at response 14.

30 Consultation Question 23:

Please provide your views below:

We believe that consideration should be given to the genetic relationship and the parties' intentions (even if they have since changed).

31 Consultation Question 24:

Please provide your views below:

Again we believe that consideration should be given to the genetic relationship and the parties' intentions (even if they have since changed).

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

We consider that intended parents should be added to the category of person who can apply for a section 8 Order without leave. This would bring the position in England and Wales in line with Scotland and is reasonable in the circumstances. We would expect intended parents to be granted permission and so this will just remove a further layer of administration and stress.

33 Consultation Question 26:

Yes

Please provide your views below:

From a practical perspective it would be useful for intended parents to have parental responsibility for children living with them before a parental order is made. We find that judges generally make an order conferring parental responsibilty on the intended parents at the first directions hearing in the current parental order process and this would just remove the need for that step to be taken.

34 Consultation Question 27:

Yes

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Yes

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

We do not consider that this should happen as a matter of course as it is unlikely that the surrogate is going to try to exercise their PR unless there is an issue/she has objected to the legal parentage under the new pathway. However one party may need to make an applicaiton to court to restrict PR if an issue arises.
In our international surrogacy cases, if the IPs need to make immediate decisions about the child (eg meidcal treatmetn) we get surrogates to sign a delegation of PR form. Although this is not legally binding it provides reassurance to the IPs and the organisation (eg hospital).

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Not Answered

Please provide your views below:

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

Please provide your views below:

40 Consultation Question 33:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

41 Consultation Question 34:

Please provide your views below:

Please provide your views below:

Please provide your views below:

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Yes

Please provide your views below:

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Not Answered

Please provide your views below:

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Not Answered

Please provide your views below:

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Not Answered

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Yes

Please provide your views below:

It has been a huge problem that, as a law firm, we have not been able to review and advise on documentation which may later become relevant for fear of committing an offence.

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Not Answered

Please provide your views below:

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Not Answered

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Not Answered

Please provide your views below:

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Not Answered

Please provide your views below:

55 Consultation Question 47:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

57 Consultation Question 49:

Not Answered

Please provide your views below:

Please provide your views below:

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

59 Consultation Question 51:

Not Answered

Please provide your views below:

Please provide your views below:

60 Consultation Question 52:

Please provide your views below:

Please provide your views below:

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

Yes

63 Consultation Question 55:

Yes

Please provide your views below:

Yes

Please provide your views below:

It should be made clear that such a decision should not be taken lightly.

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Yes

Please provide your views below:

We agree that both domicile and habitual residence should be included as jurisdictional bases. We believe that including habitual residence removes the artificial situation whereby intended parents living in the UK who have a close connection with the country but who are not domiciled here are unable to apply. Retaining the domicile criteria as an alternative basis of jurisdiciton will allow British intended parents who live abroad to apply so that their family relationships are recognised in their home country. We do consider that it would be sensible to include a qualifying period of habitual residence to try to avoid 'surrogacy tourism' as described in the consultation. This period need not be long, we believe that a period of 6 month or 12 months would be sufficient to show that the intended parents do have a link to this jurisdiction and have not travelled solely for the purpose of surrogacy.
Will the time period run back from the birth for the new pathway and from the application for a PO in the PO route? ie IPs have to have lived here for 6 or 12 months before applying for a PO (so they could just wait for a period of time if they would not otherwise have met this).
It is worth remembering that, under the current system, when the court has otherwise determined that it is in the chlid's best interests for the PO to be made, they are showing a lot of flexibility in respect of the domicile requirement which can seem artificial. An amendment to include habitual residence would help address this.

Please provide your views below:

We agree that there should be a short qualifying period of habitual residence, see above.

65 Consultation Question 57:

Please provide your views below:

(1) We do not believe that the qualifying categories need to be reformed.
(2) We do not see why teh requirement should remain given that single applicants can apply but we do not believe that it is helpful for there to be a situation where a couple entered into a surrogacy arrangement but only one later applies for a PO and becomes a legal parent. This could be contrary to a chlid's best interests.

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child’s home to be with them. Do consultees agree?

Yes

Please provide views below:

67 Consultation Question 59:

Yes

Please provide views below:

Please provide views below:

Yes. Such applications can be in the High court or heard by a certain level of judge. Statements can be prepared as part of teh application and show the detailed steps the parents have taken on their journey.

No

Please provide views below:

We believe that the medical necessity exemption should apply. As with the above, statements can be filed dealing with the detailed steps taken, the process involved in selecting donated gametes and the surrogate's background.

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Other

Please provide your views below:

We believe that double donation with safeguards should be permitted for all routes. See above.

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Yes

Please provide views below:

However we believe that it would usually be in a chlid's interest for both parents to be recognised as legal parents. We do not want the leaving parent to be able to abandon their responsibilies just because they have changed their mind (as this couldn't happen in natural conception cases). Is there a way of protecitng against this?

70 Consultation Question 62:

Please provide your views below:

Agreed.

Please provide your views below:

71 Consultation Question 63:

Not Answered

Please provide your views below:

Please provide your views below:

Yes but we do not consider that it needs to be a formal DNA test if other proof (ie paperwork from the fertility treatment or a letter from a doctor who carried out any procedures) is available.

Not Answered

Please provide your views below:

72 Consultation Question 64:

Yes

Please provide your views below:

Please provide your views below:

Yes

Please provide your views below:

73 Consultation Question 65:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Yes

Please provide your views below:

Please provide your views below:

75 Consultation Question 67:

Yes

Please provide your views below:

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Yes

Please provide your views below:

77 Consultation Question 69:

Yes

Please provide your views below:

Please provide your views below:

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

Not Answered

Please provide your views below:

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on costs actually incurred by the surrogate, but without the need for production of receipts; or

Please provide your views below:

In practice there is a mixture of an allowance and expenses.

81 Consultation Question 73:

Please provide your views below:

Yes but we do not consider that it should be limited to a strict list of essential costs. Also, as above, In practice such payments are regularly made.

82 Consultation Question 74:

Please provide your views below:

Yes. Also, as above, in practice such payments are regularly made.

83 Consultation Question 75:

Please provide your views below:

Yes. Also, as above, in practice such payments are regularly made.

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

85 Consultation Question 77:

Please provide your views below:

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

Please provide your views below:

Please provide your views below:

a fixed fee set by the regulator (operating as a cap on the maximum payable), or

Please provide your views below:

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

89 Consultation Question 81:

Please provide your views below:

Yes given that this happens in practice.

90 Consultation Question 82:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Please provide any views below:

91 Consultation Question 83:

Please provide views below:

Not Answered

Please provide your views below:

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Yes

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

95 Consultation Question 87:

Please provide your views below:

96 Consultation Question 88:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

Not Answered

Please provide your views below:

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Please provide your views below:

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

Not Answered

Please provide your views below:

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Not Answered

Please provide your views below:

107 Consultation Question 99:

Yes

Please provide your views below:

108 Consultation Question 100:

Please provide your views below:

Please provide your views below:

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

Not Answered

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

(1) it will depend on the circumstances but likly £1,000 which may include immigration advice.
(2) depends on the circumstances but £2,000-5,000.

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

Name (Required)

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

[Name of organisation if relevant.]

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

- This is a personal response
- This is a response on behalf of an organisation
- Other

If other, please provide details:

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

- Surrogate
- Intended parent
- Person born of a surrogacy arrangement
- Family member of a surrogate
- Family member of an intended parent
- Legal practitioner
- Medical practitioner or counsellor
- Social worker
- Academic
- Other individual

5. What is your email address?

Email address:

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

[Enter your phone number here.]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration.

Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in

surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or

parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and

facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the

recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

Leave both check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the ‘new pathway’. The idea that a ‘surrogacy agreement’ could place restrictions on the birth mother’s lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children’s rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y81E-C

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 20:53:18

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

NA

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

Yes

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

15 Consultation Question 8:

Yes

Please provide your views below:

100 years; or

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Not Answered

Please provide your views below:

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

18 Consultation Question 11:

Yes

Please provide your views below:

19 Consultation Question 12:

Yes

Please provide your views below:

20 Consultation Question 13:

Not Answered

Please provide your views below:

21 Consultation Question 14:

No

Please provide your views below:

22 Consultation Question 15:

Yes

Please provide your views below:

Yes

Please share your views below:

23 Consultation Question 16:

Yes

Please provide your views below:

Yes

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Yes

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

Disagree

26 Consultation Question 19:

Yes

Please provide your views below:

Please provide your views below:

1 above

27 Consultation Question 20:

Yes

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

29 Consultation Question 22:

Please provide your views below:

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

Yes

Please provide your views below:

34 Consultation Question 27:

Yes

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Yes

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Yes

Please provide your views below:

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

Please provide your views below:

40 Consultation Question 33:

Yes

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

41 Consultation Question 34:

representing the organisation to, and liaising with, the regulator;, ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;, providing data to the regulator and to such other person as required by law.

Please provide your views below:

Please provide your views below:

Please provide your views below:

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Yes

Please provide your views below:

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Yes

Please provide your views below:

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Yes

Please provide your views below:

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Yes

Please provide your views below:

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

Yes

Please provide your views below:

Yes

Please provide your views below:

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

Agreed

57 Consultation Question 49:

Yes

Please provide your views below:

Please provide your views below:

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

Agreed

59 Consultation Question 51:

Yes

Please provide your views below:

Please provide your views below:

Agreed

60 Consultation Question 52:

Please provide your views below:

Agreed

Please provide your views below:

Agreed

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

Agreed

63 Consultation Question 55:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Yes

Please provide your views below:

Please provide your views below:

65 Consultation Question 57:

Please provide your views below:

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Yes

Please provide views below:

67 Consultation Question 59:

Yes

Please provide views below:

Please provide views below:

Yes

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Not Answered

Please provide your views below:

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Yes

Please provide views below:

70 Consultation Question 62:

Please provide your views below:

Agreed

Please provide your views below:

71 Consultation Question 63:

Yes

Please provide your views below:

Please provide your views below:

Agreed

Yes

Please provide your views below:

72 Consultation Question 64:

Yes

Please provide your views below:

Please provide your views below:

Yes

Please provide your views below:

73 Consultation Question 65:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Yes

Please provide your views below:

Please provide your views below:

75 Consultation Question 67:

Yes

Please provide your views below:

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Yes

Please provide your views below:

77 Consultation Question 69:

Yes

Please provide your views below:

Please provide your views below:

Agreed

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

Agreed

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

Yes

Please provide your views below:

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on costs actually incurred by the surrogate, but without the need for production of receipts; or

Please provide your views below:

81 Consultation Question 73:

Please provide your views below:

82 Consultation Question 74:

Please provide your views below:

83 Consultation Question 75:

Please provide your views below:

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

Yes

85 Consultation Question 77:

Please provide your views below:

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or, specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

Please provide your views below:

Yes as ticked

Please provide your views below:

Not Answered

Please provide your views below:

A bit of both

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for

the surrogate.

Please provide your views below:

Yes

89 Consultation Question 81:

Please provide your views below:

Agreed

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

a fixed fee set by the regulator.

Please provide your views below:

essential costs relating to the pregnancy;, lost earnings;

Please provide any views below:

91 Consultation Question 83:

Please provide views below:

Not Answered

Please provide your views below:

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Yes

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

95 Consultation Question 87:

Please provide your views below:

96 Consultation Question 88:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

Yes

Please provide your views below:

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

Yes

Please provide your views below:

Yes

Please provide your views below:

No

Please provide your views below:

Yes

Please provide your views below:

Please provide your views below:

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

Yes

Please provide your views below:

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Not Answered

Please provide your views below:

107 Consultation Question 99:

Yes

Please provide your views below:

108 Consultation Question 100:

Please provide your views below:

Please provide your views below:

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

Yes

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

Maybe more curiosity about ethical and exploitation issues is needed?

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Our Ref: SRP:ms

11 October 2019

Law Commission UK
By email – surrogacy@lawcommission.gov.uk

Dear Reader

Proposed surrogacy reforms

1. About me

This letter is written to you in my personal capacity, not in my role as a member of various organisations. I am a legal practitioner director of Page Provan Pty Ltd, which is an incorporated legal practice in Brisbane, Australia. I was admitted as a solicitor of the Supreme Court of Queensland in 1987. I was admitted as a solicitor of the High Court of Australia in 1989. I was admitted as a barrister and solicitor of the Supreme Court of South Australia in 2013. I have been a Queensland Law Society Accredited Family Law Specialist since 1996. My first surrogacy case was in 1988. I have advised in over 1500 surrogacy journeys. My clients have come from all over Australia as well as 30 countries overseas, including the UK.

It is common for clients of mine to be Australian citizens or residents and to have UK citizenship. In any one year, I have clients from the UK residing there who are undertaking surrogacy somewhere and have some connection to Australia.

I am currently a member of a number of organisations including:

- Family Law Section of the Law Council of Australia;
- Queensland Law Society (including a member of its Equity and Diversity Committee);
- International Academy of Family Lawyers (including being a member of its LGBT Committee and its Surrogacy/Parentage Project Committee);
- International Representative on the ART Committee of the American Bar Association. In that role, I was the principal advocate for, and co-author of the American Bar Association policy adopted in 2016 as to a proposed *Hague Surrogacy Convention;*
- The Academy of Adoption and Assisted Reproduction Attorneys;

- Fertility Society of Australia.

I have written and presented across the world about surrogacy including the organisations I have mentioned above, as well as the International Bar Association, the American Society for Reproductive Medicine, the Canadian Fertility and Andrology Society and the Royal Australian and New Zealand College of Obstetricians and Gynaecologists.

In 2013, I gave evidence on Australian surrogacy law in the matter of *Z (A Child) (No 2)* [2016] EWHC 1191.

I was the initiator of and on the organising committee for the recent International Surrogacy Forum held at the University of Cambridge. I did not attend that conference because my husband and I were shortly expecting a child to be born through an Australian domestic surrogacy journey.

I have three children. I have suffered infertility (as did my then wife) before the conception of our eldest child. I have also become a father through surrogacy.

In 2012, I represented the surrogate in the first case in the world as to what constituted conception: *LWV v LMH* [2012] QChC 26, which incidentally was found to be the act of pregnancy, not fertilisation of the embryo.

On a daily basis, I advise clients about surrogacy law and ART laws throughout Australia.

Although I have acted in domestic surrogacy journeys in Victoria, New South Wales, Queensland and South Australia, due to a shortage of surrogates in Australia, most of my clients undertake surrogacy overseas.

Four jurisdictions in the world make it a specific criminal offence to engage in commercial surrogacy overseas: Hong Kong, Queensland, New South Wales and the Australian Capital Territory. These laws are ineffective. The view was expressed in 2014 by the then Chief Justice of the Family Court of Australia, Diana Bryant and by the then Chief Judge of the Federal Circuit Court of Australia, John Pascoe that those laws either ought to be enforced or repealed because not to enforce them made a mockery of the law. I would endorse those comments.

2. Automatic recognition

I strongly endorse your suggestion that, provided the various checklist matters have been met, that there be automatic recognition of the intended parents in a surrogacy journey in the UK. In addition to the matters that you raise in your report, I want to illustrate what happened to my husband, our surrogate and me, and to provide you with a recent Australian case.

Our hospital experience

My husband and I, as I said, engaged in a domestic surrogacy journey. Whereas most intended parents will become parents in 18 months to 2 years, some will take up to 4 years because of medical things going wrong. That was our experience. In addition to the legal and bureaucratic requirements of the *Surrogacy Act 2010*, the clinic and the hospital, our first pregnancy ended in a miscarriage. Our second pregnancy was ectopic, resulting in urgent surgery. Thankfully, the third pregnancy worked, but nevertheless there were complications at the time of birth.

The hospital we went to is the first hospital I recommend people in my part of the world go to. It is a very experienced, friendly maternity hospital and unlike many of the hospitals in Australia,

it has a surrogacy policy. The birth had its complications, but there was no fault on the part of the hospital associated with that.

Our baby daughter was born in July this year in the early hours of the morning. Our surrogate is very special to us. She has a close personal relationship with my husband and me and did so prior to the commencement of the surrogacy journey. We still have a very warm and loving relationship with her.

On the evening of the day in which our baby was born, our surrogate received the discharge papers from the hospital. Due to medical reasons, our baby had to remain in hospital overnight. Our surrogate had one room in the ward. My husband and I stayed with our baby in the adjoining room.

When the midwife realised that the birth mother (who of course was a surrogate) was being discharged prior to our baby, suddenly the discharge was put on hold. The midwife had to check with her superior – who in turn had to check with her superior – who had to check with her superior – who then had to check with an executive – who then had to check with the next executive – who then had to check with the next executive – who finally had to get advice from the hospital lawyer.

The outcome was that the hospital lawyer through this process of however many times hearsay, advised that it was not *"advisable"* for our surrogate to leave. The implication was clear – that if she left, then action would have to be taken by the hospital, i.e. with the State Department, to protect the child.

The hospital's reasoning was clear, namely that the lawyer formed the view that our surrogate (being a single woman) was the only parent [never mind that following a recent High Court decision this view was wrong as a matter of law], that she needed to be at the hospital to authorise treatment and that it was inappropriate for her to leave the hospital.

Our surrogate was immediately traumatised and distraught. She was inconsolable. Our surrogate had been in hospital for over a week. She wanted to go home to be with her daughter. This she was denied. My husband and I were both extremely upset. It didn't matter what I said as an expert lawyer in the field – that was irrelevant. In the eyes of the hospital our surrogate was the only parent (not us or either of us) and therefore she should not leave.

It felt as though our surrogate was violated. Her freedom to leave was taken away from her. She went to bed that night sobbing.

We all were discharged the following day.

I have since written to the hospital outlining what occurred and asking that no-one else have to be put through that trauma.

If there had been automatic recognition of my husband and I as the parents, these traumatic events would never have occurred.

Lamb and Shaw

In broad terms, Australian surrogacy law is modelled on UK law. There is a requirement for a post birth transfer of parentage from the birth mother and her partner (if any) to the intended parent or parents). How much of that State and Territory based law has survived the recent High Court

decision in *Masson v. Parsons* [2019] HCA 21 is a moot point. In *Lamb and Shaw* there was a Mexican standoff between the intended parents and the single surrogate at hospital following the birth of the child. The surrogate proposed to adopt the child out. She had no genetic link to the child. The intended parents were also the genetic parents. Having an automatic recognition of the intended parents provided by that the checklist matters have been met, would avoid a repeat of cases such as *Lamb and Shaw*. It is reported at [2017] FamCA 760, *Shaw and Lamb* [2018] FamCAFC 42 and *Lamb and Shaw* [2018] FamCA 629.

3. Comment about US surrogacy journeys

While my clients who have undertaken surrogacy overseas have done so seemingly in more countries than imaginable (in the past, for example all the developing countries that then stopped surrogacy: India, Nepal, Cambodia, Thailand and Mexico), other developing countries or post-Soviet countries (such as Russia, Ukraine, Georgia, Kenya, Nigeria, Ghana, Malaysia, Iran and China by way of example), the two most popular countries that Australians have traditionally gone to for surrogacy have been the United States and Canada.

As part of the matching process (whether in the US or to a lesser degree (because of the different model) in Canada), agencies engage when they match Australian intended parents with surrogates on the basis that there will be an ongoing relationship between the surrogate and the intended parents. The classic example of this can be seen by the family seen in SBS Insight, Baby Business:

https://www.sbs.com.au/news/insight/tvepisode/baby-business

where the parents, then the children and finally the surrogate, Chrissy are all interviewed. It is clear that the children know where they come from and have and want to continue to have an ongoing relationship with their US surrogate.

It is vital in my view in the best interests of the child and having regard to the child's right to an identity under Article 8 of the *International Convention on the Rights of the Child*, that the child is able to have that ongoing relationship with the surrogate, irrespective of whether or not she is paid compensation.

My long experience with Australians who undertake surrogacy in the US and Canada is that they do have as a general rule, an ongoing relationship with the surrogate. Surrogacy at its best is an absolutely magical journey. I see the same amazing positive outcomes from surrogacy in the United States and Canada as I do happen domestically in Australia. My clients, whether they are single women, heterosexual couples, lesbian couples, single men or gay male couples are incredibly grateful for being given the gift of life by a woman who has put her life on the line for them and consider it only fair that she is paid for doing so.

A good surrogacy journey is one which is marked by flexibility, mutual respect and communication. In my view, this applies whether the surrogacy journey is compensated (such as in the US) or uncompensated as we see in Australia. The surrogacy journey as merely a transaction and not a fundamental human experience, places the real risk of causing the surrogacy journey to fail. The journey as it is, namely one of the most intimate personal journeys available to anyone, whether it is commercial or not, is properly valued by the parties – and importantly that intense human commitment to each other arises, is strengthened and lasts.

4. No genetic connection

The Federal Circuit Court of Australia in *H v. Minister for Immigration and Citizenship* [2010]

FCAFC 119, made plain that in obtaining Australian citizenship by descent (i.e. outside Australia) there does not need to be a genetic link between the parents and the child. The High Court in *Masson v. Parsons* [2019] HCA 21 took a similar approach when determining who was a parent under the *Family Law Act 1975* (Cth). It is a question of fact in each case whether someone is a parent. In *H v. Minister for Immigration and Citizenship*, the Federal Court noted that the issue of whether someone was a parent was seen in the wider view of society but particularly involved the intense personal commitment of parent and child.

I have acted for Australian intended parents who have undertaken surrogacy overseas where there has been no genetic link between them and their child. Life can be cruel, but the desire to become parents remains intense. Sir David Attenborough encapsulated the innate desire to become parents, when he said in The Trials of Life (1990):

> *"If you watch animals objectively for any length of time, you're driven to the conclusion that their main aim in life is to pass on their genes to the next generation. Most do so directly, by breeding. In the few examples that don't do so by design, they do it indirectly, by helping a relative with whom they share a great number of their genes. And in as much as the legacy that human beings pass on to the next generation is not only genetic but to a unique degree cultural, we do the same. So animals and ourselves, to continue the line, will endure all kinds of hardship, overcome all kinds of difficulties, and eventually the next generation appears."*

Australian clients of mine who have undertaken surrogacy overseas where there has been no genetic link between them and the child have been:

- Heterosexual couples;
- Single women (sometimes survivors of cancer, such as ovarian, cervical or breast cancer, or leukaemia);
- Single men.

To my recollection, I have not yet had a case with a gay male couple where one of them has intentionally not had a genetic relationship with the child. I have had one case from India where due to the clinic's error, there was no genetic relationship between the gay couple and the child. I have had one case from Thailand where the IVF clinic said it would use man A's sperm (but in error used man B's). In each case, the child obtained Australian citizenship.,

As Sir David Attenborough made plain, the innate desire to become parents will occur no matter what. Given the obligations to protect the child, including under Articles 3 and 8 of the *International Convention on the Rights of the Child*, it would be better to enable those children's relationship with their parents to be recognised, rather than to put a blanket ban in place (which will be ignored by those desperate to have children) in which there is a requirement for there to be a genetic link between parent and child.

Australian authorities, specifically the Department of Home Affairs, take very seriously Australia's international obligations to prevent child trafficking. The Department of Home Affairs says in its Australian Citizenship Instructions (2016):

"Meaning of 'parent' for citizenship purposes

Until the decision of the Full Federal Court (FFC) in H v Minister for Immigration and Citizenship [2010] FCAFC 119 ('H')) on 15 September 2010, the department interpreted parent in the Act as

a biological parent, unless there was a contrary intention in a specific provision. For example, adoptive relationships are provided for in s13 and Subdivision AA of the Act. In 'H', the FFC held that in the absence of a definition of parent in the Act, the meaning of parent in section 16 (concerning citizenship by descent) is not limited to biological parents. The FFC held that it is sufficient that, at the time of birth, an Australian citizen is a parent as that word is understood in ordinary usage. Therefore citizenship by descent, until then available under the Act to children of Australian citizen biological parents, can also be accessed by children of Australian citizen non-biological parents.

The decision of the FFC in relation to the meaning of the word parent in s16 also is applied to the word parent where it is used elsewhere in the Act.

Relevance of foreign law

The status of a person as a parent under a foreign law may be taken into account, but is not determinative as to whether that person is a parent for the purposes of the Act.

Parent-child relationship fraud

An application requires additional scrutiny if one or more of the following circumstances apply:

- *the person stated to be the child's mother travelled by air in what would have been a very advanced state of pregnancy (most airlines will not carry a passenger after the 28th week of pregnancy)*
- *the person stated to be the child's mother is of mature age and the birth certificate shows the child to be her first born*
- *the person stated to be the child's mother claims to have had no pre-natal attention from a doctor in Australia*
- *a person stated to be a parent is not contactable*
- *the person stated to be the child's mother claims she had no ante-natal care*
- *an application is lodged by a responsible parent in Australia and the child is off-shore*
- *the birth certificate was issued a significant time after the birth*
- *the travel movements of the persons stated to be the parents indicate that they could not have been together at the time the child would have been conceived*
- *a child notionally eligible for citizenship applied for a visa before seeking citizenship or evidence of citizenship.*

There have been fraudulent attempts to register adopted children for citizenship by descent. (Adopted children are not eligible for citizenship by descent, refer to Chapter 5 - Citizenship by descent and Chapter 6 - Adopted children.) This is often difficult to detect because in many countries a new birth certificate is issued without any reference to the natural parents or the fact that the child has been adopted.

If doubt exists about the Australian citizen parentage of a child, the bona fides should be checked.

Biological parent-child relationships

A decision maker may be satisfied that the parent-child relationship is biological after considering, as a whole, evidence concerning matters such as:

- *the nature of the relationship between the claimed parents*
- *travel movements for the claimed parents around the date of conception*
- *the applicant's birth, registration of birth and the chain of custody post-birth*
- *physical similarities between the applicant and claimed parent.*

DNA testing

In cases where a person applies for Australian citizenship or evidence of citizenship on the grounds that they are the biological child of:

- *an Australian citizen (for descent) or*
- *an Australian citizen or permanent resident (for birth onshore)*

and the decision maker is not satisfied that the person has such a biological relationship, the decision maker may suggest a DNA test.

DNA testing facilities and procedures (how tests are conducted and details of recommended laboratories) is available in PAM3: Div1.2/reg1.12 - Member of the family unit - DNA testing.

DNA evidence will be most useful in countries where there is a high incidence of document fraud or where official documentation is simply unavailable. It can also be useful where there is some doubt about the validity of the claimed relationships and/or credible documentation cannot be provided to substantiate claims. A DNA inclusiveness result of 99.5 or more may be taken as persuasive evidence of the biological relationship.

If the opportunity to provide DNA evidence in support of an application has been offered and not accepted, the decision maker should consider the applicant's reason/s for not accepting the offer and whether any adverse inference may be drawn.

Decisions on applications should be made on the information available at the time. If the applicant declines to undertake a DNA test, or if the results of a DNA test do not support the applicant's claims, the decision maker should assess the claimed parent-child relationship in the light of any other relevant factors.

Non-biological parent-child relationships

The citizenship applicant may have a non-biological parent-child relationship with their claimed parent. In other cases, although a biological parent-child relationship was claimed, there may be insufficient evidence to support the claim of biological parentage.

These cases may occur for a variety of reasons, such as:

- *the applicant was born through a surrogacy arrangement that did not involve the contribution of genetic material by either commissioning parent*
- *the applicant and their parent held a genuine but mistaken belief that they were biologically parent and child*

- *the applicant acknowledges that there is no biological link to their claimed parent but contends that they nevertheless had a parent-child relationship at the relevant time (generally as of the date of the applicant's birth).*

Factors to be taken into account

For citizenship by birth (s12), the parent-child relationship between the Australian citizen or permanent resident and the applicant must have existed at the applicant's time of birth. Similarly, for citizenship by descent (s16), the parent-child relationship between the Australian citizen and the applicant must have existed at the applicant's time of birth. The applicant (or, if applicable, their responsible parent) should be asked to provide evidence of the length and nature of the Australian citizen's or permanent resident's parental relationship with the child.

Note: Evidence of the length and nature of the relationship between the claimed parents may corroborate the evidence of the relationship between the applicant and the Australian citizen parent, but is not in itself evidence of the parent-child relationship.

It is unlikely that any one piece of non-biological evidence would be sufficient to prove the required parent-child relationship. The decision maker more likely will be required to weigh up any relevant factors, including social and legal, to reach a finding of fact as to whether the claimed parent is (was) or is (was) not a parent of the applicant at the relevant time.

Evidence that the claimed parent-child relationship existed at the time of the applicant's birth may include, but is not limited to:

- *anything which would show the Australian citizen's inclusion as a parent on the birth certificate was done with their prior consent*

- *evidence that the Australian citizen was involved in providing care for the unborn child and/or the mother during the pregnancy, for example, emotional, domestic or financial support, making arrangements for the birth and prenatal and postnatal care*

- *evidence that the child was acknowledged socially from or before birth as the Australian citizen's child, for example, the child was presented within the Australian citizen's family and social groups as being the Australian citizen's child and*

- *when a child is born through a surrogacy arrangement - a formal surrogacy agreement entered into before the child was conceived and lawful transfer of parentage before or at time of birth in the country in which the surrogacy was carried out.*

Evidence that the Australian citizen treated the child as their own from some point in time after birth would not by itself be evidence that they were the child's parent at time of birth, but would lend weight to evidence of the types already mentioned.

In the absence of satisfactory evidence of biological parentage, any other evidence provided should be closely scrutinised and verified to the maximum practical extent."

In my experience, officers from the Department of Home Affairs take their obligations very seriously.

5. Stepparent adoptions in the US

The United States has 51 jurisdictions and therefore 51 ways of dealing with surrogacy. In broad terms, US jurisdictions fall into pre-birth jurisdictions (such as California and Nevada) and post

birth jurisdictions, such as Minnesota and Hawaii.

In Hawaii, for example, if a heterosexual couple were seeking to undertake surrogacy in which the man is the genetic parent of the child:

1. Post birth, a temporary custody order will be made in favour of the man.

2. Subsequently, he will be declared to be a parent and the parental rights of the surrogate and her husband (if any) will be terminated.

3. In the same court appearance immediately after that final order, a second parent adoption order will be made in favour of the intended mother, thereby recognising her as a parent.

It can be challenging looking at these US post birth adoption orders in the context of the *1993 Hague Intercountry Adoption Convention*. It is not clear whether the 1993 Convention would apply to those adoptions, in part because:

- My understanding is that the US State Department is of the view that they don't apply and therefore there are issues in obtaining adoption compliance certificates from the US;

- In part, because it is doubtful that the child's habitual residence is in the United States and not in that of the home country. In *Re Application by L* [2003] NZFLR 529.

Some US States I would call hybrid States. In Texas, for example, a pre-birth order is made validating the gestational carrier agreement and in effect declares the intended parents as the parents, but by statute there is then a post birth order naming them as the parents for the purposes of the birth certificate.

The practice in Oregon is typically to have a pre-birth order declaring the intended parents as the parents. However, as an example of typical American ingenuity, a year or so ago I had a matter in which the Oregon judge made a pre-birth order declaring my Australian intended parent client as a parent and then a post birth order by which he adopted the child. I queried how someone could adopt their own child when he was already the parent. Such a thing would be impossible in Australia. The response I was given was simple: the Oregon pre-birth order was not recognised in other places such as Texas. The judge had devised making the post birth adoption order so that there was no question, wherever they may live, that the intended parent was recognised as the parent, including if needed in Texas.

I am happy to assist in any way with any further deliberations by you. I have no objection to publication of this letter.

Yours faithfully

Stephen Page
Page Provan
family and fertility lawyers
Accredited Specialist Family Law
Email: stephen@pageprovan.com.au

Individual liability limited by a scheme approved under Professional Standards legislation.

Response ID ANON-2V7F-Y81H-F

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 21:12:22

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

For Women Lancashire
(a group dedicated to protecting the rights of women and children)

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

This is a serious matter and deserves the highest level of scrutiny. International surrogacy (like international adoption) brings a much greater risk of exploitation and abuse as income differentials are likely to be much greater. Also the protections provided for women and babies by other countries may be weaker, but we should not allow British intending parents to take advantage of this.

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

Not Answered

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Not Answered

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

putting the onus on the birth mother to object puts her at a great disadvantage - she will be post natal, therefore physically and emotionally depleted or worse, she will also likely be financially disadvantaged compared to the commissioning 'parents'. The birth mother is the biological parent and the birth certificate should reflect that fact regardless of what happens later.

15 Consultation Question 8:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Yes

Please provide your views below:

For reasons of tracing medical history and being able to track genetic relationships, especially where a single donor has provided many gametes.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

18 Consultation Question 11:

Other

Please provide your views below:

The birth mother should not be assumed to consent unless she objects. Her active consent should be required and this should not be sought in the immediate post natal period. She could agree informally to residency if she wishes but then consent should be formally sought later (say 6 weeks)

19 Consultation Question 12:

Not Answered

Please provide your views below:

20 Consultation Question 13:

Not Answered

Please provide your views below:

21 Consultation Question 14:

Not Answered

Please provide your views below:

22 Consultation Question 15:

Not Answered

Please provide your views below:

Not Answered

Please share your views below:

23 Consultation Question 16:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Not Answered

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

26 Consultation Question 19:

Not Answered

Please provide your views below:

Please provide your views below:

27 Consultation Question 20:

Not Answered

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

29 Consultation Question 22:

Please provide your views below:

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

Not Answered

Please provide your views below:

34 Consultation Question 27:

No

Please provide your views below:

Parental responsibility should remain with the birth mother unless and until she voluntarily relinquishes it, it is wrong for the default position to be that a contract over rides a biological relationship

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Yes

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Not Answered

Please provide your views below:

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

how have you sought the views of overseas surrogates? have you made this consultation usable for those who do not speak, read or write English or do not have access to the internet?

39 Consultation Question 32:

Please provide your views below:

Please provide your views below:

40 Consultation Question 33:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

41 Consultation Question 34:

Please provide your views below:

Please provide your views below:

Please provide your views below:

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Not Answered

Please provide your views below:

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Not Answered

Please provide your views below:

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Not Answered

Please provide your views below:

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Not Answered

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Not Answered

Please provide your views below:

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Not Answered

Please provide your views below:

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth

certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Not Answered

Please provide your views below:

55 Consultation Question 47:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

57 Consultation Question 49:

Not Answered

Please provide your views below:

Please provide your views below:

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

yes, that is necessary

59 Consultation Question 51:

Not Answered

Please provide your views below:

Please provide your views below:

60 Consultation Question 52:

Please provide your views below:

Please provide your views below:

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

63 Consultation Question 55:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Not Answered

Please provide your views below:

Please provide your views below:

65 Consultation Question 57:

Please provide your views below:

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Not Answered

Please provide views below:

67 Consultation Question 59:

Not Answered

Please provide views below:

Please provide views below:

Not Answered

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Not Answered

Please provide your views below:

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Not Answered

Please provide views below:

70 Consultation Question 62:

Please provide your views below:

Please provide your views below:

71 Consultation Question 63:

Not Answered

Please provide your views below:

Please provide your views below:

Not Answered

Please provide your views below:

72 Consultation Question 64:

No

Please provide your views below:

there should be a maximum age limit, tied to the maximum age of normal conception and applied to men as well as women

Please provide your views below:

see above

Not Answered

Please provide your views below:

73 Consultation Question 65:

No

Please provide your views below:

18 is too young

Not Answered

Please provide your views below:

see above

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

Not Answered

Please provide your views below:

81 Consultation Question 73:

Please provide your views below:

82 Consultation Question 74:

Please provide your views below:

83 Consultation Question 75:

Please provide your views below:

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

85 Consultation Question 77:

Please provide your views below:

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

Please provide your views below:

Please provide your views below:

Not Answered

Please provide your views below:

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

89 Consultation Question 81:

Please provide your views below:

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

If payment is legal women will be coerced by partners, family members or governments into becoming surrogates

Not Answered

Please provide your views below:

Please provide any views below:

91 Consultation Question 83:

Please provide views below:

Not Answered

Please provide your views below:

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Not Answered

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

95 Consultation Question 87:

Please provide your views below:

96 Consultation Question 88:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

As I mentioned previously - how have you sought these views?

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

Not Answered

Please provide your views below:

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Please provide your views below:

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

Not Answered

Please provide your views below:

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Not Answered

Please provide your views below:

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Not Answered

Please provide your views below:

107 Consultation Question 99:

Not Answered

Please provide your views below:

108 Consultation Question 100:

Please provide your views below:

Please provide your views below:

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

Not Answered

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

intended parents will not require rest prior to having residency

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

The welfare of the child, and the principle of paramountcy, seem curiously absent from this consultation. There is a marked contrast with the process of adoption in the UK where the emphasis is on the right of the child to have the best possible outcome. Prospective adoptive parents do not have the 'right' to adopt a child. This consultation seems focused on meeting the 'right' of intending parents to a newborn, and the well being of the infant and mother are secondary. In particular the biological nature of the maternal-infant relationship, the role of skin to skin contact, breastfeeding, attachment and its importance to neurological development have all been overlooked.
The danger for women, especially those who are poor or otherwise disadvantaged is that if surrogacy becomes more common, even if payment is not officially permitted, it will be understood as a reasonable expectation, not an exceptional gift and before you know it we are in Gilead.

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

N/A

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

This is a personal response

If other, please provide details:

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

- Surrogate
- Intended parent
- Person born of a surrogacy arrangement
- Family member of a surrogate
- Family member of an intended parent
- Legal practitioner
- Medical practitioner or counsellor
- Social worker
- Academic
- Other individual

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in

surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or

parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and

facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the

recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a ‘new pathway’. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the ‘new pathway’.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the ‘new pathway’. The idea that a ‘surrogacy agreement’ could place restrictions on the birth mother’s lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children’s rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against

the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y81Z-1

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 21:12:53

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

No

Please provide your views below:

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

15 Consultation Question 8:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway.'

18 Consultation Question 11:

Other

Please provide your views below:

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

19 Consultation Question 12:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

20 Consultation Question 13:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

21 Consultation Question 14:

No

Please provide your views below:

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

22 Consultation Question 15:

No

Please provide your views below:

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

Yes

Please share your views below:

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

23 Consultation Question 16:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

No

Please provide your views below:

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

No

Please provide your views below:

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

26 Consultation Question 19:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

Please provide your views below:

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

27 Consultation Question 20:

Yes

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

29 Consultation Question 22:

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

30 Consultation Question 23:

Please provide your views below:

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

31 Consultation Question 24:

Please provide your views below:

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

33 Consultation Question 26:

No

Please provide your views below:

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

34 Consultation Question 27:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Other

Please provide your views below:

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

36 Consultation Question 29:

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

40 Consultation Question 33:

No

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Other

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Other

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

41 Consultation Question 34:

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Other

Please provide your views below:

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Other

Please provide your views below:

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Not Answered

Please provide your views below:

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees

agree?

Yes

Please provide your views below:

55 Consultation Question 47:

Yes

Please provide your views below:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

57 Consultation Question 49:

Yes

Please provide your views below:

Please provide your views below:

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

YES, this should be possible.

59 Consultation Question 51:

Yes

Please provide your views below:

Please provide your views below:

YES, I agree.

60 Consultation Question 52:

Please provide your views below:

Yes they should be allowed to do this

Please provide your views below:

Yes they should be allowed to do this

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

No. The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

63 Consultation Question 55:

No

Please provide your views below:

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

No

Please provide your views below:

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

Please provide your views below:

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

65 Consultation Question 57:

Please provide your views below:

The qualifying categories of relationship should not be reformed or removed.

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Other

Please provide views below:

I profoundly disagree with the proposals for the 'new pathway'.

67 Consultation Question 59:

No

Please provide views below:

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Please provide views below:

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

Yes

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

No

Please provide your views below:

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

No

Please provide views below:

I dispute that surrogacy is ever a 'medical necessity.'

70 Consultation Question 62:

Please provide your views below:

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

Please provide your views below:

I dispute that surrogacy is ever a 'medical necessity.'

71 Consultation Question 63:

Other

Please provide your views below:

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

Please provide your views below:

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

Yes

Please provide your views below:

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

72 Consultation Question 64:

No

Please provide your views below:

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

73 Consultation Question 65:

Other

Please provide your views below:

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Other

Please provide your views below:

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

Please provide your views below:

75 Consultation Question 67:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

77 Consultation Question 69:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

No

Please provide your views below:

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

81 Consultation Question 73:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor

women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

82 Consultation Question 74:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

83 Consultation Question 75:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

85 Consultation Question 77:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

Please provide your views below:

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the

birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

89 Consultation Question 81:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

Please provide any views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

91 Consultation Question 83:

Please provide views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Other

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

95 Consultation Question 87:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

96 Consultation Question 88:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The idea that a 'surrogacy agreement' could place restrictions on the birth mother's lifestyle is utterly abhorrent.

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

No

Please provide your views below:

Yes

Please provide your views below:

No

Please provide your views below:

Please provide your views below:

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Other

Please provide your views below:

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

107 Consultation Question 99:

No

Please provide your views below:

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

108 Consultation Question 100:

Please provide your views below:

Please provide your views below:

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

I do not believe this needs changing.

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

No

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

115 Consultation Question 107:

Please provide your views below:

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time

for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself. There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

Please provide your views below:

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes

Please provide your views below:

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy –

'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

• Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
• Advance equality of opportunity between people who share a protected characteristic and those who do not.
• Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

 The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
 All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
 The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
 Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
 Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

N/A

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

- This is a personal response

If other, please provide details:

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

- Other individual

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these

cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and

parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth

and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and

facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely to present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the

recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. The same is true of episiotomy, the emotional consequences of which have not been included here as a complication. They should be. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting

between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. PTSD is more commonly diagnosed in women than in men and the most common cause of PTSD in women is birth trauma, which could be compounded here by the loss of the child after a traumatic birth. I'm shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the ‘new pathway’. The idea that a ‘surrogacy agreement’ could place restrictions on the birth mother’s lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children’s rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y81Q-R

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 21:21:55

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

On the waiting list to become members of Surrogacy UK.

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Intended parent

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

n/a

Chapter 6: The parental order procedure

8 Consultation Question 1:

Other

Please provide your views below:

No opinion

Please provide your views below:

A more local (to the IPs) court would seem more appropriate from a use point of view as to help reduce the structures around surrogacy that make it feel and appear 'abnormal'. However, I don't know what particular legal implications this move would have.

9 Consultation Question 2:

Please provide your views below:

n/a

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

n/a

11 Consultation Question 4:

Yes

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Given the small pools of IPs and surrogates across the UK and the reality that many form agreements across the border, I would be very much in favour of the law being as harmonised as possible and also to make explicit how processes will work where IPs and surrogates are not resident in the same nation of the UK.

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

Yes

Please provide your views below:

Accepting that it is not possible to enforce this, an alternative route (eg, keeping the existing route open) will be necessary.

15 Consultation Question 8:

Yes

Please provide your views below:

Another period

Please provide your views below:

People already live to over 100 and will increasingly do so by the time this generation of children grows old. There seems to be a more impermeable barrier to longevity at 120-130 years, so this would make more sense.

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

No

Please provide your views below:

The lack of an option to have a safely regulated surrogacy with an anonymous gamete donor may lead to informal agreements and lack of safeguards for the surrogate, ie. it is not possible to protect the surrogate while also enforcing this rule.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

Absolutely not, for the same reasons stated above:

The lack of an option to have a safely regulated surrogacy with an anonymous gamete donor may lead to informal agreements and lack of safeguards for the surrogate, ie. it is not possible to protect the surrogate while also enforcing this rule.

18 Consultation Question 11:

No

Please provide your views below:

I've not met a single surrogate who thinks this is either necessary or even a good idea. I would urge you to listen to the women that this proposal is intended to protect.
I am very worried that this provision reflects misogynistic judgements of women as incapable of making decisions without emotional fluctuations interfering with their thinking.

19 Consultation Question 12:

No

Please provide your views below:

The idea of the child alternating between parents is very worrying in that it introduces instability and anxiety into the child's life at an extremely early point. If a right to object is instituted (which, in my opinion and the opinion of every surrogate I've met, it should not be) then there needs to be a different legal solution than reverting to the parental order. This will:
1. Increase stability for the child in their best interests.
2. Maintain the agreement made before conception until (if) it is decided that it no longer stands.
3. Prevent inconsistency between children conceived/ born with a plan for a PO (almost always with no objections from the surrogate), who in reality have de facto legal and parental responsibility, and those conceived with an intention to use the new pathway that end up with disagreement over who will take legal and parental responsibility. It seems utterly reckless not to protect the children known to be the subject of disagreement between IPs and surrogates with separate standards.
4. Allow more consistent processes to be implemented, preventing legal battles from disrupting the family environment, in the child's best interests.

20 Consultation Question 13:

No

Please provide your views below:

1. Lacking capacity at a given point does not invalidate the agreement, eg is she suffers from cognitive impairment due to short-term illness such as puerperal sepsis. On regaining capacity, there is no reason to believe that the agreement has been ever brought into question.
It might be reasonable to request they declare not to be aware that she she lacked capacity for the vast majority of the time. This is an altogether different situation.
A better declaration would be necessary at the time of the pre-conception agreement, stating that they do not know of any impairment of her capacity.
It should not, in any case, be down to the IPs, who have an obvious conflict of interest, to ensure the surrogate's capacity.
Reverting to the PO pathway is not an adequate option, with reference to the reasons given in Q19, particularly that inconsistency would be created between the current PO system (with most agreements being maintained) and potential new users (in disagreement) with the different precedents for how the child(ren) in such situations requiring different precedents.

21 Consultation Question 14:

Yes

Please provide your views below:

22 Consultation Question 15:

Yes

Please provide your views below:

No

Please share your views below:

Need to maximise consistency with new pathway to have credibility of either. If one rationale applies to one, the opposite rationale surely cannot apply to the other.

23 Consultation Question 16:

Yes

Please provide your views below:

Not Answered

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Yes

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

26 Consultation Question 19:

Not Answered

Please provide your views below:

Please provide your views below:

27 Consultation Question 20:

Not Answered

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

This is plainly an unacceptable option for IPs, surrogates or children resulting from surrogacy agreements.

29 Consultation Question 22:

Please provide your views below:

Administrative if anything.

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

Yes

Please provide your views below:

34 Consultation Question 27:

Yes

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

No

Please provide your views below:

Neither surrogates nor IPs want this, and it is bad for the child in question.

36 Consultation Question 29:

Please provide your views below:

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

Not Answered

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

Legal rights to assisted reproduction to be reimbursed via the NHS are not discussed. I am not sure why certain areas of the law are privileged above this area.

Some opposite-sex couples are not fertile and require IVF, supported by the NHS in certain circumstances (eg, anovulation). Others are infertile and require surrogacy but are not supported by the NHS (eg, lacking a uterus). Some couples are same-sex men, who also lack ovulation and uteruses, and do not receive NHS support for their infertility. This inconsistency, especially regarding same-sex couples (with a protected characteristic) surely cannot be compatible with fairness nor equalities law.

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

Name (Required)

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

- This is a personal response

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

- Other individual

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential.

As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and

parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth

and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and

facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the

recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a ‘new pathway’. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the ‘new pathway’.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the ‘new pathway’. The idea that a ‘surrogacy agreement’ could place restrictions on the birth mother’s lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children’s rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-YJR3-D

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 21:43:14

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Not Answered

Please provide your views below:

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

Not Answered

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

Yes

Please provide your views below:

Intended parents should not be allowed legally to reject the child for any reason e.g. disability.

15 Consultation Question 8:

Yes

Please provide your views below:

100 years; or

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Yes

Please provide your views below:

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

Children are entitled to know their genetic background.
Anonymously donated sperm should never be used.

18 Consultation Question 11:

Other

Please provide your views below:

The length of time available to the biological mother, to object, should be longer.

This is not only a business transaction. Being pregnant, and giving birth, can give rise to strong, complex emotions.
It's essential that a biological mother has a reasonable length of time, say 3 months, to come to terms with the situation.

19 Consultation Question 12:

Other

Please provide your views below:

There should be no opportunity for legal procedure after a biological mother has decided to keep, and bring up, the baby.

Clearly the intended parents will be disappointed, but the right of the biological mother and the baby, who needs stability, must come first.

20 Consultation Question 13:

Not Answered

Please provide your views below:

21 Consultation Question 14:

Not Answered

Please provide your views below:

22 Consultation Question 15:

Not Answered

Please provide your views below:

Not Answered

Please share your views below:

23 Consultation Question 16:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Not Answered

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

26 Consultation Question 19:

Not Answered

Please provide your views below:

Please provide your views below:

27 Consultation Question 20:

Not Answered

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

29 Consultation Question 22:

Please provide your views below:

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

Not Answered

Please provide your views below:

34 Consultation Question 27:

Not Answered

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Not Answered

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Other

Please provide your views below:

The birth certificate should show the names of the biological parents and can include the name(s) of the intended parents(s) if they wish it.

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

Birth certificate should be a record of fact.
It should not be possible to change a birth certificate without linking it to the original document, including where an error has been made.

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

Yes

Please provide your views below:

Yes

Please provide your views below:

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

57 Consultation Question 49:

No

Please provide your views below:

They should be able to access all information from age 18.

Please provide your views below:

No.
This is the same as the arrangement for all adopted children.

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

Yes.

59 Consultation Question 51:

Other

Please provide your views below:

Only of they both register interest in knowing about such relatives.

Please provide your views below:

No.

60 Consultation Question 52:

Please provide your views below:

Yes, as above.

Please provide your views below:

No.

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

No.

63 Consultation Question 55:

Yes

Please provide your views below:

Yes

Please provide your views below:

80 Consultation Question 72:

based on an allowance;

Please provide your views below:

81 Consultation Question 73:

Please provide your views below:

82 Consultation Question 74:

Please provide your views below:

83 Consultation Question 75:

Please provide your views below:

All costs should be covered by the intended parents.

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

Yes, they should.

85 Consultation Question 77:

Please provide your views below:

Yes.

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

Please provide your views below:

Please provide your views below:

Not Answered

Please provide your views below:

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

89 Consultation Question 81:

Please provide your views below:

90 Consultation Question 82:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

essential costs relating to the pregnancy;, additional costs relating to the pregnancy;, lost earnings;, compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

Please provide any views below:

91 Consultation Question 83:

Please provide views below:

No, it should not, unless the mother (surrogate) has terminated the pregnancy by her own choice and for a non-medical reason.
The mother (surrogate) may undergo more trauma and possible physical effects from a miscarriage or termination than she would from a live birth.

Not Answered

Please provide your views below:

It should not be possible to reduce the payment at all, unless the mother has ended the pregnancy by her own choice and for a non-medical reason.

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Not Answered

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

95 Consultation Question 87:

Please provide your views below:

96 Consultation Question 88:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

Name (Required)

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

N/A

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

- **This is a personal response**

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

- **Other Individual**

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential.

As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and

parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth

and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and

facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the

recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

Leave both check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the ‘new pathway’. The idea that a ‘surrogacy agreement’ could place restrictions on the birth mother’s lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children’s rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y81D-B

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 21:57:19

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

N/A

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

N/A

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge.

Please provide your views below:

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

9 Consultation Question 2:

Please provide your views below:

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

N/A

11 Consultation Question 4:

No

Please provide your views below:

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration.

Nothing about the transfer of parental responsibility should be automatic and all options should be open.
https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

N/A

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.
This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.
I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.
Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

15 Consultation Question 8:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway

18 Consultation Question 11:

No

Please provide your views below:

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.
The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

19 Consultation Question 12:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.
The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*
The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

20 Consultation Question 13:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.
The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*
The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and

life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

21 Consultation Question 14:

No

Please provide your views below:

profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.
The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.
The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.
In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.
The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

22 Consultation Question 15:

No

Please provide your views below:

I profoundly disagree with the 'new pathway.'
There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or
parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.
However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

Yes

Please share your views below:

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

23 Consultation Question 16:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

No

Please provide your views below:

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

No

Please provide your views below:

MI profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

I disagree with the proposal for a "new pathway".

26 Consultation Question 19:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

Please provide your views below:

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable

27 Consultation Question 20:

Yes

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

29 Consultation Question 22:

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

30 Consultation Question 23:

Please provide your views below:

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

31 Consultation Question 24:

Please provide your views below:

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

33 Consultation Question 26:

No

Please provide your views below:

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as
16

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.
I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.
Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.
https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

34 Consultation Question 27:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.
I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.
Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Other

Please provide your views below:

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.
All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

36 Consultation Question 29:

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

N/A

39 Consultation Question 32:

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

40 Consultation Question 33:

No

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Other

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Other

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children

41 Consultation Question 34:

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Other

Please provide your views below:

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'
Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Other

Please provide your views below:

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.
At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.
Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the
recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.
However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

Yes

Please provide your views below:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

57 Consultation Question 49:

Yes

Please provide your views below:

Please provide your views below:

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

YES, this should be possible

59 Consultation Question 51:

Yes

Please provide your views below:

Please provide your views below:

Yes

60 Consultation Question 52:

Please provide your views below:

Yes, I agree

Please provide your views below:

Yes

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

63 Consultation Question 55:

No

Please provide your views below:

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

No

Please provide your views below:

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

65 Consultation Question 57:

Please provide your views below:

The qualifying categories of relationship should not be reformed or removed.

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Other

Please provide views below:

I disagree with the proposals for a new pathway.

67 Consultation Question 59:

No

Please provide views below:

I profoundly disagree with the proposals for the ‘new pathway’ and believe the genetic link should be retained. I dispute that surrogacy is ever a ‘medical necessity

Please provide views below:

I profoundly disagree with the proposals for the ‘new pathway’ and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

Yes

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

No

Please provide your views below:

I fundamentally disagree with proposals to introduce the ‘new pathway’ and believe the genetic link should be retained. I dispute that surrogacy is ever a ‘medical necessity.’
Paragraph 1

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent’s former partner provides gametes but the intended parents’ relationship breaks down before the grant of a parental order. Do consultees agree?

No

Please provide views below:

I dispute that surrogacy is ever a ‘medical necessity.’

70 Consultation Question 62:

Please provide your views below:

I oppose surrogacy and believe that it is a fundamental violation of women’s and children’s rights and that it should therefore be banned. I dispute that surrogacy is ever a ‘medical necessity

Please provide your views below:

Surrogacy is not a medical necessity

71 Consultation Question 63:

Other

Please provide your views below:

I profoundly oppose the introduction of the ‘new pathway’. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

Please provide your views below:

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

Yes

Please provide your views below:

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.
Paragraph 12.

72 Consultation Question 64:

No

Please provide your views below:

NO
I am opposed to surrogacy and would like to see it banned, because it is a violation of both women’s and children’s human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.
Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.
Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.
35

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.
Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.
Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

73 Consultation Question 65:

Other

Please provide your views below:

OTHER
I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.
At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There
36

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.
Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Other

Please provide your views below:

profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.
Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

Please provide your views below:

I profoundly disagree with the proposals for the ‘new pathway’.

75 Consultation Question 67:

Other

Please provide your views below:

I profoundly disagree with the proposals for the ‘new pathway’.

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the ‘new pathway’.

77 Consultation Question 69:

Other

Please provide your views below:

I profoundly disagree with the proposals for the ‘new pathway’.

Please provide your views below:

I profoundly disagree with the proposals for the ‘new pathway’.

78 Consultation Question 70: We invite consultees’ views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

OTHER
I am profoundly opposed to surrogacy and the introduction of the ‘new pathway’.
Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

No

Please provide your views below:

Consultation Question 71.
1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.
Do consultees agree?
NO
I am profoundly opposed to surrogacy and the introduction of the ‘new pathway’.
Society should not condone women undergoing multiple ‘surrogate’ pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women’s reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor

women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

81 Consultation Question 73:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

82 Consultation Question 74:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

83 Consultation Question 75:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.
I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

85 Consultation Question 77:

Please provide your views below:

am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.
I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

86 Consultation Question 78:

Please provide your views below:

N/A

87 Consultation Question 79:

Please provide your views below:

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.
Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.
No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.
Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.
Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.
Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).
45

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?
Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".
The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.
All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
46

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain.

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.
This question illustrates the risks of surrogacy and why I oppose it.

89 Consultation Question 81:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
47

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.
I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

90 Consultation Question 82:

Not Answered

Please provide your views below:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)
I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.
I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.
I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

Please provide any views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.
I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

91 Consultation Question 83:

Please provide views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.
This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor

women to engage in surrogacy when it is not in their best interests.
50

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.
This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Other

Please provide your views below:

OTHER
I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

OTHER
I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

OTHER
I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

95 Consultation Question 87:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.
There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.
* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

96 Consultation Question 88:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The idea that a 'surrogacy agreement' could place restrictions on the birth mother's lifestyle is utterly abhorrent.

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

N/A

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

N/A

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

N/A

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.
* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

N/A

102 Consultation Question 94:

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.
* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

No

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

.

Please provide your views below:

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

No

Please provide your views below:

O
Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.
* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

N/A

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Other

Please provide your views below:

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

107 Consultation Question 99:

No

Please provide your views below:

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.
* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

108 Consultation Question 100:

Please provide your views below:

N/A

Please provide your views below:

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

I do not believe this needs changing.

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

No

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

115 Consultation Question 107:

Please provide your views below:

t is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.
All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.
Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.
It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.
Adoption research suggests that the separation of the new-born and the birth mother has long- term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.
An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their

best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.
The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.
61

There appears to have been no evaluation of the size of the additional costs to the NHS and society.
At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other countries.

Please provide your views below:

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.
All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.
The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

Please provide your views below:

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.
It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.
If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.
It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

N/A

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

N/A

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

N/A

120 Consultation Question 112:

Please provide your views below:

N/A

Please provide your views below:

N/A

121 Consultation Question 113:

Please provide your views below:

N/A

Please provide your views below:

N/A

122 Consultation Question 114:

Please provide your views below:

N/A

123 Consultation Question 115:

Please provide your views below:

N/A

Please provide your views below:

N/A

124 Consultation Question 116:

Not Answered

Please provide your views below:

N/A

Please provide your views below:

N/A

Please provide your views below:

N/A

Please provide your views below:

N/A

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

 Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

 Advance equality of opportunity between people who share a protected characteristic and those who do not.

 Foster good relations between people who share a protected characteristic and those who do not.

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There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

 The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.

 All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.

 The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."

 Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.

 Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

Name (Required)

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

None

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

- This is a personal response
- This is a response on behalf of an organisation
- Other

If other, please provide details:

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

- Surrogate
- Intended parent
- Person born of a surrogacy arrangement
- Family member of a surrogate
- Family member of an intended parent
- Legal practitioner
- Medical practitioner or counsellor
- Social worker
- Academic
- Other individual

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration.

Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in

surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or

parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving derive income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and

facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the

recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother compensation.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother compensation.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother compensation.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

Leave both check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the ‘new pathway’. The idea that a ‘surrogacy agreement’ could place restrictions on the birth mother’s lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children’s rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit.

There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y83X-1

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 22:07:17

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

The Donor Conception Network

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

Please provide your views below:

This is not our area of expertise. However, do we need clarity on the experience, expertise or seniority required for particular scenarios? Given the vast differences in the legal situation in different countries and the implications of that with regard to any arrangements and the scutiny of those arrangments is there a danger of cases being allocated to judges who do not have the required expertise?

9 Consultation Question 2:

Please provide your views below:

This is not an area where we have expertise to comment.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

Yes

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

Yes

Please provide your views below:

The key elements seem to be excellent and thorough preparation and support before making an agreement, followed by on-going support and good communication leading up to a pregnancy, during a pregnancy and following birth. Could there/should there be clearer requirements on this?

Needs clarity on how or when agreements would be reviewed or amended. It could take years to go from an initial arrangement being put in place to a child being born and situations and feelings can change.

Implications counselling for IPs and surrogates needs to be clearly separated from any 'scrutiny' of the arrangement or screening of the IPs or surrogates. The same person shouldn't be doing both tasks. Also it should be made explicit that surrogates and IPs should have independent implications counselling by different people to avoid any conflict.

15 Consultation Question 8:

Yes

Please provide your views below:

100 years; or

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Yes

Please provide your views below:

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

Yes sperm donors should not be anonymous if wishing to follow the new pathway.

18 Consultation Question 11:

Other

Please provide your views below:

Could there be a compromise where the IPs are legal parents from birth but the surrogate still has to give active consent within the time frame. It would ensure that all parties actively confirm they are happy at the conclusion of the agreement. This would seem to be in the interests of all concerned, including the child that has been born. Active consent seems the best option where the implications of that consent are serious.

If consent is going to be the default than it is essential to ensure that the surrogate understands that, as well as ensuring she knows how she could object if she wanted to and what that would mean. This should be repeated at key points to ensure she understands the situation and her rights - not just a tickbox at the start of the journey that could be forgotten or misremembered.

19 Consultation Question 12:

Yes

Please provide your views below:

20 Consultation Question 13:

Other

Please provide your views below:

Could it work that the IPs default to be the legal parents (unless the surrogate objects) but the surrogate still has to give active consent. This presumably would also cover the issue of capacity. It seems preferable to actively ensure at the end of the agreement that everyone is happy with the final conclusion.

21 Consultation Question 14:

Other

Please provide your views below:

Is something important being lost here? Are there particular issues that can result specifically after a surrogacy arrangement that might be missed by a midwife or health visitor but would be picked up by someone familiar with looking after families post-surrogacy. Are the issues related to welfare of the child or for parents. The evidence provided doesn't seem to show risk but also doesn't show lack of risk. Is there some benefit to a check-in opportunity. Perhaps 'welfare assessment of the child' is the wrong terminology as it sounds slightly threatening to the parents. Perhaps it could be 'welfare assessment of the family'.

Are the clinics/surrogacy organisations willing and do they have the skills and experience to offer what is required here?

22 Consultation Question 15:

Yes

Please provide your views below:

Other

Please share your views below:

Not sure.

23 Consultation Question 16:

Yes

Please provide your views below:

Yes

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Yes

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

This scenario should be something discussed as part of the surrogacy arrangement and the declarations of intention in that document should be taken into consideration.

If the surrogate is able to make her intentions known before her death could that be considered? If the death is unexpected and she cannot clarify her intentions I think for consistency and transparency the IPs should be required to make an application for a parental order.

26 Consultation Question 19:

Yes

Please provide your views below:

This scenario should be something discussed as part of the surrogacy arrangement and the declarations of intent in that document should be taken into consideration.

Please provide your views below:

Not sure.

27 Consultation Question 20:

Yes

Please provide your views below:

However, is 14 days long enough for clear communication if a couple have separated under difficult circumstances? If the couple are communicating well and have agreed to the single application it should not take long to get confirmation (so there would be no holdup even if the time frame was longer than 14 days) but if they haven't agreed and communication is difficult then 14 days seems very short and open to manipulation.

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

I can see this could be a compromise between existing law and the new proposals and is worth exploring.

29 Consultation Question 22:

Please provide your views below:

Surrogacy, like donor conception, is a different way to create or expand a family with longterm implications for surrogates, parents, donors and offspring. As such it is not unreasonable to expect different oversight.

The law is a useful tool in drawing clear boundaries. However, human relations work mainly on trust - open discussion, open agreement and disagreement, honesty, good faith and consent. The guiding principal here should be that all parties are fully informed, supported and prepared, are in agreement on the terms and conditions and whole-heartedly consent. As such, the focus should be on preparation, support and communication to ensure a positive outcome.

30 Consultation Question 23:

Please provide your views below:

I don't have the expertise to answer.

31 Consultation Question 24:

Please provide your views below:

I don't have the expertise to answer.

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

I don't have the expertise to answer.

33 Consultation Question 26:

Other

Please provide your views below:

Surely consent would still be required from the surrogate, or an explanation should be provided as to why consent was not possible? How would you know if the surrogate understood the arrangement? Does this presume there is an agreement in place which has been judged to be above board?

34 Consultation Question 27:

Yes

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Yes

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Yes

Please provide your views below:

There seems to be some negativity around traditional surrogacy arrangements, certainly from what I hear from the clinics. My understanding is that there is a perceived higher risk of the surrogate changing her mind if the child is genetically hers. However, I am not aware of any research or even anedotal evidence that shows this to be true. It may exist and I am just not aware of it.

In terms of the family story using a traditional surrogate makes for a simpler and clearer story which could be helpful when encouraging openness. It also probably makes it easier for a child to integrate as there is only one 'extra' person involved rather than a surrogate and an egg donor. If the surrogate is known to the family, even distantly, then both those pieces of the jigsaw are completed which can be very important to donor conceived people.

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

Please provide your views below:

40 Consultation Question 33:

Yes

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

41 Consultation Question 34:

representing the organisation to, and liaising with, the regulator;, managing the regulated surrogacy organisation with sufficient care, competence and skill;, ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;, training any staff, including that of the person responsible; and, providing data to the regulator and to such other person as required by law.

Please provide your views below:

This seems to be a complex role requiring a broad skill set. Perhaps it's unreasonable to expect one person to cover it all.

Please provide your views below:

In addition to the legal, medical and practical/operational elements the person should really have an understanding of the social and emotional aspects of creating/expanding a family using alternative routes such as surrogacy and/or donor conception. Ideally they would have a good understanding of the longterm implications for families and the kind of issues that can present so they can take responsibility for ensuring those issues are addressed and/or offer appropriate signposting.

Please provide your views below:

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Yes

Please provide your views below:

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Yes

Please provide your views below:

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Yes

Please provide your views below:

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

Essential.

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Yes

Please provide your views below:

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Yes

Please provide your views below:

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

Could there be provision for access before the child turns 18?

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

Would this also record the fact of using sperm, egg, double or embryo donation or just surrogacy?

If not, why not? If it is important to know who gave birth to you is it not also important to know who's egg and sperm was used?

If yes, then how does that sit with people conceived using donated gametes without surrogacy. Donor conceived people born through surrogacy would have different rights to information compared to donor conceived people generally.

I'm not sure how you resolve this discrepancy.

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

The birth registration system needs clarification as to its purpose and meaning. Most of the general public would consider a birth certificate a record of genetic parentage. Currently it seems the only clear definition it has it that it records accurately who gave birth to the child.

Heterosexual couples who use a single donor or double donation have long been able to be legally registered as the two parents on the birth certificate. In these cases the birth certificate does not record genetic parentage.

Since you can now also have two women declared as the parents on a birth certificate the document is no longer even a pretence at being a record of genetic origins.

In surrogacy arrangements the surrogate's husband is identified as the father even if there is no genetic link to the child nor intention to take responsibility for the child.

In some legal cases where there has been a challenge to parental rights the fact of a genetic link, or the lack of a genetic link, has overridden the legal rights - or lack of legal rights - that should have been provided by being named - or not named - on the birth certificate. It's a muddle.

It would be enormously helpful (essential?) to have a wider public conversation about the purpose and meaning of the document and subsequently the implications, both positive and negative, of any different proposals for change.

I am not convinced that making the birth certificate a legal record of genetic parentage is workable and may backfire. Some women may not actually know for sure who the father is for any number of reasons. With donor conception, parents who are not comfortable with being open about having used a donor may decide to lie on the birth certificate. if they reconsider and decide to be open at a later date (a common scenario) they would have to get the whole birth certificate changed.

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

Could there be provision for access before the child turns 18? Should there be appropriate counselling offered, particularly for those cases where the search for information is coming from some kind of unexpected disclosure or family crisis/breakdown?

55 Consultation Question 47:

Yes

Please provide your views below:

How does that sit with people conceived using donated gametes without surrogacy. Donor conceived people born through surrogacy would have different rights to donor conceived people generally.

Is there a conflict of rights here if the donor/surrogate is transgender? Would the fact that they are transgender not be immediately obvious on any communication with the donor/surrogate and therefore conflict with their right to privacy. Are there implications for counselling any transgender person about future contact and how that might breach their privacy rights? What about donors/surrogates who transition after they donate/act as surrogates?

Yes

Please provide your views below:

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

Yes this is a very good idea with as much information as possible.

57 Consultation Question 49:

Yes

Please provide your views below:

Please provide your views below:

Yes although 'maturity' may be difficult to judge.

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

Yes definitely.

59 Consultation Question 51:

Yes

Please provide your views below:

As for any half/full siblings conceived through the same donor(s).

Please provide your views below:

Yes I think this is a good idea.

60 Consultation Question 52:

Please provide your views below:

Yes this is important. Although the social situation may be different, genetically they are half siblings.

Please provide your views below:

Yes this is important. Again, although the social situation may be different the fact they were both carried by the same woman may be significant to them.

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

Yes athough it might be helpful to provide guidance to IPs that they should aim to complete within six months to encourage people not to delay.

63 Consultation Question 55:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Not Answered

Please provide your views below:

Do not feel qualified to answer.

Please provide your views below:

Do not feel qualified to answer.

65 Consultation Question 57:

Please provide your views below:

Do not feel qualified to answer.

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Yes

Please provide views below:

67 Consultation Question 59:

Yes

Please provide views below:

Please provide views below:

Unsure

Other

Please provide views below:

Unsure but I think yes.

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Yes

Please provide your views below:

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Yes

Please provide views below:

This seems right and sensible.

70 Consultation Question 62:

Please provide your views below:

Yes.

Please provide your views below:

I don't feel qualified to answer.

71 Consultation Question 63:

Yes

Please provide your views below:

Please provide your views below:

In principle yes, but unsure if this is workable.

Yes

Please provide your views below:

72 Consultation Question 64:

Yes

Please provide your views below:

Please provide your views below:

I think parental age is not irrelevant in view of the welfare of the child, although it is not the only consideration (the ages of close extended family who would be involved with the child might also be relevant). It would be better to have an upper limit even though that may be hard to set. The current pragmatic approach in UK clinics seems to be to treat women up to around the age of average menopause (50) and not beyond. Alternatively, the upper limit could be that at least one parent should be of an age where they are likely to remain healthy enough to raise the child to adulthood.

Yes

Please provide your views below:

73 Consultation Question 65:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Yes

Please provide your views below:

I'm assuming yes but probably don't have the expertise to answer.

Please provide your views below:

75 Consultation Question 67:

Yes

Please provide your views below:

The counselling should be provided by different people for the separate parties.

It should be made explicitly clear whether the session they are having is implications counselling (an opportunity for them to think things through in a knowledgable, supportive and nonjudgmental space) or a screening process (working out whether they are 'suitable').

Counselling sessions should continue throughout the surrogacy journey and should be seen as an essential component supporting all parties.

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Yes

Please provide your views below:

77 Consultation Question 69:

Yes

Please provide your views below:

Please provide your views below:

That sounds sensible.

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

Yes I think this should be a requirement. Pregnancy and birth is a huge undertaking with potentially serious implications for the surrogate.

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

Yes

Please provide your views below:

It may be hard to specify a maximum number although guidance might be helpful.

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

Not Answered

Please provide your views below:

If the aim here is to encourage a non-commercial model for surrogacy then words and definitions might help clarify. There is a difference between voluntary work and a paid job that most people understand, even if the voluntary work includes generous expense payments and the paid job has a very low salary. It's not only about the money involved. The motivations and expectations of people offering their time and labour in a voluntary position and in a paid position are different.

To me the word expenses is important and differentiates the payment from "compensation", which could just be called "payment".

Expenses cover an actual expense for an identifiable thing. That could be legal advice, loss of earnings, a recouperation holiday for the surrogate's family to re-bond, maternity clothes, extra food during pregnancy, vitamins, childcare, takeaway meals when too tired to cook, taxi fares to get to hospital appointment instead of the bus, life insurance, medical bills. The list is long and can be flexible. In the context of surrogacy expense payments could be offered in a generous spirit and help foster good feelings between surrogates and IPs. But they are expenses and cover actual costs for things that can be specified, justified and agreed on.

A gift is different. It's a gesture, a thank you, that should be of an appropriate value so it couldn't be misconstrued as an incentive or a payment.

Compensation is payment for effort or time or discomfort, and is more like a fee. It's an exchange for something that is not an expense, like a salary. Compensation is a word that's sometimes used because the fee is to cover things like risk, inconvenience and discomfort. Things you actually can't easily put a price on. You could argue that by offering this payment you are potentially encouraging people to agree to a risk and discomfort they wouldn't agree to without that payment. In which case it's an incentive. Similarly if the argument is that this payment is offered because it will encourage more surrogates to come forward then, again, you can argue it's an incentive. I am not in favour or donors being paid either, for the same reasons. But in any case the compensation payment is not for something specific and is not an expense.

Of course IPs may feel overwhelmed with gratitude to their surrogate and want to pay them but their wishes shouldn't be allowed to undermine the heart of the voluntary relationship. To preserve a non-commercial model I think it is very important to distinguish between expenses, gifts and payment/compensation. It's more important than in any other situation because here the team of people are coming together to create a child. We need

to be even more senstive to the distinctions on payments and set as clear boundaries as possible.

Regarding receipts, I can see that having to keep receipts is unrealistic and unhelpful and we don't need to make life more complicated for surrogates and IPs. As long as the expense is listed, justified and agreed then providing all receipts is unnecessary.

81 Consultation Question 73:

Please provide your views below:

Yes all essential costs should be covered. These would be any that the surrogate and IP regard as essential and agree to. Guidelines could be offered.

82 Consultation Question 74:

Please provide your views below:

As long as this is an expense (as previously expained) then yes additional costs should be covered.

83 Consultation Question 75:

Please provide your views below:

As long as these are expenses (as previously explained) then yes these costs, as agreed between IPs and surrogate, should be covered.

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

Yes this would count as an expense - a cost associated with the surrogacy.

85 Consultation Question 77:

Please provide your views below:

Yes this would count as an expense - a cost associated with the surrogacy. The IPs and surrogate would have to work out what was reasonable in terms of 'potential' earnings and agree, perhaps with some guidance and oversight.

86 Consultation Question 78:

Please provide your views below:

Yes this would count as an expense - a cost associated with the surrogacy.

87 Consultation Question 79:

specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

Please provide your views below:

Ideally costs associated with specified medical complications, including any compensation, should be covered by a mandatory insurance policy.

Please provide your views below:

I think all payments should directly link to an expense connected to the surrogacy agreement. I think compensation is a misleading term that tries to soften what is actually payment. Why would someone who is entering into a voluntary agreement to do something need 'compensation' for that.

If someone offers their time and expertise to do voluntary work they are not expecting a payment and actually that social contract is undermined if payment is offered. A thank you gift is fine. Covering expenses is common practice, expected and does not undermine the nature of the voluntary social contract. But payment is not expected or wanted. The general public also understand this important distinction between expenses and payment (even though sometimes the boundaries need more clarity) and so keeping to an expenses-only model supports the altruistic perception of surrogacy more generally.

Surrogates should have all expenses covered so they are not out of pocket. Those expenses can be generous, the surrogate's life could actually be made a little smoother and simpler during the pregnancy. Some of the expenses could cover "extras" to help with recouperation, family bonding, mental health and recovery. But I don't think surrogates should be paid "compensation" under the UK model.

Not Answered

Please provide your views below:

No payment as compensation.

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

Life insurance cover should be mandatory.

89 Consultation Question 81:

Please provide your views below:

It's lovely to buy people gifts to say thank you for something wonderful they've done. Gifts per se do not undermine the essential voluntary nature of the agreement.

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

I think the UK model should remain expenses only.

Not Answered

Please provide your views below:

I think the UK model should remain expenses only.

Please provide any views below:

I think the UK model should remain expenses only.

91 Consultation Question 83:

Please provide views below:

Expenses incurred in either of those events should be allowed (including expenses for recouperation time or recovery or anything directly related). A payment for 'reduction in services' should not be allowed. Ideally, this should all be discussed, agreed and detailed in the surrogacy arrangement prior to the pregnancy.

Not Answered

Please provide your views below:

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Yes

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

95 Consultation Question 87:

Please provide your views below:

In addition to making the model expenses-only, perhaps an argument could be made through encouragement rather than enforcement. Surrogacy could be presented as a 'team project' rather than a 'service for hire', with excessive expenses and payments being discouraged. UK surrogacy could have at its heart an intention

a) for IPs to be well informed, well prepared, well supported and neither excluded nor priviledged due to finances

b) that surrogates are similarly well informed, prepared and supported, and offer their help to IPs altruistically, with all expenses covered and
c) that surrogate born people know that all parties involved in their conception were well informed and well prepared, consented freely and actively, had the (as yet unborn) surrogate-born person's needs and interests at the forefront of their minds from the start and were as little motivated or incentivised by financial gain as possible in the arrangement so they don't feel they were produced from a commercial transaction

This could be a USP of choosing to stay in the UK and following the new pathway.

96 Consultation Question 88:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

Yes

Please provide your views below:

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

Yes

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

Please provide your views below:

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will

need to be completed after the birth of the child.Do consultees agree?

Yes

Please provide your views below:

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Yes

Please provide your views below:

107 Consultation Question 99:

Other

Please provide your views below:

Don't have the expertise to comment.

108 Consultation Question 100:

Please provide your views below:

Please provide your views below:

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

Not Answered

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

Short Form Questionnaire: Law Commissions' Surrogacy Consultation



This form is an extract of the longer form for comments and responses to the Law Commission's and the Scottish Law Commission's consultation about reforming surrogacy law. If you would like to respond to the full version of our consultation questionnaire, please use the online form: https://consult.justice.gov.uk/law-commission/surrogacy. Please see our websites for further details, and for links to download the full consultation paper: https://www.lawcom.gov.uk/project/surrogacy/ and https://www.scotlawcom.gov.uk/law-reform/law-reform-projects/joint-projects/surrogacy/.

We have selected 46 questions which may be of particular interest of **those with lived experience of surrogacy arrangements**: surrogates, intended parents, family members and adult children born of surrogacy arrangements. You do not need to answer all the questions if you do not want to, and you can write as much or as little as you would like in response to our questions.

Please note that we may publish or disclose information you provide us in response to this consultation, including personal information. We ask consultees, when providing their responses, if they could avoid including personal identifying information in the text of their response, particularly where this may reveal the identities of other people involved in their surrogacy arrangement.

For more information about how we consult and how we may use responses to the consultation, please see page i – ii of the Consultation Paper.

HOW TO SUBMIT YOUR RESPONSE USING THIS QUESTIONNAIRE

Type your response into the text fields below and then save your completed form. When you have completed your response, email the completed form as an attachment to surrogacy@lawcommission.gov.uk.

The closing date for submitting a response to our consultation is 11 October 2019.

QUESTIONS ABOUT YOU

What is your name? [redacted]

If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation? **Click or tap here to enter text.**

Are you responding to this consultation in a personal capacity or on behalf of your organisation?
Personal

If responding to this consultation in a personal capacity, which term below best describes you?
Surrogate

What is your email address?
[redacted]

What is your telephone number?
[redacted]

If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our **privacy notice**, we take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.
Click or tap here to enter text.

Question No.	Consultation Question
Q1	Consultation Question 7. In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have: (1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth, (2) complied with procedural safeguards for the agreement, and (3) met eligibility requirements, on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object. Do consultees agree?
Your Response to Q1	**Yes, subject to the surrogates right to object**
Q2	Consultation Question 11. We provisionally propose that:

	(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child; (2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and (3) the defined period should be the applicable period for birth registration less one week. Do consultees agree?
Your Response to Q2	**Yes**
Q3	Consultation Question 12. We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that: (1) the surrogate will be the legal parent of the child; (2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and (3) the intended parents would be able to make an application for a parental order to obtain legal parenthood. Do consultees agree?
Your Response to Q3	**Yes**
Q4	Consultation Question 15. We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child. Do consultees agree? We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.
Your Response to Q4	**The surrogates partner should not be a legal parent**
Q5	Consultation Question 27.

	We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway: (1) the intended parents should acquire parental responsibility on the birth of the child; and (2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order. Do consultees agree?
Your Response to Q5	**Yes**
Q6	Consultation Question 28. We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object. Do consultees agree?
Your Response to Q6	**Yes**
Q7	Consultation Question 29. For all surrogacy arrangements, we invite consultees' views as to: (1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and (2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.
Your Response to Q7	**Click or tap here to enter text.**
Q8	Consultation Question 55. We provisionally propose that: (1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available; (2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

	(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or (b) following a determination by the court that the child should live with the intended parents; and (3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007. Do consultees agree?
Your Response to Q8	**Click or tap here to enter text.**
Q9	Consultation Question 30. We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway. Do consultees agree?
Your Response to Q9	**Click or tap here to enter text.**
Q10	Consultation Question 32. We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway. We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.
Your Response to Q10	**Click or tap here to enter text.**
Q11	Consultation Question 67. We provisionally propose that, as a condition of being eligible for entry into the new pathway: (1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and (2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15. Do consultees agree?

Your Response to Q11	**There should be mandatory counselling for all parties, before, during and after a surrogacy birth. In particular counselling should bring all parties together and encourage all to talk openly regarding specific topics, for instance a surrogacy agreement.**
Q12	Consultation Question 68. We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?
Your Response to Q12	**Yes, no surrogacy arrangement should be allowed to happen without having proved that legal advice has been sought, to encourage more communication between all parties and have heard of the implications involved from a third party.**
Q13	Consultation Question 88. We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate. Do consultees agree? We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle. Do consultees agree?
Your Response to Q13	**Yes. There should be guidance as to what a surrogate can claim for and have an independent person help with expenses. The IP's should also be made aware of how expenses could change depending on illness during pregnancy or after birth.**
Q14	Consultation Question 42. We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?
Your Response to Q14	**There should be safe and regulated on line environments where advertising can take place but above all no surrogacy should be allowed to take place without first having consulted with a solicitor and counsellors.**
Q15	Consultation Question 62. We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity: (1) for cases under the new pathway to parenthood; and/or (2) for cases where a post-birth parental order application is made. We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

Your Response to Q15	**Click or tap here to enter text.**
Q16	Consultation Question 70. We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.
Your Response to Q16	**This should remain, a woman cannot know 100% how she might feel giving birth to a surrogate baby if has never had her own. This puts all parties at risk of disagreements after birth.**
Q17	Consultation Question 33. We provisionally propose that: (1) there should be regulated surrogacy organisations; (2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and (3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation. Do consultees agree?
Your Response to Q17	**There should be regulated surrogacy agencies that all work to the same rules. This is a matter of people's lives at stake and no one should be at risk of being mis-treated because they went to an agency that didn't operate the same as another.**
Q18	Consultation Question 35. We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?
Your Response to Q18	**Not necessarily. The agencies are there to assist in people's lives and should be able to do this with whatever means are required.**
Q19	Consultation Question 37. We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree? We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.
Your Response to Q19	**Absolutley agree, no surrogacy arrangements should happen without the involvement of a regulated agency that is there to help protect all parties.**
Q20	Consultation Question 59.

	We provisionally propose that the new pathway – (1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but (2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility. Do consultees agree? We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements. We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements. Do consultees agree?
Your Response to Q20	**Click or tap here to enter text.**
Q21	Consultation Question 46. We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings. Do consultees agree?
Your Response to Q21	**Yes, if the intended parents choose not to tell the child of their origins, that child should be allowed to have access to their own documents once they are an adult.**
Q22	Consultation Question 47. We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors. Do consultees agree? We provisionally propose that: (1) the register should be maintained by the Authority; (2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include: (a) identifying information about all the parties to the surrogacy arrangement, and

	(b) non-identifying information about those who have contributed gametes to the conception of the child; and (3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies. Do consultees agree?
Your Response to Q22	**Yes, a register should be created so that visability of where a person has come from can be accessed.**
Q23	Consultation Question 48. We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.
Your Response to Q23	**Yes**
Q24	Consultation Question 49. We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request. Do consultees agree? We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances: (1) where his or her legal parents have consented; (2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or (3) in any other circumstances.
Your Response to Q24	**The child should be allowed to access information about themselves and their origins without having gone through counslleing, and should not need consent from their legal parents, and adult should be allowed to access their own information if they wish.**
Q25	Consultation Question 51. We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so. Do consultees agree?

	We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.
Your Response to Q25	**Yes**
Q26	Consultation Question 52. We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so: (1) if they are genetically related through the surrogate; and/or (2) if they are not genetically related through the surrogate.
Your Response to Q26	**Only if they are related.**
Q27	Consultation Question 53. For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.
Your Response to Q27	**Click or tap here to enter text.**
Q28	Consultation Question 72. We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be: (1) based on an allowance; (2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or (3) based on costs actually incurred by the surrogate, and only on production of receipts.
Your Response to Q28	**Agreed allowance for actual costs incurred, but this needs guidance from a third party to help guide IP's and a surrogate as to what expenses could be incurred and could potentially change if illness occurs.**
Q29	Consultation Question 73. We invite consultees' views as to: (1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

	(2) the types of expenditure which should be considered “essential”.
Your Response to Q29	**yes**
Q30	Consultation Question 74. We invite consultees’ views as to: (1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and (2) the types of expenditure which should be considered additional, rather than essential.
Your Response to Q30	**Click or tap here to enter text.**
Q31	Consultation Question 75. We invite consultees’ views as to: (1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and (2) the types of cost which should be included within this category.
Your Response to Q31	**Click or tap here to enter text.**
Q32	Consultation Question 76. We invite consultees’ views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).
Your Response to Q32	**Click or tap here to enter text.**
Q33	Consultation Question 77. We invite consultees’ views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings: (1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or (2) other lost potential earnings (as defined in paragraph 15.36 above).
Your Response to Q33	**Click or tap here to enter text.**

Q34	Consultation Question 78. We invite consultees to share their experiences: (1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and (2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.
Your Response to Q34	**Click or tap here to enter text.**
Q35	Consultation Question 79. We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following: (1) pain and inconvenience arising from the pregnancy and childbirth; (2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or (3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy. We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation. We invite consultees' views as to whether the level of compensation payable should be: (1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or (2) left to the parties to negotiate.
Your Response to Q35	**Fixed fee for all of the specific complications as above should be agreed legally and included in all surrogacy agreements. Although a surrogate's intentions is to help a family grow, they should not be out of pocket.**
Q36	Consultation Question 80. We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.
Your Response to Q36	**Yes**
Q37	Consultation Question 81.

	We invite consultees' views as to whether: (1) intended parents should be able to buy gifts for the surrogate; and (2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.
Your Response to Q37	**Gifts should be allowed and no specific provision**
Q38	Consultation Question 82. We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be: (1) any sum agreed between the parties to the surrogacy; or (2) a fixed fee set by the regulator. We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee: (1) no other payments; (2) essential costs relating to the pregnancy; (3) additional costs relating to the pregnancy; (4) lost earnings; (5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or (6) gifts.
Your Response to Q38	**Expenses should be enough combined with essential costs and compensation should there be any complications. All should be discussed and docemented before a surrogacy takes place.**
Q39	Consultation Question 84. We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?
Your Response to Q39	**Click or tap here to enter text.**

Q40	Consultation Question 85. We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.
Your Response to Q40	**There should be cleaer guidance on what expenses are required for, for me I was left to decide on my expenses alone, without guidance and when it came to possibly needing slightly more for therapy reasons this was not agreed. IP's should understand that flexibility is required.**
Q41	Consultation Question 92. We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child. Do consultees agree?
Your Response to Q41	**Click or tap here to enter text.**
Q42	Consultation Question 94. We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth. Do consultees agree? We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules. Do consultees agree? We provisionally propose that: (1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or (2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate. Do consultees agree? We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

Your Response to Q42	**Click or tap here to enter text.**
Q43	Consultation Question 95. We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child. Do consultees agree?
Your Response to Q43	**Click or tap here to enter text.**
Q44	Consultation Question 97. We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?
Your Response to Q44	**Yes**
Q45	Consultation Question 99. We provisionally propose that: the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law. Do consultees agree?
Your Response to Q45	**The protection of the surrogate should be foremost. But this should be done before a pregnancy. The legal responsibility should always lie with the intended parents if that is the agreement.**
Q46	Consultation Question 107. We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

	We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales. We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.
Your Response to Q46	**Better understanding and appreciation that surrogacy is not the same as a "normal" pregnancy, more care and thought should be given when handling a surrogacy situation. A surrogacy should always have a 3 party mediator, for the protection of everybody. A written and signed agreement should be viewed as proof that all parties have discussed in detail every possible outcome.**

END OF QUESTIONNAIRE – HOW TO SUBMIT

Thank you for completing this form. To submit it as a formal response to the Law Commission, save your completed form and email it as an attachment to surrogacy@lawcommission.gov.uk. Please note that the deadline for responding to our consultation is **11 October 2019**.

Response ID ANON-2V7F-Y8D3-D

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 22:07:20

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Please do not include my name anywhere. It is not a common name.

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

All such agreements involve human rights, both of the child which is created under such an agreement and of the woman who acts as a surrogate under such an agreement. These are very serious matters, given that surrogacy arrangements deal with the transfer of rights over a human being. As such, oversight as a norm is essential for the protection of human rights, since these two parties are unlikely to be able to access justice if the onus is shifted onto them, given that the child would have to be represented by a legal guardian or else wait until adulthood and that the woman who undertakes surrogacy is unlikely to have the resources to raise a claim. High Court judges ought to be of an appropriate caliber and experience to deal with cases of this nature, as opposed to the less experienced Sheriffs or worse, the non-legally trained Magistrates.

Please provide your views below:

Yes. Given the nature of such arrangements deal with crucial human rights, it would not be appropriate to leave less experienced district judges to deal with them.

9 Consultation Question 2:

Please provide your views below:

Because the nature of such cases is that of serious human rights issues involving the exploitation of the woman acting as a surrogate and the trafficking of the created infant, it is not to my view appropriate to leave them to lay justices. They ought to be allocated to more experienced serious judges, at least of the circuit court.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

No

Please provide your views below:

The transfer of parental rights and obligations should not be automatic and should not be an option automatically prioritised by a court under such a duty. Parental responsibility at birth rests under the current law with the birth mother and until proceedings reach their end, that is where it should remain unless there is serious cause to act otherwise. It would not be in the child's interest for the transfer of parental responsibility to be transfered as a matter of course to the intended parents without competent examination by a court.

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

I strongly disagree. I believe that the current position in law making the woman who birthed the child the automatic legal parent of the child should be retained in all circumstances.

Such a proposal is not to my view in keeping with the 1993 Hague Convention on the Propection of Children nor with the more recent recommendations of the UN Special Rapporteur, both of which are more in line with my thinking than the proposal in this consultation. The basic position should be for the birth mother to have parental responsibility over the child at the moment of birth and for her to be able to give consent to transfer the parental responsibility starting from this time. The position in this proposal by which she would have only the right to object, with the starting point being one of agreement to consent is likely to generate pressure and exploitation.

I do not believe these proposals to be in line with the best interests of either the child in question nor the surrogate mother. I consider them to be more in line with legally sanctioned child trafficking.

15 Consultation Question 8:

Other

Please provide your views below:

I strongly disagree with the new pathway being proposed and the existence of licensed clinics for surrogacy. Since as a matter of public policy, the sale of organs is not allowed, on the same ground, the leasing of the uterus' reproductive ability should likewise be outlawed.

100 years; or

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Other

Please provide your views below:

I disagree with the existence of regulated surrogacy organisations, which I think serve to normalise and encourage the spread of surrogacy. I consider surrogacy to be a form of human trafficking and I think it exploits women. Since as a matter of public policy, the sale of organs is not allowed, on the same ground, the leasing of the uterus' reproductive ability should likewise be outlawed.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

18 Consultation Question 11:

No

Please provide your views below:

The basic position should be for the birth mother to have parental responsibility over the child at the moment of birth and for her to be able to give consent to transfer the parental responsibility starting from this time. The position in this proposal by which she would have only the right to object, with the starting point being one of agreement to consent is likely to generate pressure and exploitation. I do not believe these proposals to be in line with the best interests of either the child in question nor the surrogate mother. The birth registration period is very short, so the surrogate mother is likely to still be in a state of physical, physiological and emotional vulnerability following the birth of the child, which means that her ability to issue objections and to make considered decisions will be compromised. As such, it is even more vital that her rights be protected and that the starting position is that her rights over her child are retained.

19 Consultation Question 12:

Other

Please provide your views below:

I strongly disagreee with the starting legal position being that the intended parents become the legal parents unless the surrogate objects. The starting position should remain that the legal parent of the child is the birth mother and that any parental rights and responsibilities are only able to be transferred with her agreement following the birth.

20 Consultation Question 13:

No

Please provide your views below:

In my view, such a declaration would be essentially meaningless.

I disagree with the proposals for the new pathway and think the automatic position should remain that the legal parent of the child is the birth mother and that any parental rights and responsibilities are only able to be transferred with her agreement following the birth.

21 Consultation Question 14:

No

Please provide your views below:

Much can change over the period of pregnancy and it would not be appropriate to risk the health and well-being of a child by failing to investigate after its birth. Decisions on the child should be taken after its birth in line with the UN Special Rapporteur's recommendation. No informed decision can be taken about the child's welfare without a welfare assessment being made after its birth, ie. at the time when the transfer of rights and responsibilities would occur.

22 Consultation Question 15:

No

Please provide your views below:

This child should be treated just as any other child of the surrogate mother would be treated. If a woman has a child, the first presumption of the law is that its other legal parent is her husband, otherwise the man listed as the father on the birth certificate.

I don't believe the new pathway should be adopted.

Yes

Please share your views below:

This child should be treated just as any other child of the surrogate mother would be treated. The standard laws on legal parenthood should continue to be applied in such cases.

23 Consultation Question 16:

No

Please provide your views below:

A stillbirth is commonly a traumatic time for a woman and one in which she is likely to be physically, physiologically and emotionally vulnerable. As such, it is not appropriate to place the onus for her to object at such a time and for her tragedy to be legally misappropriated by the 'intended parents' who have had no contact with the fetus and have not borne the difficulties and dangers of pregnancy.

The principle that the birth mother is the legal parent of the child at birth should be maintained, regardless of the child's status at birth. Moreover, legal records should not be the opportunity to lie - the mother of the child was the birth mother, the stillbirth happened to her, and the idea that the legal parents be registered for the benefit of the child is clearly not applicable.

No

Please provide your views below:

A stillbirth is commonly a traumatic time for a woman and one in which she is likely to be physically, physiologically and emotionally vulnerable. As such, it is not appropriate to place the onus for her to object at such a time and for her tragedy to be legally misappropriated by the 'intended parents' who have had no contact with the fetus and have not borne the difficulties and dangers of pregnancy.

The principle that the birth mother is the legal parent of the child at birth should be maintained, regardless of the child's status at birth. Moreover, legal records should not be the opportunity to lie - the mother of the child was the birth mother, the stillbirth happened to her, and the idea that the legal parents be registered for the benefit of the child is clearly not applicable.

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

No

Please provide your views below:

Legal records should not be the opportunity to lie - the mother of the child was the birth mother. The registration should accurately reflect the legal status at the child's death, which is that the legal mother was the birth mother. It is not appropriate for the child's death to be misappropriated by the intended parents.

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

I do not think the new pathway should be adopted at all.

The dead can make no legal arrangements. The principle that the legal parent of the child at birth is its birth mother should be retained.

26 Consultation Question 19:

No

Please provide your views below:

The intended parents have had no contact with the fetus at this stage. It has been sustained by the surrogate.

The principle that the birth mother is the legal parent of the child at birth should be maintained. Moreover, legal records should not be the opportunity to lie. There is no benefit to the child for inaccurate registration in this case.

The onus should not be on the surrogate to object at a time where she is likely to be physically and emotionally vulnerable due to childbirth.

I do not believe the new pathway should be adopted.

Please provide your views below:

(2) is the preferred option. The deceased intended parents should not become the legal parents of the child. There is no benefit to the child for the transfer of parental rights to those already dead and unable to exercise them, and the child's welfare should be paramount. The general principle that the legal parent of the child at birth is its birth mother should be retained.

27 Consultation Question 20:

Yes

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

The birth mother should be the only legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority after the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.

29 Consultation Question 22:

Please provide your views below:

I disagree with the adoption of the new pathway. Legal parenthood should not be acquired by the intended parents at birth, but should remain with the birth mother as is current principle and law.

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

No.

Surrogacy involves the human trafficking of children and the exploitation of the reproductive system of the birth mother. It should be outlawed. If it is not, it should at the very least remain in the oversight of the court and leave should be required.

33 Consultation Question 26:

No

Please provide your views below:

Parental responsibility should follow accepted legal procedures, not be decided based on the child's physical location and the intended parents' intentions, which is a nebulous concept. This is not to the benefit of the child and its welfare.

34 Consultation Question 27:

No

Please provide your views below:

On the birth of the child, parental rights and responsibilities should be acquired only by the birth mother, who should automatically become the legal parent of the child. Any changes to this should occur with the oversight of a court.

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Other

Please provide your views below:

I agree that the birth mother should have parental responsibility for the child but not that the 'intended parents' should get automatic legal parenthood and parental responsibility at any time. This should only occur with the permission of a court and at the behest of the mother. The onus should not be on her to object.

36 Consultation Question 29:

Please provide your views below:

The responsibilities of the birth mother should not be restricted except by court ruling and the usual measures intended for child welfare. She should retain the legal status of the child's mother and the attending responsibilities.

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

No

Please provide your views below:

I do not believe the new pathway should be adopted.

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

I do not believe the new pathway should be adopted. It contradicts UNCRC recommendations, which should be followed.

Please provide your views below:

I do not believe the new pathway should be adopted. It contradicts UNCRC recommendations, which should be followed.

40 Consultation Question 33:

Not Answered

Please provide your views below:

No.

I disagree on the ground that regulated surrogacy organisations would sanction and
legitimise surrogacy and inevitably lead to an increase in its prevalence. They would prey on vulnerable women.

I consider surrogacy to be a violation of the human rights of both women and children. It amounts to human trafficking.

Other

Please provide your views below:

They should take the form of non-existence. Surrogacy, which involves the renting of an organ and the use of a whole body as incubator, ought to be outlawed much as the sale of organs is.

Other

Please provide your views below:

I consider surrogacy to be a violation of the human rights of both women and children. It amounts to human trafficking.

41 Consultation Question 34:

Please provide your views below:

I consider surrogacy to be a violation of the human rights of both women and children. It amounts to human trafficking. Surrogacy organisations would sanction and
legitimise surrogacy and inevitably lead to an increase in its prevalence. They would prey on vulnerable women.

Please provide your views below:

I consider surrogacy to be a violation of the human rights of both women and children. It amounts to human trafficking. Surrogacy organisations would sanction and
legitimise surrogacy and inevitably lead to an increase in its prevalence. They would prey on vulnerable women.

Please provide your views below:

I consider surrogacy to be a violation of the human rights of both women and children. It amounts to human trafficking. Surrogacy organisations would sanction and
legitimise surrogacy and inevitably lead to an increase in its prevalence. They would prey on vulnerable women.

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Other

Please provide your views below:

I consider surrogacy to be a violation of the human rights of both women and children. It amounts to human trafficking. Surrogacy organisations would sanction and
legitimise surrogacy and inevitably lead to an increase in its prevalence. They would prey on vulnerable women.

Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.' We already see similar behaviour from non-profit organisations.

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Other

Please provide your views below:

I disagree with the adoption of the new pathway.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated
surrogacy organisations or any other organisations being able to provide matching and
facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Offering such services should be a criminal offence. Surrogacy amounts to human trafficking, which should be treated as a serious crime.

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Other

Please provide your views below:

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

Enforcing surrogacy agreements would make courts enforce human trafficking.

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I strongly disagree with this proposal and the opening up of surrogacy because I consider it a violation of the human rights of both the woman and the child that results. I consider negotiating, facilitating and advising on such arrangements to be akin to negotiating, facilitating and advising on other types of human trafficking. The only advice that should not be prohibited is advice to refrain from doing so.

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I vehemently oppose this.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest. Pregnancy and childbirth are difficult and dangerous for women and it is crucial for this not to be misrepresented.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. It is appropriate that the law restricts freedom of contract for reasons of public policy and protection of human rights. Advertisers should be no more able to market surrogacy opportunities than they should be able to market kidney harvesting opportunities.

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Other

Please provide your views below:

I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

I do not support the proposal to alter the standard principle that the legal mother of the child who should be registered as the mother on the birth certificate is the birth mother.

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

Yes

Please provide your views below:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy
organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

I agree but with the proviso that all the information should be identifying – the child has the right to know its background.

57 Consultation Question 49:

Other

Please provide your views below:

Counselling should not be mandatory.

Please provide your views below:

I agree and believe other circumstances could also make this appropriate.

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

Yes, information should be rendered available.

59 Consultation Question 51:

Yes

Please provide your views below:

Yes, information should be rendered available. Every child has the right to know its family background.

Please provide your views below:

Yes, information should be rendered available. Every child has the right to know its family background.

60 Consultation Question 52:

Please provide your views below:

Yes, information should be rendered available. Every child has the right to know its family background.

Please provide your views below:

Yes, information should be rendered available. Every child has the right to know its family background.

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

Yes.

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

No, the time limit should be retained as a standard rule. It should be open to a court to depart from the time limit where this is ruled to be in the best interests of the child.

63 Consultation Question 55:

No

Please provide your views below:

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs.

No

Please provide your views below:

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs.

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Other

Please provide your views below:

The new pathway should not be adopted. However, some residential requirements should apply as to reduce surrogacy tourism.

Please provide your views below:

65 Consultation Question 57:

Please provide your views below:

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

No

Please provide views below:

The new pathway should not be adopted. The declaration would be meaningless - such intentions are nebulous and do not constitute a binding commitment.

67 Consultation Question 59:

No

Please provide views below:

There is no necessity to having a child and it is not a human right. To make a child to order is to engage in human trafficking. (2) is therefore not possible, since no medical necessity can be engaged.

The biological link should be retained.

Please provide views below:

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

Yes

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

No

Please provide your views below:

There is no necessity to having a child and it is not a human right. To make a child to order is to engage in human trafficking. No medical necessity can be engaged.

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

No

Please provide views below:

70 Consultation Question 62:

Please provide your views below:

There is no necessity to having a child and it is not a human right. To make a child to order is to engage in human trafficking. No medical necessity can be engaged.

Please provide your views below:

There can be no medical necessity of surrogacy. Having a child is not a human right and not a medical necessity in any circumstance.

71 Consultation Question 63:

Other

Please provide your views below:

I profoundly oppose the introduction of the 'new pathway'.

However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

Please provide your views below:

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

Yes

Please provide your views below:

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

72 Consultation Question 64:

No

Please provide your views below:

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up,

a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.
Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

Please provide your views below:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 30 would be more appropriate. Raising children is demanding of maturity, commitment, and sacrifice.

73 Consultation Question 65:

Not Answered

Please provide your views below:

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 30 years would be more appropriate. There should also be a requirement that the surrogate should have borne one child to term already. Otherwise exploitation will be rife, since the difficulties and dangers of pregnancy and childbirth will not be adequately understood and no informed consent can be given.

Other

Please provide your views below:

I am opposed to the adoption of the new pathway and to the legalised status of surrogacy in general.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 30 years would be more appropriate. There should also be a requirement that the surrogate should have borne one child to term already. Otherwise exploitation will be rife, since the difficulties and dangers of pregnancy and childbirth will not be adequately understood and no informed consent can be given.

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Other

Please provide your views below:

I do not believe the new pathway should be adopted.

Please provide your views below:

75 Consultation Question 67:

Other

Please provide your views below:

I do not believe the new pathway should be adopted.

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Other

Please provide your views below:

I do not believe the new pathway should be adopted.

77 Consultation Question 69:

Other

Please provide your views below:

I do not believe the new pathway should be adopted.

Please provide your views below:

I do not believe the new pathway should be adopted.

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

Yes.

I do not believe the new pathway should be adopted nor do I believe surrogacy ought to be legal.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

No

Please provide your views below:

There are maximums imposed for the breeding of dogs. The Kennel Club restricts the breeding of a bitch to four pregnancies. How can the law deny human women even that protection?

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests in much the same way that payments for organs will result in exploitation.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

81 Consultation Question 73:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests in much the same way that payments for organs will result in exploitation.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

82 Consultation Question 74:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor

women to engage in surrogacy when it is not in their best interests in much the same way that payments for organs will result in exploitation.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

83 Consultation Question 75:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests in much the same way that payments for organs will result in exploitation.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests in much the same way that payments for organs will result in exploitation.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

85 Consultation Question 77:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests in much the same way that payments for organs will result in exploitation.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

Please provide your views below:

No financial reward can adequately compensate a woman for some of the health complications from childbirth and pregnancy, which can be life-long and threaten her ability to work and to care for other children. In a similar way, we do not accept compensation for the health complications and compromised immune system of someone who has sold a kidney, but rather as public policy, we outlaw this practice as exploitative and harmful.

What level of haemorrhaging would be considered 'excessive'? Any haemorraging sounds concerning.

Please provide your views below:

I do not believe intended parents should be able to commission a surrogate at any cost. No financial reward can adequately compensate a woman for some of the health complications from childbirth and pregnancy, which can be life-long and threaten her ability to work and to care for other children.

Not Answered

Please provide your views below:

I do not believe intended parents should be able to commission a surrogate at any cost. No financial reward can adequately compensate a woman for some of the health complications from childbirth and pregnancy, which can be life-long and threaten her ability to work and to care for other children. Payments would serve as an incentive for the exploitation of poor and vulnerable women, who are struggling, to engage in surrogacy. This is not different to the selling of organs, where the acknowledged exploitation that is likely to occur has led to the criminalisation of the practice.

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for

the surrogate.

Please provide your views below:

I do not believe intended parents should be able to commission a surrogate at any cost. No financial reward can adequately compensate a woman for some of the health complications from childbirth and pregnancy, which can be life-long and threaten her ability to work and to care for other children. No financial reward can compensate a family for the loss of their loved one due to the exploitation of her reproductive system by the 'intended parents'. I believe surrogacy should be outlawed.

89 Consultation Question 81:

Please provide your views below:

I am opposed to surrogacy because it violates the human rights of both the woman concerned and the child that results from the agreement. I believe it should be outlawed.

The law should not prescribe what private person can gift to another private person.

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

I would like to see a ban on surrogacy in the UK. I believe the payment for surrogacy is the commercialised purchase of a human being, thus amounting to human trafficking. It is not in the best interests of either the child that results from it, who is being treated as a product, nor of the surrogate, whose reproductive system is being exploited at considerable risk to her health. Payments would serve as an incentive for the exploitation of poor and vulnerable women, who are struggling, to engage in surrogacy. This is not different to the selling of organs, where the acknowledged exploitation that is likely to occur has led to the criminalisation of the practice.

Not Answered

Please provide your views below:

I would like to see a ban on surrogacy in the UK. I believe the payment for surrogacy is the commercialised purchase of a human being, thus amounting to human trafficking. It is not in the best interests of either the child that results from it, who is being treated as a product, nor of the surrogate, whose reproductive system is being exploited at considerable risk to her health. Payments would serve as an incentive for the exploitation of poor and vulnerable women, who are struggling, to engage in surrogacy. This is not different to the selling of organs, where the acknowledged exploitation that is likely to occur has led to the criminalisation of the practice.

Please provide any views below:

I would like to see a ban on surrogacy in the UK. I believe the payment for surrogacy is the commercialised purchase of a human being, thus amounting to human trafficking. It is not in the best interests of either the child that results from it, who is being treated as a product, nor of the surrogate, whose reproductive system is being exploited at considerable risk to her health. Payments would serve as an incentive for the exploitation of poor and vulnerable women, who are struggling, to engage in surrogacy. This is not different to the selling of organs, where the acknowledged exploitation that is likely to occur has led to the criminalisation of the practice.

91 Consultation Question 83:

Please provide views below:

I would like to see a ban on surrogacy in the UK. I believe the payment for surrogacy is the commercialised purchase of a human being, thus amounting to human trafficking. It is not in the best interests of either the child that results from it, who is being treated as a product, nor of the surrogate, whose reproductive system is being exploited at considerable risk to her health. Payments would serve as an incentive for the exploitation of poor and vulnerable women, who are struggling, to engage in surrogacy. This is not different to the selling of organs, where the acknowledged exploitation that is likely to occur has led to the criminalisation of the practice.

Not Answered

Please provide your views below:

I would like to see a ban on surrogacy in the UK. I believe the payment for surrogacy is the commercialised purchase of a human being, thus amounting to human trafficking. It is not in the best interests of either the child that results from it, who is being treated as a product, nor of the surrogate, whose reproductive system is being exploited at considerable risk to her health. Payments would serve as an incentive for the exploitation of poor and vulnerable women, who are struggling, to engage in surrogacy. This is not different to the selling of organs, where the acknowledged exploitation that is likely to occur has led to the criminalisation of the practice.

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Other

Please provide your views below:

I would like to see a ban on surrogacy in the UK. I believe the payment for surrogacy is the commercialised purchase of a human being, thus amounting to human trafficking. It is not in the best interests of either the child that results from it, who is being treated as a product, nor of the surrogate, whose reproductive system is being exploited at considerable risk to her health. Payments would serve as an incentive for the exploitation of poor and vulnerable women, who are struggling, to engage in surrogacy. This is not different to the selling of organs, where the acknowledged exploitation that is likely to occur has led to the criminalisation of the practice. I am opposed to the new pathway being proposed.

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

I would like to see a ban on surrogacy in the UK. I believe the payment for surrogacy is the commercialised purchase of a human being, thus amounting to human trafficking. It is not in the best interests of either the child that results from it, who is being treated as a product, nor of the surrogate, whose reproductive system is being exploited at considerable risk to her health. Payments would serve as an incentive for the exploitation of poor and vulnerable women, who are struggling, to engage in surrogacy. This is not different to the selling of organs, where the acknowledged exploitation that is likely to occur has led to the criminalisation of the practice.

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

I would like to see a ban on surrogacy in the UK. I believe the payment for surrogacy is the commercialised purchase of a human being, thus amounting to human trafficking. It is not in the best interests of either the child that results from it, who is being treated as a product, nor of the surrogate, whose reproductive system is being exploited at considerable risk to her health. Payments would serve as an incentive for the exploitation of poor and vulnerable women, who are struggling, to engage in surrogacy. This is not different to the selling of organs, where the acknowledged exploitation that is likely to occur has led to the criminalisation of the practice.

95 Consultation Question 87:

Please provide your views below:

I would like to see a ban on surrogacy in the UK. I believe the payment for surrogacy is the commercialised purchase of a human being, thus amounting to human trafficking. It is not in the best interests of either the child that results from it, who is being treated as a product, nor of the surrogate, whose reproductive system is being exploited at considerable risk to her health. Payments would serve as an incentive for the exploitation of poor and vulnerable women, who are struggling, to engage in surrogacy. This is not different to the selling of organs, where the acknowledged exploitation that is likely to occur has led to the criminalisation of the practice.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

96 Consultation Question 88:

Other

Please provide your views below:

I disagree with the new pathway and with the practice of surrogacy, commercial or not, in general. I would like to see it outlawed.

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The idea that a 'surrogacy agreement' could place restrictions on the birth mother's lifestyle is utterly abhorrent to me.

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

The rules for registration of a child should be no different regardless of the circumstances of the child's birth. In the case of international surrogacy, where the surrogate is not a British citizen, the child is not born a British citizen and no passport can be applied for. The 'intended parents' should not have any parental rights at the time of birth, because all rights at this point should reside with the surrogate. As such, the child should first be born, then have the parental rights transferred, and only then acquire citizenship and thus a passport. Nobody who has not been born and thus lacks legal personhood should be issued with a passport.

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

The rules for registration of a child should be no different regardless of the circumstances of the child's birth. In the case of international surrogacy, where the surrogate is not a British citizen, the child is not born a British citizen and no passport can be applied for. The 'intended parents' should not have any parental rights at the time of birth, because all rights at this point should reside with the surrogate. As such, the child should first be born, then have the parental rights transferred, and only then acquire citizenship and thus a passport. Nobody who has not been born and thus lacks legal personhood should be issued with a passport.

No

Please provide your views below:

Yes

Please provide your views below:

This appears to be in the best interests of both the child and the surrogate.

Yes

Please provide your views below:

This appears to be in the best interests of both the child and the surrogate.

Please provide your views below:

No.

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this judged to be in the best interests of the child.

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

The rules for registration of a child should be no different regardless of the circumstances of the child's birth. In the case of international surrogacy, where the surrogate is not an EU citizen, the child is not born an EU citizen. The 'intended parents' should not have any parental rights at the time of birth, because all rights at this point should reside with the surrogate. As such, the child should first be born, then have the parental rights transferred, and only then acquire EU rights.

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Other

Please provide your views below:

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives and moreover that having a child is not a human right or entitlement.

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Other

Please provide your views below:

I disagree with the new pathway being proposed and with surrogacy in general.

107 Consultation Question 99:

No

Please provide your views below:

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given after the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

108 Consultation Question 100:

Please provide your views below:

Please provide your views below:

Restrictions and checks must be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

No.

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

No

Please provide your views below:

Maternity allowance and leave is not configured purely to assist with the early stages of raising a child and the adjustment to that, but also with post-birth and post-pregnancy healing. As such, it should be given to the surrogate.

111 Consultation Question 103:

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

Intended parents, not being pregnant, are not in need of any special measures intended for the protection of pregnant women. Women need legal protection from the practice and encouragement of surrogacy.

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes. All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS. Likewise, an increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

Please provide your views below:

The guidance should make it clear that healthcare professionals should be even more alert than usual to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes. All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Please provide your views below:

It is important that midwifery practice always prioritises the wishes of the birth mother and the well-being of herself and the child.

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements as being prone to leading to exploitation and the violation of the human rights of women and children.

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

It is clearthat before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and other organisations who stand to make money from commercial surrogacy if it is permitted.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country. As women make up half of the society, the views of women and the protection of the rights that concern women specifically because of their reproductive systems should be important to any lawmaking.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women. Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her own) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners here.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, it is unclear how the commission has followed equality protections.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers. It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' Women have no more right to be a surrogate than UK citizens in general have the human right to sell off their kidney. These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:
- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."

- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

This consultation is too focused on details to the extent that it fails to ask basic questions on how consultees think surrogacy policy ought to look like. In my view, rather than the law on surrogacy being liberalised, it should instead be restricted.

The law commissioners should go back to the drawing board and start again from the position of women's and children's human rights.

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

Name (Required)

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

- This is a personal response

If other, please provide details:

4. If responding to this consultation in a personal capacity, which term below best describes you?

- Other (A woman)

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

NO

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential.

As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

NOTE: Answers in italics are copied verbatim from the helpful document provided by Nordic Model Now! I have only copied answers that I fully agree with. Answers in normal font are my own answers. I had hoped to provide my own answers to all questions, however, as I am sure you are aware, the consultation document is large, unmanageable and very difficult to navigate for a lay person.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

There are clear human rights issues involved with surrogacy arrangements, for example, the exploitation of women (i.e the birth mother), the sale and trafficking of human beings (i.e the baby), and the motivations of the intended parents (i.e. the buyers). International surrogacy arrangements must continue to be heard by a judge in the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

There are very few things that are more important that the buying and selling of human beings. For this reason, international surrogacy cases must be heard by a senior judge in the High Court. Not a lay judge. **Paragraph 6.51**

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.*

** https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx*

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.*

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

** https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx*

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the buyers should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. If the proposal is to give the birth mother 5 weeks to object to the sale of their baby this is simply not enough time. The majority of women who have given birth (especially for the first time) will experience the most profound physical, physiological and emotional changes. From my experience as a first time mother, and from the experience of the mothers I have met along the way, the intensity of these changes were a complete shock. For mothers who give birth early, to a poorly baby, or in a way they were not expecting, the physical, physiological and emotional shock may be life changing. THIS IS NOT THE TIME TO MAKE HUGE LIFE CHANGING DECISIONS.

Additionally, this contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth

*and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.**

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

** https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx*

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth

*and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.**

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

** https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx*

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

The law should not be changed so that human beings are sold with no idea who is buying them.

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.*

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

** https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx*

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and

children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

*I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.**

** https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx*

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

*I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.**

** https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx*

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.*

** https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx*

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.*

** https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx*

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I *profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as*

recommended by the UN Special Rapporteur in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.*

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

** https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx*

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.*

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

** https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx*

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.*

** https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx*

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.*

** https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx*

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

The regulation of surrogacy, even if it is by non-profit making bodies, provides a clear message that surrogacy is a normal part of society. I disagree that surrogacy should be part of our society. I do not want to live in a society where women's bodies can be rented out, and babies can be sold.

Furthermore, *even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'*

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because this provides a clear message that surrogacy is a normal part of society. I disagree that surrogacy should be part of our society. I do not want to live in a society where women's bodies can be rented out, and babies can be sold.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because this provides a clear message that surrogacy is a normal part of society. I disagree that surrogacy should be part of our society. I do not want to live in a society where women's bodies can be rented out, and babies can be sold.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because this provides a clear message that surrogacy is a normal part of society. I disagree that surrogacy should be part of our society. I do not want to live in a society where women's bodies can be rented out, and babies can be sold.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I was going to personalise this response but I cannot express it better than the below. However, I will add that I do not want to live in a society where those living in poverty are persuaded by adverts to sell a baby for money. Does anyone want to live in this society? (Apart from rich people whose desperation for a baby drives them to ignore the obvious human right issues associated with buying humans from women who need money).

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

The buyers must not be recorded as the parents on the original birth certificate. The birth mother who gave birth should be recorded as the birth mother on the birth certificate.

If the buyers are recorded anywhere on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

In addition to the below, it is unethical to create a child with the intention of allowing an old person, who may be reaching the end of their life, to care for the child. Life expectancy in the UK is around 80 years old. A child becomes an adult at 18. Therefore, allowing a person over the age of 62 to buy a baby comes with a very real risk of creating an orphan, or creating a career for a person with dementia etc. In reality, a young person needs their parents well into their 20s. There are few 18 year olds who are fully independent. Therefore I believe there should be a maximum age for the grant of a parental order. This should be in line what is currently

biologically possible (i.e. around 45 years old), thus allowing a child to get the full benefits of having parents who are alive and capable.

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy and would like to see it banned, because I consider it a violation of both women's and children's human rights.

Very young women should be preparing for a life of independence (work, university, etc) and should NOT be given a financial incentive to become a mother to a baby who will be sold. An 18 year old has very little life experience and simply cannot understand the enormity of the physical and emotional changes that pregnancy and child birth will bring. And then they have to sell the baby they have carried for 9 months. An 18 year old does not have the life experience to be able to understand the enormity of this decision. The enormity of renting their body and selling their baby.

As I am writing, I am being reminded of the truly haunting feelings I had when I read Hanif Kureshi's Never Let Me Go. If you've not read the book, it's about a group of teenagers who have been cloned to supply their body parts to their real human being. Whilst they wait for their call to donate, they are taken care of in an institution. They are free to wonder and to explore the world around them… but no one runs away. Although they understand that after the first donation their lives will never be the same, and after the fourth donation they will die, they never question their fate. They have been brain-washed since childhood to believe that they're providing an honoured, unique service to society. But as a reader it's obvious they are not. They are simply commodities whose body parts will be harvested until their death. It is the stuff of horror films. And the parallels between this and teenage surrogacy are real and frightening.

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I am opposed to surrogacy and would like to see it banned, because I consider it a violation of both women's and children's human rights.

Very young women should be preparing for a life of independence (work, university, etc) and should NOT be given a financial incentive to become a mother to a baby who will be sold. An 18 year old has very little life experience and simply cannot understand the enormity of the physical and emotional changes that pregnancy and child birth will bring. And then they have to sell the baby they have carried for 9 months. An 18 year old does not have the life experience to be able to understand the enormity of this decision. The enormity of renting their body and selling their baby.

As I am writing, I am being reminded of the truly haunting feelings I had when I read Hanif Kureshi's Never Let Me Go. If you've not read the book, it's about a group of teenagers who have been cloned to supply their body parts to their real human being. Whilst they wait for their call to donate, they are taken care of in an institution. They are free to wonder and to explore the world around them… but no one runs away. Although they understand that after the first donation their lives will never be the same, and after the fourth donation they will die, they never question their fate. They have been brain-washed since childhood to believe that they're providing an honoured, unique service to society. But as a reader it's obvious they are not. They are simply commodities whose body parts will be harvested until their death. It is the stuff of horror films. And the parallels between this and teenage surrogacy are real and frightening.

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Pregnancy and childbirth are life changing. No woman can comprehend what the experience will be like until they have done it. No amount of watching One Born Every Minute can prepare a woman for the brutal reality of childbirth. But childbirth is just a day or two (or three or four if you're unlucky). Growing a human takes nine months. Nine months, day in day out, no escaping. Vomiting, exhaustion, ache and pains. Unless you have been through it you have no insight into how consuming it is.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual

essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

Leave both check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I *am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.*

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

***Paragraph* 15.75**

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.*

** https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx*

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the ‘new pathway’. The idea that a ‘surrogacy agreement’ could place restrictions on the birth mother’s lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children’s rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.*

** https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx*

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations that are designed to protect against the selling*

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.*

** https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx*

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- *Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.*
- *Advance equality of opportunity between people who share a protected characteristic and those who do not.*
- *Foster good relations between people who share a protected characteristic and those who do not.*

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

*It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.**

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- *The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.*
- *All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.*
- *The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."*
- *Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.*
- *Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.*

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

** https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx*

Paragraph 18.22

Response ID ANON-2V7F-Y81A-8

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 22:23:49

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

N/A

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

Not Answered

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

Not Answered

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Not Answered

Please provide your views below:

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

Please provide your views below:

40 Consultation Question 33:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

41 Consultation Question 34:

Please provide your views below:

Please provide your views below:

Please provide your views below:

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Yes

Please provide your views below:

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Not Answered

Please provide your views below:

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Not Answered

Please provide your views below:

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Not Answered

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Not Answered

Please provide your views below:

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

Yes

Please provide your views below:

Yes

Please provide your views below:

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

57 Consultation Question 49:

Yes

Please provide your views below:

Please provide your views below:

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

59 Consultation Question 51:

Yes

Please provide your views below:

Please provide your views below:

60 Consultation Question 52:

Please provide your views below:

Please provide your views below:

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

63 Consultation Question 55:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

Not Answered

Please provide your views below:

81 Consultation Question 73:

Please provide your views below:

82 Consultation Question 74:

Please provide your views below:

83 Consultation Question 75:

Please provide your views below:

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

85 Consultation Question 77:

Please provide your views below:

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

Please provide your views below:

Please provide your views below:

Not Answered

Please provide your views below:

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

89 Consultation Question 81:

Please provide your views below:

90 Consultation Question 82:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Please provide any views below:

91 Consultation Question 83:

Please provide views below:

Not Answered

Please provide your views below:

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Not Answered

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

95 Consultation Question 87:

Please provide your views below:

96 Consultation Question 88:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

Not Answered

Please provide your views below:

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Please provide your views below:

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

Not Answered

Please provide your views below:

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Not Answered

Please provide your views below:

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Not Answered

Please provide your views below:

107 Consultation Question 99:

Not Answered

Please provide your views below:

108 Consultation Question 100:

Please provide your views below:

Please provide your views below:

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

Not Answered

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

Short Form Questionnaire: Law Commissions' Surrogacy Consultation



This form is an extract of the longer form for comments and responses to the Law Commission's and the Scottish Law Commission's consultation about reforming surrogacy law. If you would like to respond to the full version of our consultation questionnaire, please use the online form: https://consult.justice.gov.uk/law-commission/surrogacy. Please see our websites for further details, and for links to download the full consultation paper: https://www.lawcom.gov.uk/project/surrogacy/ and https://www.scotlawcom.gov.uk/law-reform/law-reform-projects/joint-projects/surrogacy/.

We have selected 46 questions which may be of particular interest of **those with lived experience of surrogacy arrangements**: surrogates, intended parents, family members and adult children born of surrogacy arrangements. You do not need to answer all the questions if you do not want to, and you can write as much or as little as you would like in response to our questions.

Please note that we may publish or disclose information you provide us in response to this consultation, including personal information. We ask consultees, when providing their responses, if they could avoid including personal identifying information in the text of their response, particularly where this may reveal the identities of other people involved in their surrogacy arrangement.

For more information about how we consult and how we may use responses to the consultation, please see page i – ii of the Consultation Paper.

HOW TO SUBMIT YOUR RESPONSE USING THIS QUESTIONNAIRE

Type your response into the text fields below and then save your completed form. When you have completed your response, email the completed form as an attachment to surrogacy@lawcommission.gov.uk.

The closing date for submitting a response to our consultation is 11 October 2019.

QUESTIONS ABOUT YOU

What is your name? [redacted]

If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation? SurrogacyUK

Are you responding to this consultation in a personal capacity or on behalf of your organisation?
personal

If responding to this consultation in a personal capacity, which term below best describes you?
Intended Parent

What is your email address?
[redacted]

What is your telephone number?
[redacted]

If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our **privacy notice**, we take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.
Click or tap here to enter text.

Question No.	Consultation Question
Q1	Consultation Question 7. In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have: (1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth, (2) complied with procedural safeguards for the agreement, and (3) met eligibility requirements, on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object. Do consultees agree?
Your Response to Q1	**yes**
Q2	Consultation Question 11. We provisionally propose that:

	(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child; (2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and (3) the defined period should be the applicable period for birth registration less one week. Do consultees agree?
Your Response to Q2	**No, I think that if the intention and agreement is for IPs to be parents they should be the parents. If surrogates have serious concerns about the IPs then perhaps a court should judge?**
Q3	Consultation Question 12. We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that: (1) the surrogate will be the legal parent of the child; (2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and (3) the intended parents would be able to make an application for a parental order to obtain legal parenthood. Do consultees agree?
Your Response to Q3	**Click or tap here to enter text.**
Q4	Consultation Question 15. We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child. Do consultees agree? We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.
Your Response to Q4	**Click or tap here to enter text.**
Q5	Consultation Question 27.

	We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway: (1) the intended parents should acquire parental responsibility on the birth of the child; and (2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order. Do consultees agree?
Your Response to Q5	**yes**
Q6	Consultation Question 28. We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object. Do consultees agree?
Your Response to Q6	**no**
Q7	Consultation Question 29. For all surrogacy arrangements, we invite consultees' views as to: (1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and (2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.
Your Response to Q7	**Click or tap here to enter text.**
Q8	Consultation Question 55. We provisionally propose that: (1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available; (2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

	(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or (b) following a determination by the court that the child should live with the intended parents; and (3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007. Do consultees agree?
Your Response to Q8	**Click or tap here to enter text.**
Q9	Consultation Question 30. We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway. Do consultees agree?
Your Response to Q9	**yes**
Q10	Consultation Question 32. We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway. We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.
Your Response to Q10	**Click or tap here to enter text.**
Q11	Consultation Question 67. We provisionally propose that, as a condition of being eligible for entry into the new pathway: (1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and (2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15. Do consultees agree?

Your Response to Q11	**Yes. It should be good and useful counselling though!**
Q12	Consultation Question 68. We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?
Your Response to Q12	**no**
Q13	Consultation Question 88. We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate. Do consultees agree? We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle. Do consultees agree?
Your Response to Q13	**Yes the expenses should be enforced. But IPs should be able to contest unreasonable/false expenses claims.**
Q14	Consultation Question 42. We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?
Your Response to Q14	**yes**
Q15	Consultation Question 62. We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity: (1) for cases under the new pathway to parenthood; and/or (2) for cases where a post-birth parental order application is made. We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

Your Response to Q15	**I guess so. I feel it should be through necessity , I cant really see why it would be otherwise, would a surrogate offer help to someone who could carry the kids themselves? I doubt it.**
Q16	Consultation Question 70. We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.
Your Response to Q16	**No**
Q17	Consultation Question 33. We provisionally propose that: (1) there should be regulated surrogacy organisations; (2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and (3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation. Do consultees agree?
Your Response to Q17	**yes**
Q18	Consultation Question 35. We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?
Your Response to Q18	**yes**
Q19	Consultation Question 37. We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree? We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.
Your Response to Q19	**Yes. Not for profit regulated organisations only.**
Q20	Consultation Question 59.

	We provisionally propose that the new pathway – (1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but (2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility. Do consultees agree? We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements. We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements. Do consultees agree?
Your Response to Q20	**Yes we should allow double donation in Uk.** **I don't know for international.**
Q21	Consultation Question 46. We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings. Do consultees agree?
Your Response to Q21	**yes**
Q22	Consultation Question 47. We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors. Do consultees agree? We provisionally propose that: (1) the register should be maintained by the Authority; (2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include: (a) identifying information about all the parties to the surrogacy arrangement, and

	(b) non-identifying information about those who have contributed gametes to the conception of the child; and (3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies. Do consultees agree?
Your Response to Q22	**Yes**
Q23	Consultation Question 48. We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.
Your Response to Q23	**yes**
Q24	Consultation Question 49. We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request. Do consultees agree? We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances: (1) where his or her legal parents have consented; (2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or (3) in any other circumstances.
Your Response to Q24	**yes**
Q25	Consultation Question 51. We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so. Do consultees agree?

	We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.
Your Response to Q25	**yes**
Q26	Consultation Question 52. We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so: (1) if they are genetically related through the surrogate; and/or (2) if they are not genetically related through the surrogate.
Your Response to Q26	**Yes to both**
Q27	Consultation Question 53. For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.
Your Response to Q27	**Click or tap here to enter text.**
Q28	Consultation Question 72. We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be: (1) based on an allowance; (2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or (3) based on costs actually incurred by the surrogate, and only on production of receipts.
Your Response to Q28	**2 – yes**
Q29	Consultation Question 73. We invite consultees' views as to: (1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

	(2) the types of expenditure which should be considered “essential”.
Your Response to Q29	**yes**
Q30	Consultation Question 74. We invite consultees’ views as to: (1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and (2) the types of expenditure which should be considered additional, rather than essential.
Your Response to Q30	**All Actual costs should be covered.**
Q31	Consultation Question 75. We invite consultees’ views as to: (1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and (2) the types of cost which should be included within this category.
Your Response to Q31	**Click or tap here to enter text.**
Q32	Consultation Question 76. We invite consultees’ views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).
Your Response to Q32	**Yes loss of earnings**
Q33	Consultation Question 77. We invite consultees’ views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings: (1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or (2) other lost potential earnings (as defined in paragraph 15.36 above).
Your Response to Q33	**No, I think its probably too ambiguous, too hard to determine.**

Q34	Consultation Question 78. We invite consultees to share their experiences: (1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and (2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.
Your Response to Q34	**Click or tap here to enter text.**
Q35	Consultation Question 79. We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following: (1) pain and inconvenience arising from the pregnancy and childbirth; (2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or (3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy. We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation. We invite consultees' views as to whether the level of compensation payable should be: (1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or (2) left to the parties to negotiate.
Your Response to Q35	**Click or tap here to enter text.**
Q36	Consultation Question 80. We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.
Your Response to Q36	**IPs should pay life insurance yes**
Q37	Consultation Question 81.

	We invite consultees' views as to whether: (1) intended parents should be able to buy gifts for the surrogate; and (2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.
Your Response to Q37	**Modest gifts, as you might for a special friend, but no obligations**
Q38	Consultation Question 82. We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be: (1) any sum agreed between the parties to the surrogacy; or (2) a fixed fee set by the regulator. We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee: (1) no other payments; (2) essential costs relating to the pregnancy; (3) additional costs relating to the pregnancy; (4) lost earnings; (5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or (6) gifts.
Your Response to Q38	**No fee** **Just costs, losses, pay for a holiday for surrogate/s family to recuperate after the birth**
Q39	Consultation Question 84. We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?
Your Response to Q39	**Yes**

Q40	Consultation Question 85. We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.
Your Response to Q40	**Cover a holiday for surrogates family**
Q41	Consultation Question 92. We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child. Do consultees agree?
Your Response to Q41	**yes**
Q42	Consultation Question 94. We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth. Do consultees agree? We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules. Do consultees agree? We provisionally propose that: (1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or (2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate. Do consultees agree? We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.
Your Response to Q42	**Click or tap here to enter text.**

Q43	Consultation Question 95. We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child. Do consultees agree?
Your Response to Q43	**yes**
Q44	Consultation Question 97. We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?
Your Response to Q44	**yes**
Q45	Consultation Question 99. We provisionally propose that: the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law. Do consultees agree?
Your Response to Q45	**yes**
Q46	Consultation Question 107. We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area. We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

	We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.
Your Response to Q46	**Click or tap here to enter text.**

END OF QUESTIONNAIRE – HOW TO SUBMIT

Thank you for completing this form. To submit it as a formal response to the Law Commission, save your completed form and email it as an attachment to surrogacy@lawcommission.gov.uk. Please note that the deadline for responding to our consultation is **11 October 2019**.

Response ID ANON-2V7F-Y81W-X

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 22:25:37

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

N/A

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

Please provide your views below:

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

9 Consultation Question 2:

Please provide your views below:

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

No

Please provide your views below:

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

15 Consultation Question 8:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway.'

18 Consultation Question 11:

No

Please provide your views below:

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

19 Consultation Question 12:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

20 Consultation Question 13:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

21 Consultation Question 14:

No

Please provide your views below:

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

22 Consultation Question 15:

No

Please provide your views below:

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

Yes

Please share your views below:

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

23 Consultation Question 16:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

No

Please provide your views below:

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the

effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

No

Please provide your views below:

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

26 Consultation Question 19:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

Please provide your views below:

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

27 Consultation Question 20:

Yes

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

29 Consultation Question 22:

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

30 Consultation Question 23:

Please provide your views below:

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

31 Consultation Question 24:

Please provide your views below:

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

33 Consultation Question 26:

No

Please provide your views below:

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

34 Consultation Question 27:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Other

Please provide your views below:

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority

AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

36 Consultation Question 29:

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

N/A

39 Consultation Question 32:

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

40 Consultation Question 33:

No

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider commercial surrogacy to be a violation of the human rights of both women and children.

Other

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider commercial surrogacy to be a violation of the human rights of both women and children.

Other

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider commercial surrogacy to be a violation of the human rights of both women and children.

41 Consultation Question 34:

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider commercial surrogacy to be a violation of the human rights of both women and children.

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider commercial surrogacy to be a violation of the human rights of both women and children.

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider commercial surrogacy to be a violation of the human rights of both women and children.

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Other

Please provide your views below:

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in commercial surrogacy, which I consider a violation of the human rights of both women and children.

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Other

Please provide your views below:

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the

result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

Yes

Please provide your views below:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

57 Consultation Question 49:

Yes

Please provide your views below:

Please provide your views below:

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

YES, this should be possible.

59 Consultation Question 51:

Yes

Please provide your views below:

YES, I agree.

Please provide your views below:

YES, I agree.

60 Consultation Question 52:

Please provide your views below:

YES to both (1) and (2)

Please provide your views below:

YES to both (1) and (2)

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

63 Consultation Question 55:

No

Please provide your views below:

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

No

Please provide your views below:

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

Please provide your views below:

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

65 Consultation Question 57:

Please provide your views below:

The qualifying categories of relationship should not be reformed or removed.

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Other

Please provide views below:

I profoundly disagree with the proposals for the 'new pathway'.

67 Consultation Question 59:

No

Please provide views below:

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Please provide views below:

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

Yes

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

No

Please provide your views below:

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

No

Please provide views below:

I dispute that surrogacy is ever a 'medical necessity.'

70 Consultation Question 62:

Please provide your views below:

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

Please provide your views below:

I dispute that surrogacy is ever a 'medical necessity.'

71 Consultation Question 63:

Other

Please provide your views below:

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

Please provide your views below:

While I oppose commercial surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

Yes

Please provide your views below:

While I oppose commercial surrogacy and want to see it banned, if it happens, I support this provision.

72 Consultation Question 64:

No

Please provide your views below:

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

73 Consultation Question 65:

Other

Please provide your views below:

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Other

Please provide your views below:

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

Please provide your views below:

75 Consultation Question 67:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

77 Consultation Question 69:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

No

Please provide your views below:

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

81 Consultation Question 73:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

82 Consultation Question 74:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

83 Consultation Question 75:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

85 Consultation Question 77:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

86 Consultation Question 78:

Please provide your views below:

N/A

87 Consultation Question 79:

Please provide your views below:

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

89 Consultation Question 81:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts other than a small token gift under a set amount of a few pounds.

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

Please provide any views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

91 Consultation Question 83:

Please provide views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Other

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

95 Consultation Question 87:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

96 Consultation Question 88:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The idea that a 'surrogacy agreement' could place restrictions on the birth mother's lifestyle is utterly abhorrent.

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

N/A

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

N/A

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

N/A

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

N/A

102 Consultation Question 94:

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

No

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

Please provide your views below:

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

N/A

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Other

Please provide your views below:

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

107 Consultation Question 99:

No

Please provide your views below:

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

108 Consultation Question 100:

Please provide your views below:

N/A

Please provide your views below:

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

I do not believe this needs changing.

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

No

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

115 Consultation Question 107:

Please provide your views below:

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself. There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting desires while denying patients access to drugs which are standard of care in other counties.

Please provide your views below:

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

Please provide your views below:

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

• Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
• Advance equality of opportunity between people who share a protected characteristic and those who do not.
• Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.'

These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

 The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
 All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
 The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
 Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
 Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

CEASE UK

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response.

4. If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5. What is your email address?

Email address:

[redacted]

6. What is your telephone number?

Telephone number:

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and

parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth

and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female

students and young women suggesting that becoming a ‘surrogate’ would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the ‘new pathway’. I do not agree that the ‘intended parents’ should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child’s best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the ‘intended parents’ are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed

gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a ‘new pathway’. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the ‘new pathway’.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

Leave both check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the ‘new pathway’. The idea that a ‘surrogacy agreement’ could place restrictions on the birth mother’s lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children’s rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y8Z8-8

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 22:44:09

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason cases should continue to be heard by a judge of the high court.

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, eg tickets to circuit judges or higher.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

No

Please provide your views below:

The UN Special Rapporteur recommends that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations and The Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this is an important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of The Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

15 Consultation Question 8:

Other

Please provide your views below:

I profoundly disagree with the proposals for the new pathway and regulated surrogacy organisations.

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

I profoundly disagree with the proposals for the new pathway.

18 Consultation Question 11:

No

Please provide your views below:

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland - so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarian, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such life-changing significance at such a time - not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

19 Consultation Question 12:

Other

Please provide your views below:

I profoundly disagree with the proposals for the new pathway - particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one - and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court of other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.

The birth registration period is only 6 weeks and is shorter in Scotland - so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarian, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such life-changing significance at such a time - not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

20 Consultation Question 13:

No

Please provide your views below:

I profoundly disagree with the proposals for the new pathway - particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one - and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court of other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.

The birth registration period is only 6 weeks and is shorter in Scotland - so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarian, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such life-changing significance at such a time - not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

21 Consultation Question 14:

No

Please provide your views below:

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best

interests. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would have typically been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the newborn child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are huge investments of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance if surmounting all the difficulties that will inevitable arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a newborn child and the long road of nurturing and shepherding him or her to adulthood.

22 Consultation Question 15:

No

Please provide your views below:

I profoundly disagree with the new pathway.

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk us likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families, because it would set a precedent. It should not be introduced without a full assessment of all the implications, including the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

Yes

Please share your views below:

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

23 Consultation Question 16:

No

Please provide your views below:

I profoundly disagree with the proposals for the new pathway - particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should to d not change if the child is stillborn.

No

Please provide your views below:

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

No

Please provide your views below:

I profoundly disagree with the 'intended parehts' being registered as the legal parents of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

I profoundly disagree with the proposals for the new pathway

26 Consultation Question 19:

No

Please provide your views below:

I profoundly disagree with the proposals for the new pathway. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

Please provide your views below:

The intended parents should NOT be registered as the child's parents if they are already deceased so option 2 is preferable.

27 Consultation Question 20:

Yes

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority after the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.

29 Consultation Question 22:

Please provide your views below:

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority after the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.

30 Consultation Question 23:

Please provide your views below:

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and it is adequate as it is, and conforms to the UN Special Rapporteur's recommendation that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

31 Consultation Question 24:

Please provide your views below:

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and it is adequate as it is, and conforms to the UN Special Rapporteur's recommendation that the child's best interest is the paramount

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

There are real risks of the sale and trafficking of children and the exploitation of birth mothers and their reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that intended parents should be added to the list of those who can apply for a section 8 order without leave.

33 Consultation Question 26:

No

Please provide your views below:

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangement should be taken by a court or other competent authority after the birth of the child, as recommended by the UN

special Rapporteur in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the intended parents parental responsibility is based on or justified by the wishes expressed by some surrogate mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN special rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child other than a temporary right to object. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

34 Consultation Question 27:

No

Please provide your views below:

I profoundly disagree with the proposals for the new pathway. I do not agree that the intended parents should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority after the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN special rapporteur and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the intended parents parental responsibility is based on or justified by the wishes expressed by some surrogate mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of the UN special rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to come down a system that would require women to give birth with the expectation that they would have no responsibility for that child other than a temporary right to object. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Other

Please provide your views below:

I agree that the birth mother should have parental responsibility for the child but not that the intended parents should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangement should be taken by a court or other competent authority after the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN special rapporteur and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

36 Consultation Question 29:

Please provide your views below:

I profoundly disagree with the proposals for the new pathway. The birth mother should have legal parented and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN special rapporteur and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with their proposals for the new pathway.

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

I profoundly disagree with the proposals for the new pathway. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Please provide your views below:

I profoundly disagree with the proposals for the new pathway. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

40 Consultation Question 33:

No

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations with sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Other

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations with sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Other

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations with sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

41 Consultation Question 34:

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations with sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations with sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations with sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Other

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations with sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children. Even if surrogacy organisations are nonprofitmaking, they will inevitably be driven by commercial imperatives, for example, to cover costs, salaries, et cetera and will need to continuously seek new business and to convince or coerce more women to act as surrogates.

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of human rights of both women and children.

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the new pathway. I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of human rights of both women and children.

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

I profoundly disagree with the proposals for the new pathway. I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of human rights of both women and children.

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

I profoundly disagree with the proposals for the new pathway. I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of human rights of both women and children.

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Other

Please provide your views below:

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I vehemently disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article six prohibits the exploitation of the prostitution of women which includes deriving any form of benefit from women's prostitution.

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I vehemently disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites and other service organisations to financially benefit from it is a abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a surrogate mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely to present surrogacy adds to female students

and young women suggesting that becoming a surrogate would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy must remain banned.

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the new pathway. I do not agree that the intended parents should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is I am profoundly disagree with the proposals for the new pathway. I do not agree that the intended parents should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the intended parents are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

I do not consider the birth registration system to be in need of reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and and erosion of mothers rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

Yes

Please provide your views below:

Other

Please provide your views below:

I profoundly disagree with the proposals for the new pathway and regulated services organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information because otherwise it trivialises the creation of a child and denies the child the right to know his or her genetic parentage.

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

I agree but with the proviso that all the information should be identifying because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

57 Consultation Question 49:

Yes

Please provide your views below:

Please provide your views below:

I agree with one and two and believe there might be other circumstances where this is reasonable.

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

Yes this should be possible.

59 Consultation Question 51:

Yes

Please provide your views below:

Please provide your views below:

Yes I agree.

60 Consultation Question 52:

Please provide your views below:

Yes

Please provide your views below:

Yes

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

63 Consultation Question 55:

No

Please provide your views below:

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

No

Please provide your views below:

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

No

Please provide your views below:

I profoundly disagree with the proposals for the new pathway. The intended parents should be domiciled and not simply habitually resident in the UK in order to avoid surrogacy tourism.

Please provide your views below:

I profoundly disagree with opening up parental orders to intended parents who are habitual residence but not domiciled in the UK because of the risk of surrogacy tourism.

65 Consultation Question 57:

Please provide your views below:

The qualifying categories of relationship should not be reformed or removed.

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Other

Please provide views below:

I profoundly disagree with the proposals for the new pathway.

67 Consultation Question 59:

No

Please provide views below:

I profoundly disagree with the proposals for the new pathway and believe the genetic link should be retained. I dispute that surrogacy is ever a medical necessity.

Please provide views below:

I profoundly disagree with the proposals for the new pathway and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

Yes

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

No

Please provide your views below:

I fundamentally disagree with proposals to introduce the new pathway and believe the genetic link should be retained. I dispute that surrogacy is ever a medical necessity.

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

No

Please provide views below:

I dispute that surrogacy is ever a medical necessity.

70 Consultation Question 62:

Please provide your views below:

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a medical necessity.

Please provide your views below:

I dispute that surrogacy is ever a medical necessity

71 Consultation Question 63:

Other

Please provide your views below:

I profoundly oppose the introduction of the new pathway. However, I support the requirement in any surrogacy arrangement for the recording of the identity of all genetic parents and the birth mother.

Please provide your views below:

I oppose surrogacy and want to see it band, I support this condition for a parental order in the circumstances described in both one and two.

Yes

Please provide your views below:

Whilst I oppose surrogacy and wants to see it banned, if it happens, I support this provision.

72 Consultation Question 64:

No

Please provide your views below:

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adult hood. Surrogacy is therefore particularly on ethical when the intended parents are old. If surrogacy is to be opened up, a maximum age limit for intended parents is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits or is it very carefully.

Please provide your views below:

I profoundly disagree with the proposals for the new pathway. However, if surrogacy is to be allowed, there should be a maximum age limit for intended parents and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adult hood. I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the intended parents are old I therefore consider that the maximum age limit for intended parents is important. This will make it clear that society does not Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adult hood. I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the intended parents are old I therefore consider that the maximum age limit for intended parents is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative affect and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

Other

Please provide your views below:

I profoundly disagree with the proposals for the new pathway. However, if surrogacy is to be allowed, there should be a minimum age for intended parents and it should be much older than 18. I suggest that 25 would be more appropriate. Any age limits in the legislation will have a normative affect and will inevitably be understood as a society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year-olds to believe that it would be reasonable for them to become parents through a surrogacy arrangement before they have taken even their first steps into independence and adult hood?

73 Consultation Question 65:

Other

Please provide your views below:

I am opposed to surrogacy and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year-old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even the first steps into independence and adult hood?

Other

Please provide your views below:

I am opposed to surrogacy and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year-old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even the first steps into independence and adult hood?

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Other

Please provide your views below:

I profoundly disagree with the proposals for the new pathway

Please provide your views below:

75 Consultation Question 67:

Other

Please provide your views below:

I profoundly disagree with the proposals for the new pathway

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the new pathway.

77 Consultation Question 69:

Other

Please provide your views below:

I profoundly disagree with the proposals for the new pathway.

Please provide your views below:

I profoundly disagree with the proposals for the new pathway.

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

I am profoundly opposed to surrogacy and the introduction of the new pathway. Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

No

Please provide your views below:

I am profoundly opposed to surrogacy and the introduction of the new pathway. Society should not condone women undergoing multiple surrogate pregnancy and childbirth. Even the kennel club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is apparent that female dogs have better protections than women would have under this proposal.

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

Not Answered

Please provide your views below:

I am opposed to pay to surrogacy because it commercialises women's reproductive functions, commodified children, and risks the sale of children, against which there is an international provision. Surrogacy is therefore a violation of human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to port women to engage in surrogacy when it is not in their best interest's. I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is excepted, however, legislation should allow no payments to the birthmother above actual essential costs, backed up by receipts.

81 Consultation Question 73:

Please provide your views below:

I am opposed to pay to surrogacy because it commercialises women's reproductive functions, commodified children, and risks the sale of children, against which there is an international provision. Surrogacy is therefore a violation of human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to port women to engage in surrogacy when it is not in their best interest's. I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is excepted, however, legislation should allow no payments to the birthmother above actual essential costs, backed up by receipts.

82 Consultation Question 74:

Please provide your views below:

I am opposed to pay to surrogacy because it commercialises women's reproductive functions, commodified children, and risks the sale of children, against which there is an international provision. Surrogacy is therefore a violation of human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to port women to engage in surrogacy when it is not in their best interest's. I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is excepted, however, legislation should allow no payments to the birthmother above actual essential costs, backed up by receipts.

83 Consultation Question 75:

Please provide your views below:

I am opposed to pay to surrogacy because it commercialises women's reproductive functions, commodified children, and risks the sale of children, against which there is an international provision. Surrogacy is therefore a violation of human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to port women to engage in surrogacy when it is not in their best interest's. I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is excepted, however, legislation should allow no payments to the birthmother above actual essential costs, backed up by receipts.

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

I am opposed to pay to surrogacy because it commercialises women's reproductive functions, commodified children, and risks the sale of children, against which there is an international provision. Surrogacy is therefore a violation of human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to port women to engage in surrogacy when it is not in their best interest's. I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is excepted, however, legislation should allow no payments to the birthmother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the intended parents to pay the birth mother for lost earnings

85 Consultation Question 77:

Please provide your views below:

I am opposed to pay to surrogacy because it commercialises women's reproductive functions, commodified children, and risks the sale of children, against which there is an international provision. Surrogacy is therefore a violation of human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to port women to engage in surrogacy when it is not in their best interest's. I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is excepted, however, legislation should allow no payments to the birthmother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the intended parents to pay the birth mother for lost earnings

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

Please provide your views below:

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a pricetag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood-borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, Due to the risk of vCJD transmission. This is an indication of the gravity of receiving blood products. No medical intervention is ever risk free. Receiving multiple blood products in the context of massive transfusion protocol e.g. platelets, fresh frozen plasma, cryoprecipitate, only heighten those risks.

Conditions such as HELLP can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure, potentially requiring dialysis, placental abruption, permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long-term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children. Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources "this as affecting between six and 18% of women. These symptoms can be profoundly distressing, and may take years to Each of these conditions have long-term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work okay for other children. Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include virginal all rectal prolapse, you're an airy and faecal incontinence. Women who have had a C section may experience ongoing pain around the scarf. Some sources "this is affecting between six and 18% of women. These symptoms can be profoundly distressing, and may take years to present.

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy and causing the symptoms in relation to other risk factors, for example parity, smoking history, personal medical history? Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as postnatal depression and postpartum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered excessive.

The wording of the question should be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some luckier women would receive compensation and others would not. All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

Please provide your views below:

I am opposed to paid surrogacy because it's commercialises women's reproductive functions, modifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to port women to engage in surrogacy when it is not in their best interests. I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it's commercialises women's reproductive functions, modifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to port women to engage in surrogacy when it is not in their best interests. I would like to see a total ban on surrogacy in the UK, as there is in Spain.

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

I am opposed to paid surrogacy because it's commercialises women's reproductive functions, modifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to port women to engage in surrogacy when it is not in their best interests. I would like to see a total ban on surrogacy in the UK, as there is in Spain.

If surrogacy is accepted, however, legislation should allow no payments to the birthmother above actual essential costs, backed up by receipts. This question illustrates the risks of surrogacy and why I oppose it.

89 Consultation Question 81:

Please provide your views below:

I am opposed to paid surrogacy because it's commercialises women's reproductive functions, modifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to port women to engage in surrogacy when it is not in their best interests. I would like to see a total ban on surrogacy in the UK, as there is in Spain.

If surrogacy is accepted, however, legislation should allow no payments to the birthmother above actual essential costs, backed up by receipts. I am therefore opposed to allowing the intended parents to give the birth mother gifts

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

I am opposed to paid surrogacy because it's commercialises women's reproductive functions, modifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to port women to engage in surrogacy when it is not in their best interests. I would like to see a total ban on surrogacy in the UK, as there is in Spain.

If surrogacy is accepted, however, legislation should allow no payments to the birthmother above actual essential costs, backed up by receipts. I am therefore opposed to allowing the intended parents to pay the birth mother for her services.

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it's commercialises women's reproductive functions, modifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to port women to engage in surrogacy when it is not in their best interests. I would like to see a total ban on surrogacy in the UK, as there is in Spain.

If surrogacy is accepted, however, legislation should allow no payments to the birthmother above actual essential costs, backed up by receipts. I am therefore opposed to allowing the intended parents to pay the birth mother for her services.

Please provide any views below:

I am opposed to paid surrogacy because it's commercialises women's reproductive functions, modifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to port women to engage in

surrogacy when it is not in their best interests. I would like to see a total ban on surrogacy in the UK, as there is in Spain.

If surrogacy is accepted, however, legislation should allow no payments to the birthmother above actual essential costs, backed up by receipts. I am therefore opposed to allowing the intended parents to make any type of fee or payment to the birth mother for her services.

91 Consultation Question 83:

Please provide views below:

I am opposed to paid surrogacy because it's commercialises women's reproductive functions, modifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to port women to engage in surrogacy when it is not in their best interests. I would like to see a total ban on surrogacy in the UK, as there is in Spain.

If surrogacy is accepted, however, legislation should allow no payments to the birthmother above actual essential costs, backed up by receipts. I am therefore opposed to allowing the intended parents to pay the birth mother for her services.

This question is therefore not applicable because I oppose the payment of birthmothers for the services, however, it illustrates the grave risks of surrogacy.

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it's commercialises women's reproductive functions, modifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to port women to engage in surrogacy when it is not in their best interests. I would like to see a total ban on surrogacy in the UK, as there is in Spain.

If surrogacy is accepted, however, legislation should allow no payments to the birthmother above actual essential costs, backed up by receipts. I am therefore opposed to allowing the intended parents to pay the birth mother for her services.

This question is therefore not applicable because I oppose the payment of birthmothers for the services, however, it illustrates the grave risks of surrogacy.

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Other

Please provide your views below:

I am opposed to paid surrogacy because it's commercialises women's reproductive functions, modifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to port women to engage in surrogacy when it is not in their best interests.

I am opposed to the new pathway but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

I am opposed to paid surrogacy because it's commercialises women's reproductive functions, modifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to port women to engage in surrogacy when it is not in their best interests. I would like to see a total ban on surrogacy in the UK, as there is in Spain.

If surrogacy is accepted, however, legislation should allow no payments to the birthmother above actual essential costs, backed up by receipts. I am therefore opposed to allowing the intended parents to pay the birth mother for her services.

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

I am opposed to paid surrogacy because it's commercialises women's reproductive functions, modifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children. There is rising inequality in

the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to port women to engage in surrogacy when it is not in their best interests. I would like to see a total ban on surrogacy in the UK, as there is in Spain.

If surrogacy is accepted, however, legislation should allow no payments to the birthmother above actual essential costs, backed up by receipts. I am therefore opposed to allowing the intended parents to pay the birth mother for her services.

95 Consultation Question 87:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisations') that has been involved in the arrangements in any way.

96 Consultation Question 88:

Other

Please provide your views below:

I profoundly disagree with the proposals for the new pathway.

Other

Please provide your views below:

I profoundly disagree with the proposals for the new pathway. The idea that a surrogacy agreement could place restrictions on the birth mother's lifestyle is utterly abhorrent.

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for the registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for the registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

No

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

Please provide your views below:

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for an EU uniform Format Form for the child before he or she is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Other

Please provide your views below:

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the new pathway.

107 Consultation Question 99:

No

Please provide your views below:

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations and The Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should equally apply to international surrogacy arrangements. I therefore strongly disagree with this proposal.

108 Consultation Question 100:

Please provide your views below:

Please provide your views below:

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

I do not believe this needs changing

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

No

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

115 Consultation Question 107:

Please provide your views below:

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangements by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called

altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and newborns - especially when the intended parents are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the newborn and the birth mother has long-term negative effects on the wellbeing of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have long term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics - where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of attractiveness for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself. There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard care in other countries.

Please provide your views below:

The guidance should be revised to clarify that surrogacy arrangements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the intended parents have no legal right to override her wishes or decisions in wharfs her lifestyle or medical and health care, including during pregnancy, labour and childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangements by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

Please provide your views below:

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy arrangements for someone else's benefit. This can be true in altruistic surrogacy but is even more likely if substantial payments are involved.

It is well know that women and girls are groomed and/or coerced into prostitution by partners and boyfriends who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners proposals are enacted, there must therefore also be a legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty - in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea.

It would be far better to simply ban all surrogacy arrangements- or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.
It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

* Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
* Advance equality of opportunity between people who share a protected characteristic and those who do not.
* Foster good relations between people who share a protected characteristic and those who do not.

67

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

* The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
* All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
* The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
* Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
* Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount. The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc. For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

Name (Required)

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

N/A

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

- This is a personal response

If other, please provide details:

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

- Other individual

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these

cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and

parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth

and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and

facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the

recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

Leave both check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the ‘new pathway’. The idea that a ‘surrogacy agreement’ could place restrictions on the birth mother’s lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children’s rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-YJ6A-Y

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 22:54:15

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

Surrogacy UK

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Intended parent

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Not confidential.

Chapter 6: The parental order procedure

8 Consultation Question 1:

Not Answered

Please provide your views below:

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

I think the family court is a good place for this - it has an appropriately light touch for what should, in the overwhelming majority of cases, be a very straightforward hearing.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

I don’t know if this counts as evidence, but when we attended court for both our parental orders, it felt like a celebration, rather than a legal proceeding, and this was in keeping with our surrogacy experience throughout the process. It would be good to protect that ‘vibe’ and avoid unnecessary formality

and lawyers fees.

11 Consultation Question 4:

Yes

Please provide your views below:

In our experience the family court actually dispensed with the first hearing so we didn't need to attend court twice (it was quite a long journey for our surrogate). As it's a straightforward process in the overwhelming majority of cases, two hearings feels like overkill.

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

This seems sensible in the interests of openness and honesty and could be a nice keepsake for the child.

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

Yes

Please provide your views below:

When IPs and surrogates agree to embark on a surrogacy arrangement, their desired outcome is to create a child for the IP's family, so it makes sense that this is the default position in law. I'm aware that there is a feminist argument that surrogates are being exploited and that this change would somehow compromise their agency. I'm a feminist myself and acknowledge that there is some risk that women could be pressured into becoming surrogates and that things occasionally go wrong in surrogacy relationships, so there needs to be an appeal process. However I have never met a more powerful and determined group of women than the SUK surrogates. I think that those who suggest they don't know their own minds well enough to sign up to the IPs' assumption of parenthood at birth should just meet a few of them and their concerns would be allayed.

15 Consultation Question 8:

No

Please provide your views below:

This information will be valuable to children born through surrogacy in the event that their parents fail to tell them about their origins, so should be retained in a consistent format in a reliable place. However surrogacy organisations come and go and vary in their levels of professionalism, so I feel that information about their origins should also appear somewhere in the public record - maybe as a note in the birth register? Surrogacy organisations could be required to submit further details into a database or similar maintained by a more stable organisation in the long-term - probably a govt department.

Not Answered

Please provide your views below:

I think the period of time
should match the birth register or be appropriately annexed to it, so future generations can track their genealogy like everyone else.

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

No

Please provide your views below:

This is a tricky one because it seems strange that the child would have no genetic relationship with either IP. But I can imagine scenarios where double donation is required and wouldn't want to exclude people from parenthood because this is a biological necessity for them. I think the same rules should apply to straight and host surrogacy because, in my experience, straight surrogates have got their heads around donating their eggs. For those not going through established organisations, perhaps extra counselling for all parties would be advisable.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

This is a tricky one because it seems strange that the child would have no genetic relationship with either IP. But I can imagine scenarios where double donation is required and wouldn't want to exclude people from parenthood because this is a biological necessity for them. I think the same rules should apply to straight and host surrogacy because, in my experience, straight surrogates have got their heads around donating their eggs. For those not going through established organisations, perhaps extra counselling for all parties would be advisable.

18 Consultation Question 11:

Yes

Please provide your views below:

From time to time, problems arise in surrogacy arrangements and it's the surrogate's body and birth experience, so it would be wrong for her to be required to sign all parental rights away at the beginning of the process. In some situations, her signing this right away could lead to the IPs taking advantage of the surrogate and not giving her appropriate support through the pregnancy. The current position in law, wrong as it is, has the effect of keeping the IPs on 'best behaviour' and putting the surrogate at the top of their list of priorities at a time when it would be easy to get distracted by house renovations, baby shopping, last foreign holidays as a couple etc. If there was no right of appeal, uncaring/unscrupulous IPs could dismiss the surrogate as a person as soon as her pregnancy is confirmed.

19 Consultation Question 12:

No

Please provide your views below:

I think the surrogate should have the right to appeal but that the IPs should take the baby home as planned and be the default parents at birth as agreed at the outset. An exception to this could be if the relationship breaks down early and the surrogate completes an appeal/objection pre-birth. I think this should be allowed so a judgment can be made pre-birth and the child can go to its permanent parents from the outset. I also think the issue of genetic connection should be equally balanced between the IPs and surrogate. i.e. if it has been traditional surrogacy with donated sperm, the genetic argument is won by the surrogate, but in a host arrangement, the genetic argument is won by the IPs. I expect that courts will continue to decide these arguments based on the best interests of the child and it seems to me that genetic heritage is one significant component of this, irrespective of who the birth mother is. I would therefore agree that, if one of the IPs is the genetic parent, his/her parental rights should be retained in the event of the surrogate obtaining custody/parenthood in the courts.

20 Consultation Question 13:

Other

Please provide your views below:

It seems right that the IPs and surrogate both formally vouch for her capacity and that she isn't under duress. I'm struggling to understand the rationale for asking the IPs first and the surrogate only if they can't do so?

21 Consultation Question 14:

Yes

Please provide your views below:

It would be very sad if parents had to go through the same sort of intrusive and rigorous assessment that adopting parents have to endure.

22 Consultation Question 15:

Yes

Please provide your views below:

This has been one of the most bizarre and inappropriate elements of the current law!

No

Please share your views below:

23 Consultation Question 16:

Yes

Please provide your views below:

Yes

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Yes

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

This seems a strange proposal, as it would not only go against the surrogate's wishes at the time of her death (assuming she hadn't expressed any desire to challenge the arrangement) but also that the child would be born without legal parents. This seems unnecessary and deeply disadvantageous to the child. I would strongly suggest that, should the surrogate die, the child goes straight to the IPs and they immediately assume parenthood within the pathway in the normal way.

26 Consultation Question 19:

Yes

Please provide your views below:

The IPs should nominate in advance those adults who would care for the child in this situation and ensure that the surrogate has a chance to meet them, then they can adopt the child in the usual way any bereaved child would be adopted by family members in this situation.

Please provide your views below:

As above, the IPs should nominate those adults who can act as guardians in the first instance and who ultimately adopt the child. The IPs' parenthood should be reflected in the birth register somehow, so a PO would still be appropriate, followed by adoption by the designated guardians.

27 Consultation Question 20:

Yes

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

I think it's much clearer for there only to be one set of parents. Surrogates don't see themselves as mothers and children born through surrogacy don't need to be confused about who their parents are. The parents are the IPs and that's that, unless the surrogate exercised her right to appeal.

29 Consultation Question 22:

Please provide your views below:

No. I think a light touch is appropriate.

30 Consultation Question 23:

Please provide your views below:

The intention behind the creation of a human being may be relevant here. Ie in many cases regarding the welfare of the child, the child may not be living with its birth parents for a range of reasons, or be in the process of being adopted, which can create a feeling of rejection/abandonment for a child as they grow up. A child born through surrogacy has been brought into this world with great deliberation and through no little effort. An understanding of this 'being wanted' could be of great value to a child in terms of his/her welfare as s/he grows.

31 Consultation Question 24:

Please provide your views below:

This question is too technical for me, but I think IPs should enjoy the same rights in respect of their children as other parents.

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

This question is too technical for me, but I think IPs should enjoy the same rights in respect of their children as other parents.

33 Consultation Question 26:

Yes

Please provide your views below:

34 Consultation Question 27:

Yes

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

No

Please provide your views below:

The surrogate should never have parental responsibility unless she appeals and wins that case. In the absence of an objection, the IPs should be the parents without any further complications.

36 Consultation Question 29:

Please provide your views below:

I think there should only be one set of people with parental responsibility. Even if the parties are friendly, it could be unnecessarily complicated and a misrepresentation of the surrogate's role to award her with parental responsibility - surrogates don't want to be parents, they want to babysit and watch the family develop afterwards and return her focus to her own family. It's just confusing for everyone to share that responsibility.

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Yes

Please provide your views below:

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

In their nature, host and traditional surrogacy arrangements are the same in all the most important ways - the parties create a child intentionally to be raised by the IPs from birth and the surrogate makes no demand on them in terms of parental responsibility. In my experience, straight surrogates have got their heads around the genetic connection with the child and do not see them as their own, though special attention should be given to encouraging long term relationships between the child and the surrogate so the child can more easily understand their genetic origins as they grow. The other difference between the two types of surrogacy is that traditional surrogacy does not require a clinic so parties should be required to take the necessary steps to ensure each others' safety, such as medical checks and counselling and evidence of these could be required to enter the pathway.

Please provide your views below:

Paperwork showing that appropriate medical tests were performed before conception and that professional counselling was undertaken. Perhaps a paternity test for the resulting child could be recommended, as the process of conception is potentially unsupervised???

40 Consultation Question 33:

Yes

Please provide your views below:

There is a range of approaches and professionalism between the current organisations and it would be good to establish some minimum standards to ensure couples and surrogates receive the right support and are not exploited for profit.

Yes

Please provide your views below:

An exception to this is that I am very concerned about a surrogacy organisation being closely associated with a fertility law firm or fertility clinic or counselling service. I think there should be a total separation between such support organisations and the profit-making enterprises which could exploit the desperation of vulnerable IPs and surrogates by offering them unnecessary, potentially overpriced services. In these circumstances, the support organisation would essentially become the marketing department of a profit-making corporation, which would not benefit the individuals involved in surrogacy arrangements. I'm very concerned about an industry growing up around the new pathway which adds significant and entirely unnecessary cost into the process for IPs and think that any individual who is involved in a support organisation should be barred from acting as a director for or from benefitting financially from any clinics/law firms involved in surrogacy.

No

Please provide your views below:

I'm not sure an individual is the right answer, as the leadership of surrogacy organisations changes regularly and varies in quality. Plus many are volunteers and simply don't have the skill set or remuneration appropriate for such a level of responsibility. It might be better to set some criteria for effective governance of such organisations. Not necessarily anything as rigorous as the requirements of charity trustees as outlined by the Charity Commission, but perhaps organisations should be required to have some external body to whom they are required to report some metrics on eg a six-monthly basis and that these reports are very simple and are collected by a central regulator and reviewed on an exceptional basis. This could be a Board if some sort or, if the regulator has the resources, they could review the reports themselves.

41 Consultation Question 34:

Please provide your views below:

I only know SUK well, and this model would be difficult for us to adjust to. The skill-set required to meet these responsibilities is distributed across a numerous group of individuals, many of whom are volunteers and are therefore difficult to hold to account. I have actually advocated the recruitment of a chief executive-type role in the past, as I think it would benefit the organisation, but it would be expensive, which could ultimately further increase costs for IPs. Could a grant be made available to pay for this person?? I think the role and responsibilities seem sensible as scoped, it's just hard to see how one person can do it all.

Please provide your views below:

There's something about duty of care to it's members - both surrogates and IPs. To inform them honestly about the options available to them and not push them into relationships which aren't right for them for selfish motives.

Please provide your views below:

Usual leadership skills such as strategic planning, people and financial management and an awareness of effective governance standards.

Also understanding/experience of the world of infertility and ideally of surrogacy's unique cultures and legislative framework.

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Yes

Please provide your views below:

As above, I'm very concerned about an industry growing up around surrogates, funded by IPs who can rarely afford it, with little or none of the financial benefit being seen by surrogates because of agencies, lawyers and clinics all taking profits. Please keep profit out of surrogacy full stop!

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

I think it's completely valid to provide environments - online and in person - where surrogates and IPs can meet and decide to work together. I can also understand the merits for some people of a third party reviewing applications and making suggestions for who might get on. The decision ultimately has to rest with the individuals involved and they have to have the right and practical ability to walk away from a relationship without negative consequences.

It's valid and necessary for organisations to undertake tests to establish that no one is exposed to unnecessary risks.

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Yes

Please provide your views below:

I don't know how this would work in practice.... ie would the indie Facebook groups count as matching organisations and be shut down or have to establish themselves in a more official way?

There's a lot of good practice in those groups but on balance I think it's best to stick with regulated organisations because there are a few out there who seem sketchy at best and it would be good to make them raise their game or shut shop.

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

I don't know how this would work in practice.... ie would the indie Facebook groups count as matching organisations and be shut down or have to establish themselves in a more official way?

There's a lot of good practice in those groups but on balance I think it's best to stick with regulated organisations because there are a few out there who seem sketchy at best and it would be good to make them raise their game or shut shop.

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

If individuals or organisations are found to be exploiting surrogates or IPs for their own financial or other gain, I think it should be a criminal matter.

Otherwise I think it's a regulatory matter.

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Other

Please provide your views below:

I don't know enough about the HFEA to know if they have the skills and resources for this. It would be a shame if this were somehow a 'bolt-on' to a person's role with insufficient resources to do it properly....

Please provide your views below:

I'm not familiar enough with their code of practice to comment, but think that protection of the parties from exploitation by each other or surrogacy organisation and the best interests of children created through surrogacy should be the priority.

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Other

Please provide your views below:

As above, I'm concerned about unscrupulous third parties profiting from those entering surrogacy arrangements and making the process even more financially inaccessible. However organisations should be able to recover their costs in delivering the services outlined - I don't have a strong preference as to whether this is embedded in a membership fee or is a one-off charge.

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Yes

Please provide your views below:

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

No views

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

Yes

Please provide your views below:

Other

Please provide your views below:

I agree with most of this but, if I'm right in thinking that other donor conceived children can access identifying information about the gamete donors at 18, I think the same principle should apply to those born through surrogacy.

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

I think identifying information should be available. I'm not sure what non-identifying information would look like and what the benefit would be of knowing that your parent is e.g. a Swedish Fireman!

57 Consultation Question 49:

Yes

Please provide your views below:

Please provide your views below:

I think surrogacy-born children should be allowed access to that information automatically at 18. An opportunity to have counselling would be nice, but it's their right to know where they came from and if they choose not to take that opportunity up, it's their decision. I think it would be wrong for a judge to be given the power to decide on an adult individual's maturity!

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

Blimey, you really did think of everything!! I would say yes, and maybe from a younger age - say 14?

59 Consultation Question 51:

Yes

Please provide your views below:

Please provide your views below:

I think this should be allowed, but I doubt it will be of much interest to adults. The various children born by our surrogate into [redacted] different families have very little interest in each other!

60 Consultation Question 52:

Please provide your views below:

yes, definitely

Please provide your views below:

yes

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

I can't think of when there would be an IP who wouldn't be a party to the PO? Is this in the case of when a couple splits during pregnancy? If so, I think they should be recorded in the register.

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

Yes

63 Consultation Question 55:

Yes

Please provide your views below:

Yes

Please provide your views below:

I would add that it's important that the courts be allowed to apply this rule retrospectively to correct the parenthood of existing children where necessary.

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Yes

Please provide your views below:

Please provide your views below:

A year seems about right to dissuade surrogacy tourism.

65 Consultation Question 57:

Please provide your views below:

I'm not familiar enough with the detail of these categories to comment on specifics but think that surrogacy should be available to all those who are in a stable situation - either an established relationship (heterosexual or same sex) or a single person.

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Yes

Please provide views below:

67 Consultation Question 59:

Yes

Please provide views below:

Please provide views below:

I think it's fair that it should be allowed in both the new pathway and the PO route.

No

Please provide views below:

Subject to there being satisfactory evidence of medical necessity for donor gametes being used, I think that those going through international surrogacy should be treated the same as those going through domestic arrangements.

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Yes

Please provide your views below:

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Yes

Please provide views below:

70 Consultation Question 62:

Please provide your views below:

Definitely. It seems entirely wrong that people seek to access surrogacy because they find pregnancy distasteful in some way or because of vanity. There will never be enough surrogates to help infertile people to become parents, so let's not increase the pool of potential IPs to include those who are 'too posh to push' and might tempt vulnerable surrogates with large 'under the table' payments.

Please provide your views below:

A doctor's note should be adequate. There are obvious things like an absent womb, recurrent miscarriage, gay male partners and risk of death to an IM if she were to be pregnant. More tricky are cases of extreme psychological aversion to pregnancy but in all cases, an appropriately qualified medical professional should offer their opinion in writing and there should be an appeals process if someone is deemed not to have passed the test.

71 Consultation Question 63:

Yes

Please provide your views below:

Please provide your views below:

1) Yes, this feels consistent in principle with those who go through the pathway.
2) Yes, this seems logical in this situation if the law is to be upheld in this scenario. However I think this would be one good reason for ditching the requirement for a genetic link, as it's pretty distasteful to me to require a parent to do a DNA test before they are allowed officially to assume parenthood of their child.

Yes

Please provide your views below:

72 Consultation Question 64:

Yes

Please provide your views below:

Please provide your views below:

I think an age limit is inappropriate. I think we should keep all sorts of judgements of IPs' suitability as parents out of the legal framework. This should include age limits which, by their nature, fail to take account of an IP's individual physical capabilities or longevity.

Yes

Please provide your views below:

73 Consultation Question 65:

No

Please provide your views below:

This feels too young. I'm all for equality with the IPs, but a person of 18 is very unlikely to have completed their own family by this age and risks destroying her own fertility with youthful enthusiasm to help others. 21 minimum I think.

No

Please provide your views below:

This feels too young. I'm all for equality with the IPs, but a person of 18 is very unlikely to have completed their own family by this age and risks destroying her own fertility with youthful enthusiasm to help others. 21 minimum I think.

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Yes

Please provide your views below:

Please provide your views below:

I'm not familiar with the code of practice, but it's important that all parties are fully tested for contagious and genetic conditions in traditional as well as host arrangements and that the relevant results are shared between the parties. It may be sensible for IFs in traditional arrangements to be required to repeat tests at appropriate intervals to protect the surrogate in the event that he has been sexually active outside his relationship. Maybe three monthly?

75 Consultation Question 67:

Yes

Please provide your views below:

In my experience, this was a total waste of money, because we were very clued up as members of SUK, but it's a good rule to help those who might not have had the same network as we did.

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

No

Please provide your views below:

If the process continues to be as straightforward as the current PO process, I think this is unnecessary and a little patronising to IPs and surrogates to make this a requirement. Unlike implications counselling, the legal information is generic and can be made available to someone to read online and seek professional advice if they don't understand it or have particular complexities in their situation. I think this requirement would add absolutely no value and would encourage the development of a legal 'industry' around surrogacy which would be both distasteful and expensive to IPs.

77 Consultation Question 69:

Yes

Please provide your views below:

Please provide your views below:

I'm unfamiliar with that list, but anything that relates to the welfare of the child should be on there - obviously anything that gets you on the sex offenders register, GBH..... A youthful conviction for shoplifting or smoking cannabis shouldn't!

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

No.

I was initially nervous of surrogates who haven't completed their own families, but by getting to know some of them, I realise that there is a significant minority of surrogates who genuinely enjoy pregnancy and the experience of creating families, but have no desire to be mothers.

I would suggest an additional session with an appropriately qualified psychologist to ensure that they have considered all the implications for their own future/fertility.

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

Yes

Please provide your views below:

But it's not uncommon for women to want to continue to be surrogates beyond their physical capability to do so safely, so there should be a stringent test regarding risks to themselves in undergoing another pregnancy.

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on costs actually incurred by the surrogate, but without the need for production of receipts; or

Please provide your views below:

The principle here is that the surrogate shouldn't be out of pocket and that the process should be as discrete as possible to avoid embarrassment between friends, but that both parties are protected from exploitation.

If a surrogate has to produce a receipt for absolutely every expense, she will end up out of pocket because some of it will be too difficult to count because it merges into her everyday expenditure - the mileage to and from hospital appointments, the extra or different food that she might need or crave during pregnancy which is absorbed into a family supermarket shop, the pair of non-pregnancy trousers whose waistband snapped.... etc

I wasn't quite sure what was meant by an allowance in the question, but it makes sense that costs are paid up front rather than after the event, as often IPs have greater financial liquidity than surrogates and anyway, it's the IP's cost, so the surrogate shouldn't have to bankroll them! The SUK way to do this is for surrogates to estimate their expenses in advance and agree them with their IPs before the arrangement starts, so they can be paid discretely in monthly instalments and this worked well for us, but other devices/processes that allow the surrogate to avoid being out of pocket might work just as well. It's not always easy!

We did end up paying slightly more than our surrogate had recorded; in our situation this was no problem because we would have been horrified to accept their offer to give money back as they had done so much for us, and anyway we could easily afford it.

81 Consultation Question 73:

Please provide your views below:

1) Definitely. The surrogate shouldn't be out of pocket and she should be able to buy what she needs, when she needs it, not have to phone her IPs every time she needs to e.g. buy a pack of sanitary pads!

2) Pregnancy clothes, travel for doctors appointments/legal processes, supplements/food items, loss of earnings for self and partner and childcare for doctors appointments and pregnancy-related incapacity, post-birth recuperation period (loss of earnings and other costs for e.g. sanitary products)

82 Consultation Question 74:

Please provide your views below:

The essential/additional categories seem a little arbitrary to me, as I think the principle should be that a surrogate isn't out of pocket as a result of her pregnancy. But I also think these costs should be met by the IPs and I expect there are many more that I can't remember, as it's [redacted] years since I went through the process!

Cost relating to:
- building a relationship with potential IPs
- Non-NHS treatment for pregnancy-related conditions (e.g. therapy for SPD)
- connecting with IPs after birth (e.g. 3 trips to visit the new family)
- counselling for emotional issues relating to the surrogacy

83 Consultation Question 75:

Please provide your views below:

Yes, I think that all surrogacy-related costs are the responsibility of the IPs.

I can't think of further examples and they will be unique to each situation anyway so I'm not sure how useful it is to list them all as exceptions will occur. e.g. what if I'm a surrogate and have exotic pets that need specialist care when I'm away on appointments/giving birth? An individual, tailored approach needs to be taken.

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

Yes, where there is anything additional to pay above SMP, it is the IPs' responsibility to ensure that she is not out-of-pocket as a result of her surrogacy.

85 Consultation Question 77:

Please provide your views below:

86 Consultation Question 78:

Please provide your views below:

no experience of this, but being reimbursed for surrogacy-related costs does not count as income!

87 Consultation Question 79:

Please provide your views below:

I'm not sure what the legal definition of compensation is, but certainly IPs should cover the cost of treatment for these sorts of conditions/medical interventions. I don't think that surrogates should have an 'inconvenience fee' for this or any other aspect of surrogacy.

Please provide your views below:

Nothing that would constitute profit for her or her family, but anything else specific to her circumstances that means that she isn't out of pocket.

left to the parties to negotiate.

Please provide your views below:

Expenses/costs are unique to an individual's circumstances.

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

The IPs should pay for the surrogate to take out her own life insurance and their responsibility should end there.

89 Consultation Question 81:

Please provide your views below:

1) you can't prohibit or reasonably friends from giving each other xmas presents or enforce such rules, so yes, reasonable gifts should be allowed!!

2) provision should be made to prevent surrogates being 'bought' by ex gratia payments excessive gifting.

Again, the principle is that the surrogate shouldn't be out of pocket, but also not be a profit-making enterprise as that leaves her and her IPs open to

exploitation.

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

1) Surrogates in the UK don't want to be paid
2) If they were paid, it would make some women vulnerable to coercion to become surrogates
3) if some surrogates were paid, they would all face even more censure from society for 'selling their babies', whether that individual had accepted a payment or not
4) if they were paid, it would make surrogacy even less accessible to lower income IPs

Not Answered

Please provide your views below:

no payment should be allowed.

Please provide any views below:

91 Consultation Question 83:

Please provide views below:

In this event, the surrogate should be reimbursed for the costs she has incurred, in good faith, up until the point that the pregnancy ended, and for appropriate recovery costs afterwards.

The exception would be in the event that the surrogate were to terminate the pregnancy without the IPs' consent or if she were to somehow to have been proved to be extremely negligent in the care of the baby, which led to the miscarriage or termination.

Not Answered

Please provide your views below:

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Yes

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

I think the categories are arbitrary - they should just be reimbursed for the costs they incur, without unnecessary judgement.

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

Just to reiterate what I said above:
1) Surrogates in the UK don't want to be paid
2) If they were paid, it would make some women vulnerable to coercion to become surrogates
3) if some surrogates were paid, they would all face even more censure from society for 'selling their babies', whether that individual had accepted a payment or not
4) if they were paid, it would make surrogacy even less accessible to lower income IPs

95 Consultation Question 87:

Please provide your views below:

In either case, please keep regulation as light-touch as possible.

96 Consultation Question 88:

Other

Please provide your views below:

I definitely think that the IPs are responsible for meeting the financial terms of the agreement and, if the surrogate meets all aspects of the agreement and for some reason the IPs refuse to reimburse her, I would be happy to see a provision in the law for her to pursue them for those costs. But it feels wrong that only one side of the agreement is enforceable in law - perhaps because I don't know what the consequences would be for her if she broke her side of the bargain. I don't think it's right that IPs can legally require a surrogate to do anything at all with her body, but she shouldn't have carte blanche to take the money and hold the IPs to ransom with their baby.

Yes

Please provide your views below:

The only exception being if she is shown to be negligent in her care of the baby.

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

I'm not familiar with the detail of this provision, but it seems fair to me that surrogate partners have a few days off to look after their partner, not the full entitlement of a new dad.

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

Yes

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

I'm not sure what the current provision is, but parents through surrogacy should be given at least the same time off for antenatal appointments as 'normal' mothers, and arguably much more. My career was destroyed by surrogacy for many reasons. One of these was the time I had to take out of the office first for fertility treatment, then later to take a full day out of the office for a routine midwife appointment during pregnancy because of the four hour round trip. An extra allowance for the travelling would be good.

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

I don't know the regulations but I don't see why an IP would need to rest at work before a baby was born. There are provisions about fertility treatment for 'normal' couples which would hopefully also apply to those going through IVF for surrogacy purposes.

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

There is good guidance for health professionals available now but application is patchy at best. It would be good if these were enforced.

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:
[redacted]

domestic; or

If international, in which country did the arrangement take place?:

Yes

(a) opposite-sex couple;

118 Consultation Question 110:

domestic; or

No

No

Please provide the cost of any legal advice or representation below:

0

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

We had total trust in our surrogate, so it wasn't a worry for us that we weren't the parents at birth - we knew that the process would run its course. We were also lucky that our doctors, midwives and health visitors were all very accommodating and saw us as the parents from the outset. This was particularly important when my [redacted] The hospital [redacted] put me into a parents room in the NICU unit which allowed me to be there for him as he fought for his life and also to support our surrogate who was recovering for her section in a nearby ward.

We know we were very lucky; I can imagine how it would have felt to have had my parenthood questioned at that traumatic moment because I have friends who have been in exactly that situation and I'm very lucky I didn't have to experience that. I trust that the law will protect parents from that in the future.

Despite our trust in our surrogate, it still felt wrong to us all that the legal responsibility for our children rested with her and her husband, neither of whom wanted it. While we trusted them implicitly, our parents, siblings and close friends hadn't met them at that stage, and were distressed by the uncertainty to a variety of degrees, which had an impact on our early months as parents.

120 Consultation Question 112:

Please provide your views below:

I don't have records, but from memory the medical screening was about £1k, of which c£400 was an unnecessary repeat of genetic screening that they insisted on for reasons I never understood.

The implications counselling about £500 each time (in [redacted] to cover three appointments - 1) me and my husband 2) my surrogate and her husband and 3) all of us together.

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

domestic; or

Please provide your views below:

In total, to have our two children, I think we spent about £30k.

Please provide your views below:

Our expenses were relatively low and we could fund them from savings.

Please provide your views below:

None. I have MRKH so surrogacy was always our only option.

Please provide your views below:

from personal savings.

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

Response ID ANON-2V7F-Y819-Z

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 22:54:21

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

No

Please provide your views below:

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.
* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

15 Consultation Question 8:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalisation of surrogacy and an increase in its prevalence.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway.'

18 Consultation Question 11:

No

Please provide your views below:

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

19 Consultation Question 12:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

20 Consultation Question 13:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

21 Consultation Question 14:

No

Please provide your views below:

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

22 Consultation Question 15:

No

Please provide your views below:

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, and all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

Yes

Please share your views below:

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

23 Consultation Question 16:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

No

Please provide your views below:

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

No

Please provide your views below:

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

26 Consultation Question 19:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

Please provide your views below:

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

27 Consultation Question 20:

Yes

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

29 Consultation Question 22:

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

30 Consultation Question 23:

Please provide your views below:

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

31 Consultation Question 24:

Please provide your views below:

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also convinced that there should be no relaxation of the laws on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

33 Consultation Question 26:

No

Please provide your views below:

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

34 Consultation Question 27:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Other

Please provide your views below:

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

36 Consultation Question 29:

Please provide your views below:

I disagree wholeheartedly with the proposals for the ‘new pathway’. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child’s best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Other

Please provide your views below:

I disagree wholeheartedly with the proposals for the 'new pathway'.

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

I disagree wholeheartedly with the proposals for the 'new pathway', it contradicts binding obligations under the UNCRC and its first optional protocol.

Please provide your views below:

I disagree wholeheartedly with the proposals for the 'new pathway', it contradicts binding obligations under the UNCRC and its first optional protocol.

40 Consultation Question 33:

No

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Other

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Other

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

41 Consultation Question 34:

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Please provide your views below:

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Other

Please provide your views below:

I disagree with the proposal for regulated surrogacy organisations because they would both sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving any kind of income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Other

Please provide your views below:

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I totally disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent.

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

I disagree wholeheartedly with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely to present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a dilution of the understanding that the relationship between the birth mother and the child is

unique.

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

Yes

Please provide your views below:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

I agree but with the proviso that all the information should be identifying because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

57 Consultation Question 49:

Yes

Please provide your views below:

Please provide your views below:

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

YES, this should be possible.

59 Consultation Question 51:

Yes

Please provide your views below:

Please provide your views below:

Yes

60 Consultation Question 52:

Please provide your views below:

Yes

Please provide your views below:

Yes

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

No, the time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

63 Consultation Question 55:

No

Please provide your views below:

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of women by the means of the rental of their wombs. An adoption order can be considered as an option when a parental order is not possible.

No

Please provide your views below:

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of women by the means of the rental of their wombs. An adoption order can be considered as an option when a parental order is not possible.

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

Please provide your views below:

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK because of the risk of surrogacy tourism.

65 Consultation Question 57:

Please provide your views below:

The qualifying categories of relationship should not be reformed or removed.

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Other

Please provide views below:

I disagree profoundly with the proposals for the 'new pathway'.

67 Consultation Question 59:

No

Please provide views below:

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I do not believe that surrogacy is ever a 'medical necessity.'

Please provide views below:

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

Yes

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

No

Please provide your views below:

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I do not believe that surrogacy is ever a 'medical necessity.'

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

No

Please provide views below:

I do not believe that surrogacy is ever a 'medical necessity.'

70 Consultation Question 62:

Please provide your views below:

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I do not believe that surrogacy is ever a 'medical necessity.'

Please provide your views below:

I do not believe that surrogacy is ever a 'medical necessity.'

71 Consultation Question 63:

Other

Please provide your views below:

I wholeheartedly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

Please provide your views below:

I support this condition for a parental order in the circumstances described in both (1) and (2).

Yes

Please provide your views below:

72 Consultation Question 64:

No

Please provide your views below:

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

Other

Please provide your views below:

profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

73 Consultation Question 65:

Other

Please provide your views below:

I am opposed to surrogacy per se and consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Other

Please provide your views below:

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

Please provide your views below:

75 Consultation Question 67:

Other

Please provide your views below:

I profoundly disagree with the proposals for the ‘new pathway’.

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the ‘new pathway’.

77 Consultation Question 69:

Other

Please provide your views below:

I profoundly disagree with the proposals for the ‘new pathway’.

Please provide your views below:

I profoundly disagree with the proposals for the ‘new pathway’.

78 Consultation Question 70: We invite consultees’ views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

I am profoundly opposed to surrogacy and the introduction of the ‘new pathway’.

However, society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

No

Please provide your views below:

I am profoundly opposed to surrogacy and the introduction of the ‘new pathway’.

However. society should not condone women undergoing multiple ‘surrogate’ pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women’s reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

81 Consultation Question 73:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, travel to medical appointments – backed up by receipts.

82 Consultation Question 74:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, travel to medical appointments – backed up by receipts.

83 Consultation Question 75:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, travel to medical appointments – backed up by receipts.

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, travel to medical appointments – backed up by receipts.
I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

85 Consultation Question 77:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, travel to medical appointments – backed up by receipts.
I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

Please provide your views below:

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (or conversely may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post-natal depression and post-partum psychosis can be fatal, or impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.
This question shows that at least the proposers of this legislation understand the risks of surrogacy and hence why I oppose it.

89 Consultation Question 81:

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

Not Answered

Please provide your views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

Please provide any views below:

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

91 Consultation Question 83:

Please provide views below:

This question is not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Not Answered

Please provide your views below:

This question is not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Other

Please provide your views below:

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

I am opposed to the 'new pathway' and surrogacy as a practice but if it should take place the only payments that should ever be made are essential and basic expenses for which receipts are provided.

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

I am opposed to the 'new pathway' and surrogacy as a practice but if it should take place the only payments that should ever be made are essential and basic expenses for which receipts are provided.

95 Consultation Question 87:

Please provide your views below:

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

96 Consultation Question 88:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The idea that a 'surrogacy agreement' could place restrictions on the birth mother's lifestyle is utterly abhorrent.

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

No

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

Please provide your views below:

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

No

Please provide your views below:

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Other

Please provide your views below:

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

107 Consultation Question 99:

No

Please provide your views below:

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

108 Consultation Question 100:

Please provide your views below:

Please provide your views below:

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

I do not believe this needs changing.

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

No

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

115 Consultation Question 107:

Please provide your views below:

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself. There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are the standard of care in other counties.

Please provide your views below:

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

Please provide your views below:

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

It seems that before the law commissioners designed this consultation, they had already decided that the practice of surrogacy is positive and so legislation should enable it. This alone makes this consultation hopelessly biased. It may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy: 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country. It could be argued that one of the key drivers of commercial surrogacy is a desire to break the legal and cultural recognition of the unique bond between birth mother and child; the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line, potentially affecting the status of all women.

Paid surrogacy also opens up enormous potential for abuse. There is a strong likelihood that spouses, partners and other family members may coerce women into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

• Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
• Advance equality of opportunity between people who share a protected characteristic and those who do not.
• Foster good relations between people who share a protected characteristic and those who do not. There are many ways in which relaxing rules on surrogacy in the UK is likely to worsen women's position relative to men's; any loosening of the laws around surrogacy could therefore be considered discriminatory.

Surrogacy is also likely to have an impact on the relations between different generations; imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers. This is another aspect of the practice which suggests that the rights of the child have not been taken into account when formulating this consultation.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

 The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.

 All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
 The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
 Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
 Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

In addition to this, the consultation is confusing and does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be changed.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

[redacted]

From: [redacted]
Sent: 11 October 2019 22:00
To: surrogacy
Subject: Surrogacy consultation

ABOUT YOU

1. What is your name?

Name (Required)

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

N/A

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

☐ This is a personal response

If other, please provide details:

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

☐ Other individual

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

N/A

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

I do not give you my consent to share my name publicly. I am submitting this response to give you an opinion from the general public.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1)domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2)If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth,with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.15 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement.This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.16 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.17 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.18 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.19 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.20 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.21 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.22 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.23 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.24 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the childwith the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.25 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the childbased on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.26 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.27 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.28 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.29 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate'mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and theirreproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate'mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.31 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.32 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.33 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.34 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.35 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.36 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.37 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.38 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.39 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.41 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.42 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which Iconsider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.43 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.44 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.45 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.46 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.47 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.48 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.49 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.50 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children,and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to

their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.51 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.52 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.53 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I amparticularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.54 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.55 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.56 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.57 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Sent from my iPhone

Response ID ANON-2V7F-Y812-S

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 22:57:34

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

Not applicable

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

No

Please provide your views below:

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and
parental responsibility in surrogacy arrangements should be taken by a court or other competent
authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should
be open.
* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

I disagree with this proposal. It contradicts the UN Special Rapporteur's key
recommendations* and the Hague Convention on the Protection of Children and Cooperation in
respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context. This proposal would set a very dangerous precedent for all women, all mothers, all children and
all of the implications need to be fully understood. There is no evidence in the consultation paper
that the law commissioners have considered these more general implications fully, if at all.
I understand that the proposal to automatically grant the 'intended parents' legal parenthood at
birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify
measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

15 Consultation Question 8:

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy
organisations.

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposal for regulated surrogacy organisations, because they
would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

I profoundly disagree with the proposals for the new pathway.

18 Consultation Question 11:

No

Please provide your views below:

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire
legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.
* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

19 Consultation Question 12:

Not Answered

Please provide your views below:

20 Consultation Question 13:

Not Answered

Please provide your views below:

21 Consultation Question 14:

Not Answered

Please provide your views below:

22 Consultation Question 15:

No

Please provide your views below:

Not Answered

Please share your views below:

23 Consultation Question 16:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Not Answered

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

26 Consultation Question 19:

Not Answered

Please provide your views below:

Please provide your views below:

27 Consultation Question 20:

Not Answered

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

29 Consultation Question 22:

Please provide your views below:

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

Not Answered

Please provide your views below:

34 Consultation Question 27:

Not Answered

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Not Answered

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

Name (Required)

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

University of [redacted]

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

- **This is a personal response**
- This is a response on behalf of an organisation
- Other

If other, please provide details:

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

- Surrogate
- Intended parent
- Person born of a surrogacy arrangement
- Family member of a surrogate
- Family member of an intended parent
- Legal practitioner
- Medical practitioner or counsellor
- Social worker
- **Academic**
- Other individual

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration.

Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly **disagree** with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly **disagree** with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in

surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or

parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and

facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the

recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

Leave both check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the ‘new pathway’. The idea that a ‘surrogacy agreement’ could place restrictions on the birth mother’s lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children’s rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y817-X

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 22:58:28

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

n/a

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

n/a

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

Having attended one of there Law Commission's consultation events, I was particularly concerned by the tome in which some of the proposed changes were discussed, not the least then implications of adjustments/relaxation of rules re domiciliary requirements and genetic link for Intended Parents (IPs) in international cases. Oversight of the High Court should be an absolute minimum to secure some degree of protection from exploitation for women overseas.

Please provide your views below:

see above.

9 Consultation Question 2:

Please provide your views below:

I believe these cases should receive a higher level of scrutiny than at present.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

No

Please provide your views below:

I believe it is vital that such orders should not be made prior to the birth of a child. The best interests of the child cannot be served by using any automatic transfer of parental rights.

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Not Answered

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

Parental rights should not be transferred FROM the surrogate mother prior to the birth - any consent must be given freely after the birth of a child and allowing a potential time frame that accommodates the needs and wishes of the woman who gave birth. The current system is preferable to the proposal.

Throughout the process, the rights of the child should be upheld as a priority. The proposal prioritises the rights of the IPs over the child's rights. This is not acceptable.

This system was proposed as the preference of some surrogates in the UK. Again, this prioritises the wishes of adults over the rights of the child. Moreover I did not personally feel reassured that these views were representative of women affected - in the consultation meeting a strong impression was given that these views were sourced through surrogacy agencies.

15 Consultation Question 8:

Other

Please provide your views below:

As I do not support the proposed new pathway, I do not feel able to respond using these options.

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Other

Please provide your views below:

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

I do not support the new pathway. In my view no arrangements should enter the new pathway.

18 Consultation Question 11:

No

Please provide your views below:

This aspect of the consolation meeting was odd particular concern. the current arrangements allow for an extended delay in a woman consenting too the transfer of parental rights. The proposal would effectively give her only a few weeks - at a time, postpartum, when she may not be in a position to make an effective and binding decision. that it will be driven by the demands of existing birth registration time-limits highlights the dismissive approach of the proposed new 'pathway'. She may not be in position to halt the process. This could include a number of medical conditions arising from the birth that could limit her capacity to consent.

That the representative of the Law Commission who addressed the Cardiff meeting was unable to supply any meaningful numbers of women who have refused consent under existing arrangements was also disturbing. The suggested from approximated percentages shared on the day was that this could amount to 5/6 women a year in the UK. This is clearly a high number of cases highlighting a situation where potentially that women may lose their rights.

19 Consultation Question 12:

Other

Please provide your views below:

The current system allows for these circumstances and I believe it is a better system than the proposed pathway, which I would reject.

20 Consultation Question 13:

No

Please provide your views below:

The notion that IPs should make declarations as to the fitness of the surrogate mother is both disturbing and risible. The IPs will to be in a position, for example, to speak to the capacity of the birth mother. I do not understand how such a suggestion merited serious consideration.

That the birth mother's consent is listed as secondary to the IPs declaration is of concern. the IPs are interested parties in this process and cannot make any objective judgement. The default in any birth should e that the known parent - the birth mother - should have legal responsibility for the child. Creating a pathway with an alternative default is unacceptable.

Reducing the time frame for such a decision to a matter of weeks is unjust and likely to act against the best interests of the child.

21 Consultation Question 14:

No

Please provide your views below:

The pathway proposed is fundamentally flawed.

Parents who are actively enabled to take responsibility for a child can reasonably be asked to provide data that supports their fitness for parenthood. Surrogacy is, in this sense, more akin to adoption than any other parental option. Check prior to the process will not necessarily provide full transparency. Welfare checks post birth should be retained. Agencies are interested parties in these transactions and should not bear unscrutinised responsibilities for such checks.

22 Consultation Question 15:

No

Please provide your views below:

I do not agree with the adoption of the proposed pathway.

Moreover partners can be agents of coercion in women's involvement in surrogacy. Removing any automatic parental responsibility from the birth mother may increase this risk also.

Yes

Please share your views below:

The conventional systems of recording parenthood should remain in such births as they do in all others.

23 Consultation Question 16:

No

Please provide your views below:

Legal parenthood should remain with the birth mother.

No

Please provide your views below:

Legal parenthood should remain with the birth mother.

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Not Answered

Please provide your views below:

Legal parenthood should remain with the birth mother.

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

I do not agree with the new pathway. I certainly do not think anyone in such an arrangement should be able to assume legal parenthood of a child automatically after the death of its mother.

26 Consultation Question 19:

No

Please provide your views below:

Legal parenthood should remain with the birth mother. A child has the right to accurate birth records that reflect the truth of its birth.

Please provide your views below:

Option 2 - A child has the right to accurate birth records that reflect the truth of its birth.

27 Consultation Question 20:

Yes

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

It is important that the legal parenthood of the birth mother is not extinguished automatically under any circumstances. In a complex situation as described for a 'three-parent" model, the courts are the proper place for such decisions to be made, even on a temporary basis. The courts should be allowed sufficient time to properly consider the potential issues that could arise.

29 Consultation Question 22:

Please provide your views below:

I do not support the adoption of the proposed pathway.

30 Consultation Question 23:

Please provide your views below:

The welfare checklist provides a suitable measure as it stands. The rights of the child must be paramount and the current checklist supports their consideration.

31 Consultation Question 24:

Please provide your views below:

The court should continue to oversee all such arrangements in order to guard against the exploitation. of mothers and the very real risk of what would effectively be the sale of children. This is a serious matter that cannot be regulated using simple check box procedures.

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

The court should continue to oversee all such arrangements in order to guard against the exploitation. of mothers and the very real risk of what would effectively be the sale of children. This is a serious matter that cannot be regulated using simple check box procedures.

33 Consultation Question 26:

Not Answered

Please provide your views below:

I do not believe there should ever be an automatic transfer of parental responsibility. These matters should always be decided by the courts.

34 Consultation Question 27:

No

Please provide your views below:

I do not support the new pathway. In my view no arrangements should enter the new pathway. I do not believe there should ever be an automatic transfer of parental responsibility. These matters should always be decided by the courts.

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Not Answered

Please provide your views below:

I do not support the new pathway. The expiry period proposed is far too short.

36 Consultation Question 29:

Please provide your views below:

The legal responsibility for a newborn should always remain with the birth mother until otherwise decided by the courts, with her full consent and after sufficient time for her to make this decision.

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

No

Please provide your views below:

I completely reject the proposed pathway and would urge for the proposal to be rejected.

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

I do not support the proposed pathway.

Please provide your views below:

I do not support the proposed pathway.

40 Consultation Question 33:

No

Please provide your views below:

Surrogacy organisations promote and advocate for surrogacy. Regulation will confer responsibilities onto such organisations and it is doubtful that they would be able to carry out such responsibilities impartially and effectively. Promoting surrogacy would have negative effects for many women.

Other

Please provide your views below:

Regulating such agencies introduces risks, as this question suggests.

Other

Please provide your views below:

I do not believe that such a system of governance would be robust or effective in protecting the rights of the children and birth mothers involved.

41 Consultation Question 34:

Please provide your views below:

I do not believe that such a system of governance would be robust or effective in protecting the rights of the children and birth mothers involved.

Please provide your views below:

I do not believe that such a system of governance would be robust or effective in protecting the rights of the children and birth mothers involved.

Please provide your views below:

I do not believe that such a system of governance would be robust or effective in protecting the rights of the children and birth mothers involved.

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Other

Please provide your views below:

It is not possible for such an organisation to exist in a regulated form without funding and consequent commercialisation in one form or another. this risks further abuses of a system that requires rigorous oversight of the courts at all stages.

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

See my answer above.

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

No

Please provide your views below:

I do not support either the new pathway or the regulation of surrogacy organisations

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

There should be no such regulated organisations.

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

There should be no such regulated organisations.

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Other

Please provide your views below:

There should be no such regulated organisations. Modification of the Act to include their services would legitimise a dangerous system that does not support the rights of the children involved. I also do not support adoption of the proposed pathway.

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Yes

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

The principle that any such arrangements should be entirely non-commercial must be maintained. Relaxing any view on fees for surrogacy would clearly endanger that principle. Organisations taking fees is precisely the justification for rejecting the proposal to regulate such organisations. There is a huge conflict of interest involved in what is fundamentally an issue of the Hunan rights of a child not to be bought or sold.

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

No

Please provide your views below:

A ban on advertising should be absolute.

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Not Answered

Please provide your views below:

Every child deserves to have a bird. certificate that accurately records the facts of their birth. This IPs should not be registered as parents on the original birth certificate.

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

No. Reforms regarding surrogate parents are not necessary.

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

Yes

Please provide your views below:

Not Answered

Please provide your views below:

Where surrogacy arrangements have taken place, keeping a full record of all details - that can be accessed by the child in adulthood - is necessary.

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

A child has the right to all relevant information about their origins. I can see no justification for anonymising any elements of this record.

57 Consultation Question 49:

Yes

Please provide your views below:

Please provide your views below:

All of the above, were in 3) serious considerations nee to be given to the request .

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

Yes

59 Consultation Question 51:

Yes

Please provide your views below:

Please provide your views below:

Yes

60 Consultation Question 52:

Please provide your views below:

Yes

Please provide your views below:

Yes

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

They should

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

No. A substantial amount of time should be allowed for the birth mother to make this decision.

63 Consultation Question 55:

No

Please provide your views below:

This suggests a loophole by which exploitative surrogacy could take place covertly. I do not agree with this proposal.

Other

Please provide your views below:

2a) appears contradictory in that the consent of the surrogate is stated as given.

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Other

Please provide your views below:

I do not support the new pathway

Please provide your views below:

I do not support the new pathway

65 Consultation Question 57:

Please provide your views below:

They should not be reformed

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Not Answered

Please provide views below:

I do not support the new pathway

67 Consultation Question 59:

No

Please provide views below:

I believe the genetic link should be maintained.

Please provide views below:

I do not support the new pathway. Double donation would not support a genetic link.

No

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

No

Please provide your views below:

I believe the genetic link should remain

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

No

Please provide views below:

70 Consultation Question 62:

Please provide your views below:

Surrogacy is not a medical necessity.

Please provide your views below:

Surrogacy is not a medical necessity because parenthood is not a medical necessity.

71 Consultation Question 63:

Other

Please provide your views below:

I do not support the new pathway

Please provide your views below:

Children deserve to have details of all the genetic links forged in their conception and birth. Records should provide them with as full a picture as possible of their origins.

Yes

Please provide your views below:

72 Consultation Question 64:

No

Please provide your views below:

There are tow issues here: the rights of children should be paramount - adults have no rights to have children

and

Welfare checks were being so easily dismissed earlier in this consultation.

The ages of IPs are relevant and should be a matter of concern to the judges granting any parental order.

Please provide your views below:

I do not support the proposed pathway. I was discouraged to learn that there is currently no minimum age for women acting as surrogate mothers and feel this should be addressed separately.

No

Please provide your views below:

This is a profound act and the age of 18 is too low to make such a life-altering decision. there are risks involved in any pregnancy and in childbirth, risks that it is hard for any 18 year old to comprehend. Still less to comprehend the act of handing a baby over to be cared for by others. Moreover, as with any age limit, there is a normalising effect when such a limit is set. I would not advocate for such a low limit to be set.

73 Consultation Question 65:

Other

Please provide your views below:

This is a profound act and the age of 18 is too low to make such a life-altering decision. there are risks involved in any pregnancy and in childbirth, risks that it is hard for any 18 year old to comprehend. Still less to comprehend the act of handing a baby over to be cared for by others. Moreover, as with any age limit, there is a normalising effect when such a limit is set. I would not advocate for such a low limit to be set.

Other

Please provide your views below:

This is a profound act and the age of 18 is too low to make such a life-altering decision. there are risks involved in any pregnancy and in childbirth, risks that it is hard for any 18 year old to comprehend. Still less to comprehend the act of handing a baby over to be cared for by others. Moreover, as with any age limit, there is a normalising effect when such a limit is set. I would not advocate for such a low limit to be set.

It is particularly important that the proposed pathway is not adopted if one is considering 18 year old birth mothers as the decision making period would be so very short.

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Other

Please provide your views below:

I do not support the new pathway

Please provide your views below:

75 Consultation Question 67:

Other

Please provide your views below:

I do not support the new pathway

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Other

Please provide your views below:

I do not support the new pathway

77 Consultation Question 69:

Other

Please provide your views below:

I do not support the new pathway

Please provide your views below:

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

I do not support the new pathway

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

No

Please provide your views below:

I do not support the new pathway moreover am absolutely against the notion that an unlimited number of surrogate pregnancies could be supported by such a system.

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on costs actually incurred by the surrogate, and only on production of receipts.

Please provide your views below:

Any payments that are not directly related to identifiable essential expenses could be actioned as an incentive that might lead to economic exploitation of women's reproductive capacity.

81 Consultation Question 73:

Please provide your views below:

Travel, additional medical costs inc vitamins, and basic clothing only. There is so much danger of exploitation with surrogacy that there has to be vigilance to ensure any woman involved is acting entirely altruistically. Monetisation will corrupt this process.

82 Consultation Question 74:

Please provide your views below:

Travel, additional medical costs inc vitamins, and basic clothing only. There is so much danger of exploitation with surrogacy that there has to be vigilance to ensure any woman involved is acting entirely altruistically. Monetisation will corrupt this process.

83 Consultation Question 75:

Please provide your views below:

Travel, additional medical costs inc vitamins, and basic clothing only. There is so much danger of exploitation with surrogacy that there has to be vigilance to ensure any woman involved is acting entirely altruistically. Monetisation will corrupt this process.

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

No. This poses a huge risk re exploitation.

85 Consultation Question 77:

Please provide your views below:

Absolutely not.

86 Consultation Question 78:

Please provide your views below:

There is a conflict of interests here. Where a woman might be disadvantaging herself financially then the costs should never be made up from surrogacy fees.

87 Consultation Question 79:

Please provide your views below:

None of the above.

Please provide your views below:

None.

Not Answered

Please provide your views below:

No fees of any kind. There is a vital principle at stake here.

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

That this question needs to be asked exposes the risks of surrogacy.

89 Consultation Question 81:

Please provide your views below:

Too much risk of economic exploitation

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

Absolutely never.

Not Answered

Please provide your views below:

Paid surrogacy must never be permitted.

Please provide any views below:

Paid surrogacy must never be permitted.

91 Consultation Question 83:

Please provide views below:

Paid surrogacy must never be permitted.

Not Answered

Please provide your views below:

Paid surrogacy must never be permitted.

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Other

Please provide your views below:

Paid surrogacy must never be permitted.

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

Paid surrogacy must never be permitted.

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

Paid surrogacy must never be permitted.

95 Consultation Question 87:

Please provide your views below:

Paid surrogacy must never be permitted.

96 Consultation Question 88:

Other

Please provide your views below:

Paid surrogacy must never be permitted.

Other

Please provide your views below:

Paid surrogacy must never be permitted. No conditions should be placed on a pregnant woman by other parties in that manner.

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

No

Please provide your views below:

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

102 Consultation Question 94:

No

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Please provide your views below:

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

No

Please provide your views below:

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

Not Answered

Please provide your views below:

I do not support the proposed pathway for any parents

107 Consultation Question 99:

No

Please provide your views below:

108 Consultation Question 100:

Please provide your views below:

Please provide your views below:

There must be restrictions in place in order to protect against the exploitation of women through surrogacy.

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

No

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

None

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

I do not believe that surrogacy is an equivalent route to parenthood that should be comparable to birth or adoption.

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

I believe we should discourage surrogacy as a route to parenthood

115 Consultation Question 107:

Please provide your views below:

Please provide your views below:

I think that there should be clear descriptions of the risks and consequences of acting as a surrogate so that it is not presented to the public as a 'simple solution' for childlessness.

Please provide your views below:

I do not believe that surrogacy is a health issue for the IPs and thus remains an issue of gynaecological care for the pregnant woman and that this and care in childbirth should always be focussed on the birth mother's needs

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

There are huge risks within surrogacy - risks of abuse and exploitation of women. I believe that the Law Commission should have attended more to these issues within this consultation.

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

The primary concern should remain focussed on the welfare of the child. The nest concern should remain the welfare of the birth mother. IPs have legitimate responsibilities and concerns but these cannot override those of the above.

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

The genetic link provides the only rational justification for surrogacy, Without such a link we are risking a babies-to-order approach becoming more prevalent. During the consultation, the representative of the Law Commission assorted us that so-called 'social surrogacy' is not having an impact here in the UK but this trend is making it's presence felt in other parts of the world. We must always guard against this phenomenon which risks exploiting economically vulnerable women further.

Please provide your views below:

there is no medical necessity for surrogacy as there is no medical necessity to be a parent.

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

Name (Required)

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

Other individual

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for children to be sold or trafficked and otherwise exploited. They risk exploiting birth mothers. These human rights issues should be treated with the utmost seriousness. Therefore surrogacy arrangements should be overseen by a senior and experienced judge, and continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

Since all surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers, arrangements should be overseen by a senior and experienced

judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

This proposal contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations, which propose an undermining of the current rights of surrogate children and their mothers.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and

parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth

and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and

facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the

recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

Leave both check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the ‘new pathway’. The idea that a ‘surrogacy agreement’ could place restrictions on the birth mother’s lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children’s rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y8UR-W

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 23:04:31

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

n/a

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Intended parent

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Details which could be used to identify my children (date and country of birth) as well as the surrogate should remain confidential.

Chapter 6: The parental order procedure

8 Consultation Question 1:

No

Please provide your views below:

International Surrogacy should be handled the same way as domestic surrogacy arrangements.

Please provide your views below:

Agreed, International Surrogacy should be handled the same way as domestic surrogacy arrangements.

9 Consultation Question 2:

Please provide your views below:

Applications should be dealt with as quickly and efficiently as possible. I cannot comment on the level of judiciary required but where possible I think these arragnements should be decided pre birth.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

My partner and I had children through international surrogacy. We found the process of parental orders quite daunting and even sough legal advice pre and post birth to ensure our application was successful.

As our children were born abroad the six month time limit was a source of great anxiety, as we could not apply for the parental order outside of the UK. Furthermore, it was not clear from the process what the final document submission should look like and and what level of detail would be required, this information we only obtained via legal counsel.

This was by far one of the most stressful experiences in my life, only to be compounded by having to travel to [redacted] with 2 infants in tow.

11 Consultation Question 4:

Yes

Please provide your views below:

Agreed, wherever possible the time between birth and allocation of parental responsibility should be kept to a minimum.

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

no comment

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

Yes

Please provide your views below:

15 Consultation Question 8:

Yes

Please provide your views below:

Provide they respect the privacy wishes of parties involved

100 years; or

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

No

Please provide your views below:

No, all surrogacy arrangements (where anonymous or otherwise) should have access to traditional surrogacy arrangements .

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

All surrogacy arrangements (where anonymous or otherwise) should entering into the new pathway.

18 Consultation Question 11:

Yes

Please provide your views below:

19 Consultation Question 12:

Yes

Please provide your views below:

20 Consultation Question 13:

Yes

Please provide your views below:

21 Consultation Question 14:

Yes

Please provide your views below:

22 Consultation Question 15:

Yes

Please provide your views below:

No

Please share your views below:

23 Consultation Question 16:

Yes

Please provide your views below:

Yes

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Yes

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

Parental responsibility should automatically go to the intended parent in this situation.

26 Consultation Question 19:

Yes

Please provide your views below:

Please provide your views below:

Option 1 - an agreement should be in place should both IPs die prior to birth, the Surrogate mother should have the same option to object as in the new pathway.

27 Consultation Question 20:

Yes

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

There is a genetic parent (1), a surrogate (2), and a second intended parent (3)

If No. 2 elects to be added the birth register than No. 3 would not be listed on the register, but would be given parental responsibility through the same mechanism as visitation rights in divorce cases.

29 Consultation Question 22:

Please provide your views below:

No

30 Consultation Question 23:

Please provide your views below:

No, I cannot imagine what those factors would be

31 Consultation Question 24:

Please provide your views below:

No, I cannot imagine what those factors would be

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

Agree, intended parents should have as much say as surrogates in this situation

33 Consultation Question 26:

Yes

Please provide your views below:

34 Consultation Question 27:

Yes

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

No

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

The wishes of intended parents should take precedent

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Yes

Please provide your views below:

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

n/a

39 Consultation Question 32:

Please provide your views below:

It would make sense that all surrogacy arrangements follow the sames pathway for allocation of parental responsibility

Please provide your views below:

Although the agreements are independent the parties involved will still interact with websites/clinics/doctors.

There should be a guides available so that all parties are aware of what to expect pre and post birth.

40 Consultation Question 33:

Yes

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

41 Consultation Question 34:

representing the organisation to, and liaising with, the regulator;, ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;, providing data to the regulator and to such other person as required by law.

Please provide your views below:

Organization management and compliance are not the same thing. There should be someone in charge of compliance, but the managing and training of staff is a different role.

Please provide your views below:

n/a

Please provide your views below:

1) Full understanding of the legal requirements.
2) Understanding of Surrogate, Child and IP welfare

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

No

Please provide your views below:

What is the evidence that non-profits are better run than for profit businesses?

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

no comment

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Yes

Please provide your views below:

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

If Surrogates and Intended Parents are operating outside the new pathway, than they should be free to use unregulated matching services

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

no comment

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Yes

Please provide your views below:

Please provide your views below:

no comment

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

No

Please provide your views below:

If agreements are unenforceable, what is the point of an agreement?

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Yes

Please provide your views below:

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Yes

Please provide your views below:

Chapter 10: Children's Access to Information About Surrogacy Arrangements

51 Consultation Question 43: We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18. Do consultees agree?

Yes

Please provide your views below:

52 Consultation Question 44: We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

53 Consultation Question 45: We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Please provide your views below:

n/a

54 Consultation Question 46: We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.Do consultees agree?

Yes

Please provide your views below:

55 Consultation Question 47:

No

Please provide your views below:

Individuals who wish to remain anonymous should have their wishes respected.

No

Please provide your views below:

Individuals who wish to remain anonymous should have their wishes respected. DNA records should not be retained.

56 Consultation Question 48: We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Please provide your views below:

Yes

57 Consultation Question 49:

Yes

Please provide your views below:

Please provide your views below:

No, the intended parent will have documentation relating to this information and it is up them to share this information with the child before the age of 16.

58 Consultation Question 50: We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Please provide your views below:

Yes, although this occurrence seems vanishingly small.

59 Consultation Question 51:

Yes

Please provide your views below:

Yes, a person 18 years or older should have a right to find siblings

Please provide your views below:

Yes, although I feel this up to the surrogate mother to decide.

60 Consultation Question 52:

Please provide your views below:

Yes

Please provide your views below:

Up to the surrogate mother to decide

61 Consultation Question 53: For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Please provide your views below:

Yes, if this person has been granted parental responsibility

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

Yes, the 6 month limit is a source of anxiety for those whose children were born outside the UK, and it is entirely possible that a parent may miss the 6 month deadline through no fault of their own.

63 Consultation Question 55:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

No

Please provide your views below:

The eligibility criteria should be based on citizenship only

Please provide your views below:

65 Consultation Question 57:

Please provide your views below:

no change

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Yes

Please provide views below:

67 Consultation Question 59:

Yes

Please provide views below:

Please provide views below:

If there is double donation, the child should have a right to determine genetic heritage at 18

Yes

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Yes

Please provide your views below:

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Yes

Please provide views below:

70 Consultation Question 62:

Please provide your views below:

No

Please provide your views below:

71 Consultation Question 63:

No

Please provide your views below:

Individuals should be able to donate anonymously

Please provide your views below:

Individuals should be able to donate anonymously and genetic links should not be mandatory

Not Answered

Please provide your views below:

Surrogates should retain the right to be anonymous

72 Consultation Question 64:

Yes

Please provide your views below:

Please provide your views below:

No upper age limit should be placed

Yes

Please provide your views below:

73 Consultation Question 65:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 13: Eligibility Criteria for the New Pathway

74 Consultation Question 66:

Yes

Please provide your views below:

Please provide your views below:

No comment

75 Consultation Question 67:

Yes

Please provide your views below:

76 Consultation Question 68: We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed. Do consultees agree?

Yes

Please provide your views below:

77 Consultation Question 69:

Yes

Please provide your views below:

Please provide your views below:

No comment

78 Consultation Question 70: We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Please provide your views below:

No, Surrogates are at least 18 years of age and able to make their own decisions

79 Consultation Question 71: We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.Do consultees agree?

Yes

Please provide your views below:

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on an allowance;

Please provide your views below:

Surrogates should be free to charge however much they see fit.

81 Consultation Question 73:

Please provide your views below:

Intended parents should be free to pay however much a Surrogate sees fit to charge.

82 Consultation Question 74:

Please provide your views below:

Intended parents should be free to pay however much a Surrogate sees fit to charge.

83 Consultation Question 75:

Please provide your views below:

Intended parents should be free to pay however much a Surrogate sees fit to charge.

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

Intended parents should be free to pay however much a Surrogate sees fit to charge.

85 Consultation Question 77:

Please provide your views below:

Intended parents should be free to pay however much a Surrogate sees fit to charge.

86 Consultation Question 78:

Please provide your views below:

n/a

87 Consultation Question 79:

pain and inconvenience arising from the pregnancy and childbirth;, medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or, specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

Please provide your views below:

Intended parents should be free to pay however much a Surrogate sees fit to charge.

Please provide your views below:

Intended parents should be free to pay however much a Surrogate sees fit to charge.

left to the parties to negotiate.

Please provide your views below:

Intended parents should be free to pay however much a Surrogate see fit to charge.

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

There should be life insurance policies covering lost of life/disability in this situation.

89 Consultation Question 81:

Please provide your views below:

Intended parents should be able to buy gifts for the surrogate;

90 Consultation Question 82:

It should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

any sum agreed between the parties to the surrogacy; or

Please provide your views below:

essential costs relating to the pregnancy;, additional costs relating to the pregnancy;, lost earnings;, compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or, gifts.

Please provide any views below:

Any fee the Surrogate sees fit to charge.

91 Consultation Question 83:

Please provide views below:

The fees should agreed between IP and Surrogate prior to conception

Not Answered

Please provide your views below:

The fees should agreed between IP and Surrogate prior to commencement

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Yes

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

The entire fee structure should be open to negotiate prior to commencement. Ultimately the fees charged and the circumstances around those fees are better determined by the parties involved with the guidance of an agency and separate legal council.

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

The entire fee structure should be open to negotiate prior to commencement. Ultimately the fees charged and the circumstances around those fees are better determined by the parties involved with the guidance of an agency and separate legal council.

95 Consultation Question 87:

Please provide your views below:

There should be no limits

96 Consultation Question 88:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 16: International Surrogacy Arrangements

97 Consultation Question 89: We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

Please provide your views below:

no comment

98 Consultation Question 90: We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Please provide your views below:

no comment

99 Consultation Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Please provide your views below:

Our children were born in [redacted] in [redacted], we received our final parental agreement decision the following [redacted]

We applied for [redacted] when the children were born as our UK legal council advised the British system would be very long. The total process, from Birth, throught to [redacted] Birth Certifcate, [redacted] Citizenship and Passport took weeks.

The intial entry into the UK was fine, but further travel was very arduous. Despite having paperwork relating to the parental order and an interim decision we often spent hours in immigration due to misunderstanding.

100 Consultation Question 92: We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.Do consultees agree?

Yes

Please provide your views below:

101 Consultation Question 93: We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

As state above, the process for a [redacted] passport took 8 weeks. Once in the UK we provided evidence of my citizenship to grant the children a right to remain.

Traveling back and forth on their [redacted] passports was difficult at times, Specifically especially long delays trying to reenter the UK due to concerns about child trafficking.

We were advised that a UK passport could be an even longer process, however a British couple whose child was born the same time as ours received a British passport for the child in 4 weeks from birth.

102 Consultation Question 94:

No

Please provide your views below:

If the child has citizenship through decent there should be no requirement for a visa or passport issued from the country of birth.

Yes

Please provide your views below:

Yes

Please provide your views below:

Yes

Please provide your views below:

Please provide your views below:

The six month limit should be removed

103 Consultation Question 95:We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.Do consultees agree?

Yes

Please provide your views below:

104 Consultation Question 96: We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Please provide your views below:

no comment

105 Consultation Question 97: We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Yes

Please provide your views below:

106 Consultation Question 98: We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.Do consultees agree?

No

Please provide your views below:

Provided the health and welfare of the Surrogate can be confirmed, International Agreements should be eligible for the new pathway

107 Consultation Question 99:

Yes

Please provide your views below:

108 Consultation Question 100:

Please provide your views below:

no comment

Please provide your views below:

Foreign intended parents should have the same rights as domestic intended parents

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

Statutory paternity leave should be increased to 50 weeks

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

No

Please provide your views below:

Both intended parties should have full access to maternity allowance.

111 Consultation Question 103:

Please provide your views below:

The provisions should match the provisions for conventional pregnancie

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

no comment

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

no comment

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

Children through surrogacy should have the same rights as children born through conventional pregancy

115 Consultation Question 107:

Please provide your views below:

no comment

Please provide your views below:

no comment

Please provide your views below:

no comment

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

no comment

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

[redacted]

international

If international, in which country did the arrangement take place?:

[redacted]

Yes

(b) male same-sex couple;

118 Consultation Question 110:

international

Yes

No

Please provide the cost of any legal advice or representation below:

Less than £500

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

The uncertainty caused by the current law was a source of tremendous stress and anxiety. Very little can be planned prior to the birth, and the period where the most work is required coincides with the busiest time for a new parent.

120 Consultation Question 112:

Please provide your views below:

no comment

Please provide your views below:

n/a

121 Consultation Question 113:

Please provide your views below:

At the moment if the genetic parent dies prior to the filling and issue of a parental order, the non-genetic parent is unable to gain parental rights over the child.

Please provide your views below:

in both situations

122 Consultation Question 114:

Please provide your views below:

n/a

123 Consultation Question 115:

Please provide your views below:

Leaving Surrogates to decide what fees to charge and allowing parental agreements to be agreed prior to birth and enforceable would obviously increase accessibility. People use international surrogacy because the UK lacks these criteria

Please provide your views below:

n/a

124 Consultation Question 116:

international

Please provide your views below:

Total spend was approx [redacted] (egg donation, IVF, surrogacy fees, and agency fees)

Please provide your views below:

Paid from savings

Please provide your views below:

n/a

Please provide your views below:

n/a

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

n/a

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

n/a

[redacted]

From: [redacted]
Sent: 09 October 2019 13:19
To: surrogacy
Subject: Surrogacy consultation response

I would like to submit the following as a response to this consultation. I am fully in agreement with Object (www.objectnow.org) who have drafted an official response to this, which I support and submit.

[redacted]

Consultation Question 1:

Yes. All surrogacy arrangements should continue to be automatically allocated to a Judge of the High Court. There is a history of International surrogacy abuse and exploitation and a high level of scrutiny should be maintained.

Consultation Question 2:

All international surrogacy cases should require a legal parental order post-birth and be dealt with at the current level of the judiciary, so that parental order processes, involving qualified social work assessments can take place.

Consultation Question 5:

Yes. The parental order report should be released to the parties in the proceedings by default. The circumstances under which a court can decide otherwise should be clarified.

Consultation Question 7:

No. The Intended parents should not be documented as the legal parents at birth.

The aim of this proposal seems to be to reduce the time pressure on the courts to make it immediately possible to remove a baby from the birth mother.

This would reduce the birth mother to a vessel, a container, such knowledge of which would be detrimental to the mental health of the child, and against the healthy formation of their identity. This proposal weakens the surrogate's right to change her mind.

Consultation Question 9:

The prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements, otherwise this limits the right of the child to discover their genetic identity and may risk attraction to closely related persons.

Consultation Question 10:

The surrogate should have the right to object to the acquisition of legal status by the Intended Parents immediately after the birth and before the baby is handed over. This consultation takes no account of the natural link between birth mother and baby and assumes an immediate hand-over, whether the birth mother objects or not. The birth mother should have the right to change her mind.

Consultation Question 16:

I oppose the proposal that the commissioning parents should be the legal parents of a stillborn baby. Their disappointment will be diminished by the grief of the birth mother who already has a relationship with the child in her womb. What safeguards are planned in the new pathway should the woman surrogate die? What financial protections would there be for the woman's existing children and family?

Consultation Question 22:

The surrogacy business should be banned not made easier. There is no evidence in the proposed changes that the surrogacy business, which benefits Agencies, lawyers and those commissioning a surrogate (who is expected to carry a child as an altruistic act) should be made easier for those who profit. The evidence points to banning or severely restricting surrogacy practices as has been done in European countries such as Switzerland, France, Germany and Sweden and further afield in India and Thailand.

Consultation Question 24:

It is remarkable given the years of current surrogacy enablement in UK that those involved are not, never have been, subject to Adoption and Child Act (ACA) 2002.

Consultation Question 27:

I disagree with the provisional proposal that, where a child is born of a surrogacy arrangement, the Intended Parents should acquire parental responsibility on the birth of the baby. This pathway will take no account of, and fails to recognise, the bond which is formed between mother and baby

during and after the gestational period and the right of a child to know the identity of their birth mother.

This pathway will favour the Intended Parents and the removes the right of the child to have a biologically accurate birth record.

Consultation Question 28:

The birth mother should retain parental responsibility for the child until the expiry of the period during which she can exercise her right to object.

Consultation Question 31:

The views of independent surrogates are unlikely to be well represented, particularly overseas surrogates, mainly poor and uneducated and often exploited.

Consultation Question 32:

Consultation is built on a pro-surrogacy bias. There is no hard evidence of the long term impact upon the child who is a surrogate or the mother who gave birth to them. The entitlement to 'found a family' has been reinterpreted to 'found a family=the right to have a child by surrogacy'. The consultation seems to accept that breaching surrogate women's human rights not to experience dehumanising practices is lost in the attempt to covertly enable baby buyers to 'found a family'.

Consultation Question 39:

The prime concern of the consultation is the 'commissioners', so they can have ease of access to buying a baby, not the well being of the woman surrogate. The vast majority of woman surrogates come from poorer circumstances than the 'commissioners' and yet the law wants to describe that as 'altruistic' rather that what it actually is - commercial surrogacy which is not legal.

Consultation Question 50:

Children born of surrogacy arrangement, where there is or is not a genetic connection to the birth mother, should have access to all facts relating to their birth heritage and origins. A practice adoption agencies now recognise as key elements for children's rights, security and healthy maturity.

Response ID ANON-2V7F-Y88W-5

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 23:10:34

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
[redacted]

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

Yes. All International surrogacy arrangements should continue to be automatically allocated to a Judge of the High Court. There is a history of International surrogacy abuse and exploitation and a high level of scrutiny should be maintained.

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

Not Answered

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Not Answered

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

No. The Intended parents should not be documented as the legal parents at birth. This would reduce the birth mother to a vessel, a container, such knowledge of which would be detrimental to the mental health of the child, and against the healthy formation of their identity. This proposal weakens the surrogate's right to change her mind.

15 Consultation Question 8:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

No

Please provide your views below:

The prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements, otherwise this limits the right of the child to discover their genetic identity and may risk attraction to closely related persons.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

18 Consultation Question 11:

No

Please provide your views below:

The surrogate should have the right to object to the acquisition of legal status by the Intended Parents immediately after the birth and before the baby is handed over. This consultation takes no account of the natural link between birth mother and baby and assumes an immediate hand-over, whether the birth mother objects or not. The birth mother should have the right to change her mind.

19 Consultation Question 12:

Not Answered

Please provide your views below:

20 Consultation Question 13:

Not Answered

Please provide your views below:

21 Consultation Question 14:

Not Answered

Please provide your views below:

22 Consultation Question 15:

Not Answered

Please provide your views below:

Not Answered

Please share your views below:

23 Consultation Question 16:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Not Answered

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

26 Consultation Question 19:

Not Answered

Please provide your views below:

Please provide your views below:

27 Consultation Question 20:

Not Answered

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

29 Consultation Question 22:

Please provide your views below:

The surrogacy business should be banned not made easier. There is no evidence in the proposed changes that the surrogacy business, which benefits Agencies, lawyers and those commissioning a surrogate (who is expected to carry a child as an altruistic act) should be made easier for those who profit. The evidence points to banning or severely restricting surrogacy practices as has been done in European countries such as Switzerland, France, Germany and Sweden and further afield in India and Thailand.

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

Not Answered

Please provide your views below:

34 Consultation Question 27:

Not Answered

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Not Answered

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Not Answered

Please provide your views below:

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

The views of independent surrogates are unlikely to be well represented, particularly overseas surrogates, mainly poor and uneducated and often exploited.

39 Consultation Question 32:

Please provide your views below:

Please provide your views below:

40 Consultation Question 33:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

41 Consultation Question 34:

Please provide your views below:

Please provide your views below:

Please provide your views below:

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Not Answered

Please provide your views below:

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Not Answered

Please provide your views below:

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Not Answered

Please provide your views below:

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Not Answered

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Not Answered

Please provide your views below:

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Not Answered

Please provide your views below:

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

Name (Required)

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

University of [redacted]

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

- This is a personal response
- This is a response on behalf of an organisation
- Other

If other, please provide details:

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

- Surrogate
- Intended parent
- Person born of a surrogacy arrangement
- Family member of a surrogate
- Family member of an intended parent
- Legal practitioner
- Medical practitioner or counsellor
- Social worker
- Academic
- Other individual

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

N/A

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration.

Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in

surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or

parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and

facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the

recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

Leave both check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the ‘new pathway’. The idea that a ‘surrogacy agreement’ could place restrictions on the birth mother’s lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children’s rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y818-Y

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 23:14:02

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

High risk of unethical processes in the sale and trafficking of children as well as the treatment of birth mothers. As such this requires the involvement of the most senior and experienced judges.

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

No

Please provide your views below:

Nothing about the transfer of parental responsibility should be automatic. It should always take place after the birth, and be conditional on the continued freely given consent of the birth mother.

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

This proposal contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth.

This step is a vital process in protecting the mother and child against exploitation and coercion.

15 Consultation Question 8:

Other

Please provide your views below:

I disagree with the proposals for the 'new pathway' and regulated surrogacy organisations to enable commercial surrogacy.

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Other

Please provide your views below:

I disagree with the proposals for the 'new pathway' and regulated surrogacy organisations to enable commercial surrogacy.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

18 Consultation Question 11:

No

Please provide your views below:

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. The default should be that the birth mother has legal responsibility for her child and this child can only be given away AFTER BIRTH subject to her confirmed and freely given consent.

19 Consultation Question 12:

Not Answered

Please provide your views below:

20 Consultation Question 13:

Not Answered

Please provide your views below:

21 Consultation Question 14:

No

Please provide your views below:

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

22 Consultation Question 15:

No

Please provide your views below:

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

Yes

Please share your views below:

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

23 Consultation Question 16:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

No

Please provide your views below:

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

No

Please provide your views below:

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

26 Consultation Question 19:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

Please provide your views below:

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

27 Consultation Question 20:

Yes

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

29 Consultation Question 22:

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

30 Consultation Question 23:

Please provide your views below:

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

31 Consultation Question 24:

Please provide your views below:

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

33 Consultation Question 26:

No

Please provide your views below:

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

34 Consultation Question 27:

No

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Other

Please provide your views below:

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and

has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

36 Consultation Question 29:

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Other

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'.

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Please provide your views below:

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

40 Consultation Question 33:

Other

Please provide your views below:

There should be no commercial surrogacy organisations as these have been shown to be harmful to the human rights of both women and children.

Altruistic surrogacy organisations must be regulated.

No

Please provide your views below:

There should be no commercial surrogacy organisations as these have been shown to be harmful to the human rights of both women and children.

Altruistic surrogacy organisations must be highly regulated and monitored.

Yes

Please provide your views below:

41 Consultation Question 34:

Please provide your views below:

Please provide your views below:

Please provide your views below:

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Yes

Please provide your views below:

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Not Answered

Please provide your views below:

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Not Answered

Please provide your views below:

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Not Answered

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Not Answered

Please provide your views below:

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Not Answered

Please provide your views below:

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on costs actually incurred by the surrogate, but without the need for production of receipts; or

Please provide your views below:

Yes, essential costs paid only.

81 Consultation Question 73:

Please provide your views below:

Yes, essential costs only.

82 Consultation Question 74:

Please provide your views below:

No, there should be no additional payments beyond essential costs. Commercial surrogacy is high risk, unethical and equates to the sale of babies. This has resulted in numerous economically and/or physically coerced pregnancies in other countries (several of which have now banned the practice) and it is not ethically acceptable to introduce this practice to the UK.

83 Consultation Question 75:

Please provide your views below:

Yes costs can be paid, but only costs (no additional payments).

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

No. Surrogacy should not equate to a form of employment, so the payment of wages, lost earnings or similar is not appropriate here.

85 Consultation Question 77:

Please provide your views below:

No. Surrogacy should not equate to a form of employment, so the payment of wages, lost earnings or similar is not appropriate here.

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

Please provide your views below:

Prospective parents should pay for insurance for their altruistic surrogate that covers all such eventualities.

Please provide your views below:

Not Answered

Please provide your views below:

There should be no commercial surrogacy (for the protection of the women involved), so there should be zero payment above costs.

Only altruistic surrogacy should be permitted.

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

Prospective parents should pay for insurance for their altruistic surrogate that covers all such eventualities.

89 Consultation Question 81:

Please provide your views below:

90 Consultation Question 82:

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

Please provide your views below:

Not Answered

Please provide your views below:

There should be no commercial surrogacy (for the protection of the women involved), so there should be zero payment above costs.

Only altruistic surrogacy should be permitted.

Please provide any views below:

There should be no commercial surrogacy (for the protection of the women involved), so there should be zero payment above costs.

Only altruistic surrogacy should be permitted.

91 Consultation Question 83:

Please provide views below:

There should be no commercial surrogacy (for the protection of the women involved), so there should be zero payment above costs.

Only altruistic surrogacy should be permitted.

Not Answered

Please provide your views below:

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Not Answered

Please provide your views below:

There should be no commercial surrogacy (for the protection of the women involved), so there should be zero payment above costs.

Only altruistic surrogacy should be permitted.

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

There should be no commercial surrogacy (for the protection of the women involved), so there should be zero payment above costs.

Only altruistic surrogacy should be permitted.

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

There should be no commercial surrogacy (for the protection of the women involved), so there should be zero payment above costs.

Only altruistic surrogacy should be permitted.

95 Consultation Question 87:

Please provide your views below:

96 Consultation Question 88:

Not Answered

Please provide your views below:

There should be no commercial surrogacy (for the protection of the women involved), so there should be zero payment above costs.

Only altruistic surrogacy should be permitted.

Not Answered

Please provide your views below:

Chapter 1: Consultation Questions

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Ticketed circuit judges should be able to hear international surrogacy cases. Extensive training should be given first.

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

Paragraph 6.51

No. Ticketed DJ and above.

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

We do not have any to offer.

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

Paragraph 6.58

Yes, if the proposal to give automatic parental responsibility is not supported.

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

Paragraph 6.72

Yes

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

N/A Scotland only

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

Paragraph 8.13

Yes

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Yes. Why not 130 years in line with current theoretical maximum longevity?

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

Paragraph 8.21

We do not agree that the requirement for a genetic link between at least one intended parent and the child should be relaxed in any case. This issue would therefore not arise.

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Paragraph 8.22

It should. We believe that the child should have a genetic link with at least one intended parent in all cases. This is a safeguard against abuse of the surrogacy system to disguise private adoption (e.g. mother of unwanted child is matched with intended parents and legal parenthood is conferred by means of the surrogacy pathway).

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

Paragraph 8.35

Yes to all

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

Paragraph 8.36

Yes.

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

Paragraph 8.37

Yes to all

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

Paragraph 8.51

Yes

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

Paragraph 8.57

1.16 Yes.

1.17 As a general comment, the wider law (both surrogacy and non-surrogacy) needs to find a way of allocating parentage other than the *pater est* presumption.

If the surrogate's spouse/CP is no longer the legal parent in non-pathway cases, then the only people adversely affected would be such spouses/CP's who dispute that a surrogacy arrangement was in place at all. They would be in no worse a position than a surrogate's cohabitee currently is in disputing the arrangement. There should be a clear procedural route for such persons to join the proceedings and argue against the existence of the arrangement and that they should be considered the parent, whether because they are the genetic parent (easily proved) or because they argue that they should have acquired parenthood under s35 or s42 HFEA 2008. The court can allocate parental responsibility using child arrangements orders in the interim in accordance with the child's best interests.

If the surrogate's spouse/CP is successful in disputing the existence of the surrogacy arrangement, their lack of parental status will have been temporary and no worse than would be experienced by a surrogate's aggrieved male cohabitant or intended parents in non-pathway cases.

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

Yes

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

Paragraph 8.77

Yes

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

Paragraph 8.79

Yes

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Paragraph 8.80

We agree. The surrogate's right to object would be a key (if very rarely exercised) safeguard against abuses in pathway cases. Her death removes this and it is right that the court steps in to oversee the transition to the intended parents. There should be a statutory presumption that the order will be made.

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

Yes

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

This is really difficult to resolve but we favour option (1) to avoid creating an unnecessary difference between pathway cases and non-pathway cases where the surrogate is completely cooperative, wishing to carry out the IPs' intentions but the case has failed to join the pathway for a reason other than withdrawal of consent

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

Paragraph 8.86

Yes. It is essential that all IPs who fulfil the necessary conditions can obtain a parental order regardless of their separation from the other IP. This should be possible even if one IP is not genetically related to the child. Would it be possible to develop a "joint but separated" option for applications?

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

Paragraph 8.91

We prefer the approach set out above. Having three legal parents simultaneously seems a step too far towards altering what legal parenthood means.

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

Paragraph 8.93

We are not in favour of additional oversight for pathway cases.

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

Paragraph 8.120

Additional factors of gestational and genetic relationships, and the parties intentions should form part of whatever checklist is used in disputes regarding surrogate born children.

However, s1(3) is probably the first port of call for many litigants in person involved in non-surrogacy child arrangements disputes. Might it be even more confusing for them to be confronted with additional surrogacy related factors? Worse still, misguided litigants in person may waste time preparing arguments about such factors.

Might it be sensible to include additional points for the welfare checklist elsewhere in s1 (lower down!) only for disputes involving surrogate-born children when the arrangement itself is being called into question? Clearly the mere fact that a child is surrogate-born should not affect the assessment of their welfare in a dispute, say between separating intended parents. Perhaps the additional factors should only be considered when the surrogate and/or her spouse/CP/domestic partner are parties.

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

Paragraph 8.121

Specific mention of gestational and genetic origins and the parties' intentions should be made here.

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Paragraph 8.123

Yes

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

Paragraph 8.132

Yes

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

Paragraph 8.134

Yes

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

Paragraph 8.139

Yes

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

Paragraph 8.140

Yes to both. If a substantive issue arises, there is nothing to stop a person with PR who is not caring for the child bringing the matter to court. It operate in a similar way to the sharing of PR between a local authority and the parent of a child subject to a (interim) care order. The parents with care would have a role analogous to the local authority.

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

Paragraph 9.29

Yes

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Paragraph 9.35

N/A

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

Paragraph 9.36

There will clearly be a group who will not want to be involved in any kind of regulatory framework. However, intended parents may be attracted by the prospect of the pathway rather than having to obtain a parental order as they do now.

Would regulated surrogacy agencies consider assessing independent surrogacy arrangements by some kind of associate membership scheme? The agency brings the expertise and familiarity with the regulatory framework. The IPs and surrogate have undertaken the matching work themselves and will presumably handle the mechanics of donation. If the arrangement is not up to scratch then it would not be eligible for inclusion in the pathway.

Speaking as lawyers ourselves, given the amount of non-law, safeguarding-type input that would go into certifying an independent arrangement as suitable for the pathway, we feel it unlikely that many/any within the profession would be prepared to play this quasi-regulatory role.

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

Paragraph 9.61

Yes

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

Paragraph 9.84

Yes

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

Yes

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

Yes

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

Paragraph 9.129

Yes

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

Paragraph 9.135

Yes. As lawyers this is something we feel very strongly about. It makes no sense that lawyers can play a full role in advising before the arrangement and during the parental order process but are criminally prohibited from assisting with one of the most important elements of any surrogacy arrangement, the agreement. Even if the full law reform cannot be achieved due to lack of parliamentary time or government motivation, an amending Act to deal with this single point would be very welcome.

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

Paragraph 9.145

Yes.

Providing easily accessible public information around what is lawful in relation to surrogacy would complement the lifting of this restriction. Paid for social media content promoting this may be useful. If/when the law changes, it would be highly desirable to get as many UK stakeholders as possible "back in from the cold" at an early stage.

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

Paragraph 10.80

Yes

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

Paragraph 10.85

Yes

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Paragraph 10.87

A law reform project taking account of evidence-based developments in the field of sex/gender at birth would be welcome.

As referenced above, we doubt that the *pater est* presumption should continue in an ideal world. Accordingly, there should be no difference in the registration procedure for births resulting from married and unmarried relationships.

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

Paragraph 10.89

Yes

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

Yes

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

Paragraph 10.102

Yes to all

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Paragraph 10.104

Identifying information should be provided so that a surrogate-born child has full access to information about his or her genetic and gestational origins in a similar way to donor conceived persons.

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

Yes

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

Paragraph 10.110

The position should be the same as for donor conceived persons (identifying information from 18, non-identifying information from 16, application for non-identifying information by the parents on the child's behalf before that). Giving children this option as suggested above could place undue pressure upon parents to consent, counselling safeguards notwithstanding, whereas if it is the parents who must apply, the onus remains on them to make an "adult" decision.

A child aged 16-18 should be able to obtain identifying if and only if to establish whether they are genetically related to a proposed spouse/CP/intimate partner.

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Paragraph 10.114

We agree with this proposal. Analogous provision should be available to surrogate-born individuals as to donor-conceived persons.

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

Yes

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

Paragraph 10.121

Our stance is neutral

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

Paragraph 10.123

Certainly yes if they are genetically related

Our stance is neutral if they are merely "gestational" half-siblings (same surrogate; no genetic relationship)

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

If all surrogate-born persons will be able to access their court file (as proposed above) AND single applicants must declare that theirs was always a single application, failing which they must notify any potential second IP (see question 20), this information will become available by default.

The potential second IP should upon receipt of such notice be given the choice to elect (1) whether their details should be redacted from the court file and (2) whether their details should appear on the register.

A second IP who does not wish to proceed with a parental order application or play a role in the child's life should have a right to be forgotten, unless they are genetically related to the child, in which case their details would appear on the register as a "gamete donor".

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

Paragraph 11.20

Yes. We agree that awareness campaigns are crucial so that all intended parents entering into a surrogacy arrangement realise that steps need to be taken to regularise the child's status.

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

Paragraph 11.58

Yes to all

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

Yes

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

Paragraph 12.29

If you can co-parent without being in an intimate relationship then thought should be given to whether you should be able to co-parent by means of surrogacy.

If the relationship requirement is to subsist, careful thought must be given as to how to resolve problems arising should the IPs embark on treatment together but later separate, should they then have opposing views as to how to proceed.

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

Paragraph 12.34

Yes

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

No

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

It should not.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

Yes

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

Paragraph 12.71

We think that a genetic link should be preserved in all cases.

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

Paragraph 12.76

Yes. This should be the only situation in which legal parenthood should be conferred to a single applicant without a genetic link to the child.

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

Yes

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

Paragraph 12.94

We approve the definition proposed at paragraph 12.93 ["For medical (whether physical or mental) or biological reasons, the single intended parent is, or both intended parents are, unable to gestate a foetus to term, or deliver a healthy baby."]

Public awareness of this (new) requirement would be essential to minimise uncertainty/disappointment amongst parties to independent traditional surrogacy arrangements where the intended parents did not have a medical reason for choosing surrogacy.

The "medical or biological reason" could be certified by doctors in a manner akin to current procedure under the 1967 Abortion Act. The doctors need not necessarily see the IP(s) but would have to consider the reliability of the information they have been given pursuant to their overriding duty to comply with professional standards and act in good faith.

Agencies offering services under the pathway could be obliged to have a panel of doctors able to provide such certification.

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

Yes

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

We favour the preservation of a genetic link between at least one IP, demonstrated with medical/DNA evidence.

Information about both genetic parents is desirable but not always possible if the child is born following surrogacy in a territory that permits anonymous donation.

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

Paragraph 12.115

Yes

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

Yes. An upper limit could be nothing other than arbitrary.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

We agree there is a stronger argument for an age limit in pathway cases because of the lack of judicial oversight unless the case falls out of the pathway. Could public awareness of an age-limit in the pathway foster a (desirable) sense that elderly IPs should think twice before entering into a surrogacy arrangement?

If the welfare assessment in pathway cases takes its lead from the "Welfare of the child" enquiries made before IVF treatment, surrogacy agencies may find themselves having to make difficult, age-based decisions within what is otherwise a pretty "light touch" assessment. An objective age limit would relieve them of this difficulty.

Would it be possible for IPs over a certain age to obtain permission to re-enter the pathway from the HFEA, pre-birth if they were over a certain age? This would allow a more experienced decision-maker to shoulder this responsibility.

If parents are ejected from the pathway purely on age grounds this risks generating unnecessary parental order proceedings and creating undue anxiety for parties between conception and the grant of the order. It seems virtually impossible that a parental order would be denied on age grounds alone – what is the alternative when the child already exists?

In terms of setting the age limit, we would tentatively suggest a combined age limit of 90, single age limit of 44 but we would defer to medical experts and those with an understanding of current mortality data.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

Paragraph 12.133

Yes

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

Yes

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

Yes

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

Yes

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

Paragraph 13.44

Yes

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

Paragraph 13.65

Yes

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

Yes

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

We agree that this would be an appropriate model.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

Paragraph 13.99

Yes

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

Paragraph 15.16

We favour an allowance model, potentially with some guidance as to the upper limit for all payments. This would reduce the administrative burden on all concerned. A "surrogacy budget" could be agreed at the outset with an agreement as to when sums will actually be paid (e.g. a flat monthly amount wouldn't work because expenses may not be incurred at a uniform rate). This could be scrutinised by the surrogacy agency by reference to a Code of Practice to ensure it (1) does not amount to remuneration (2) include irrelevant items that amount to disguised remuneration (3) has provision for contingencies such as unexpected time off work.

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

Yes

(2) the types of expenditure which should be considered "essential".

Paragraph 15.22

As legal advisers we do not feel able to express a view on specifics.

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

Yes

(2) the types of expenditure which should be considered additional, rather than essential.

Paragraph 15.26

As legal advisers we do not feel able to express a view on specifics.

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

Yes

(2) the types of cost which should be included within this category.

Paragraph 15.29

As legal advisers we do not feel able to express a view on specifics.

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Paragraph 15.37

Yes they should.

Could financial institutions be encouraged to develop insurance products so that IPs can control their potential liability? It would be beyond the reach of most IPs to pay the surrogate's lost earnings indefinitely in case of obstetric-related incapacity (e.g. severe postpartum mental health event, physical damage from childbirth that would affect earning capacity)

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

Yes

(2) other lost potential earnings (as defined in paragraph 15.36 above).

These are too uncertain to quantify and would be open to abuse as disguised remuneration.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

Paragraph 15.47

We do not have experience of this.

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

No. These are unavoidable elements of the process. Compensating for these items is too close to allowing surrogacy for pay.

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

No. See response (1) above.

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

Undecided. We observe that a properly counselled surrogate is taking on her role, the risks of pregnancy and childbirth notwithstanding.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

Paragraph 15.53

Were compensation of this type to be allowed, we would favour a fixed fee model and repeat our suggestion that the financial services industry be encouraged to develop insurance products to allow IPs to (effectively) pool the risk of complications.

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Paragraph 15.56

This seems reasonable.

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

Paragraph 15.60

We agree with the proposal that modest, reasonable gifts are permitted.

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

Paragraph 15.69

We do not agree that IPs should be able to pay for the "service" of undertaking surrogacy. The potential for the exploitation of economically disadvantaged women is too great.

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

Paragraph 15.72

As we do not agree with payment for the service of surrogacy, this issue does not arise. We favour an allowance model based on a budget agreed beforehand.

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

Paragraph 15.74

Yes

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Paragraph 15.75

None.

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Paragraph 15.76

Lack of clarity is the biggest problem in the field of payments.

Whatever model of payment/reimbursement is chosen, what is and is not allowed should be very clear to agencies and the general public, even if the "sanction" of refusing to make a parental order is *de facto* off the table.

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

Sanctions could fall on an agency who allows an agreement containing unlawful payment terms.

(2) for cases where a parental order is made after the birth of the baby.

Apart from withholding a parental order, IPs could be fined.

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

Yes

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

Yes. IPs do, to a great extent, rely on the surrogate's good faith. Surveillance of pregnant women to ensure "healthy" lifestyles (as to which there is no consensus) would be an unwelcome development.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

Paragraph 16.10

N/A

Consultation Question 90.

1.119 We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Paragraph 16.12

N/A

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Paragraph 16.52

N/A

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

Paragraph 16.53

Yes

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Paragraph 16.68

N/A

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

Yes

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

Yes

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

Yes

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

Paragraph 16.69

We would support this.

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

Paragraph 16.76

Yes

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Paragraph 16.77

N/A

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

Paragraph 16.82

Yes

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

Paragraph 16.93

Initially yes, but we suggest that a list of like-minded / reputable jurisdictions be built up such that surrogacy arrangements based in these countries become eligible for the pathway.

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

Paragraph 16.94

Yes

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Paragraph 17.18

Whilst this may sound heartless, if the surrogate's spouse/CP/partner is not caring for the child, then there should be no special entitlement to take paid time off to support her, beyond what would be available if she were seriously ill or had had surgery.

Government and employers may wish to reflect on how best to support employees during a range of life events but that is beyond the scope of this consultation.

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

Paragraph 17.32

Yes.

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

Paragraph 17.36

Could adoption leave for surrogacy be reformed so that it is on all fours with maternity leave (i.e. it can be commenced any time after a certain week of pregnancy)?

As regards time off for antenatal appointments, this raises a larger question of what time off people should be allowed for assisted reproduction treatment of all types. There is currently no statutory right to time off for IVF, which seems unfair (is infertility not an illness?) This could be factored in when reforming IPs' rights to time off.

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Paragraph 17.40

It may not be. Why leave it to be tested in court? Why not alter the regulation to apply to a "lactating parent"? This should be expressed in gender neutral terms due to the possibility that a trans man may be lactating, whether after they have given birth themselves or have become a parent through surrogacy.

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Paragraph 17.56

What would happen in a case that starts out as a pathway case but ceases to be because the surrogate withdraws consent and she dies thereafter but before a parental order (or other disposal altering legal parenthood) has been made? Presumably her will or failing that, the intestacy rules would prevail and the child may inherit. Should it be a requirement for inclusion in the pathway that IPs and surrogates make a will, with no obligations as to what provisions that will should contain?

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

Paragraph 17.76

We do not have sufficient experience of this.

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

Paragraph 18.2

N/A

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

Paragraph 18.4

N/A

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

This would most likely be a fixed fee meeting with a follow up letter. It needs to be handled at a relatively senior level. We are in the north of England so this impacts our hourly rates. £550 plus VAT would be a reasonable estimate.

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

We naturally have no experience of this due to the current restrictions. It would depend on the complexity of the agreement and the background situation. Based on our experience of drafting pre-nuptial agreements, we would suggest from £1,500 plus VAT.

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

As we have stated above, the removal of a genetic link requirement opens us the possibility of abuse, especially in the form of disguised adoption. We appreciate that the proposal is to restrict the practice to medical necessity but embedding double donation surrogacy in the culture at all is a dangerous step towards designer babies.

A genetic link is enduring, objective evidence of the existence of a surrogacy agreement, save in the tiny minority of cases where a man impregnates "another woman" through intercourse and she, he and his partner collude to "rebrand" the situation as a traditional surrogacy arrangement.

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

Paragraph 18.13

We would not consider offering this service as it would cause a potential conflict of interests and would exclude us from acting for surrogates or IP using the services of an agency for whom we acted.

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

Paragraph 18.22

Response ID ANON-2V7F-Y88G-N

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 23:29:09

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

SurrogacyUK

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Intended parent

5 What is your email address?

Email address:

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Not Answered

Please provide your views below:

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

Yes

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Not Answered

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

Yes

Please provide your views below:

15 Consultation Question 8:

Yes

Please provide your views below:

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Not Answered

Please provide your views below:

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

18 Consultation Question 11:

No

Please provide your views below:

Should be shorter than this. A surrogate would not want to be responsible for a child that isn't officially theirs.

19 Consultation Question 12:

Not Answered

Please provide your views below:

20 Consultation Question 13:

Not Answered

Please provide your views below:

21 Consultation Question 14:

Yes

Please provide your views below:

A child born through normal circumstances would not automatically require welfare assessments so why would this process be any different.

22 Consultation Question 15:

Yes

Please provide your views below:

If a surrogate disagrees that the IPs should not be legal parents, a court would need to review why this is the case. A surrogate should not have the power to suggest who is able to be a parent or have legal responsible of a child.

Not Answered

Please share your views below:

23 Consultation Question 16:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Not Answered

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

26 Consultation Question 19:

Not Answered

Please provide your views below:

Please provide your views below:

27 Consultation Question 20:

Not Answered

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

29 Consultation Question 22:

Please provide your views below:

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

Not Answered

Please provide your views below:

34 Consultation Question 27:

Not Answered

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Not Answered

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

N/A

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

- **This is a personal response**
- This is a response on behalf of an organisation
- Other

If other, please provide details:

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

- Surrogate
- Intended parent
- Person born of a surrogacy arrangement
- Family member of a surrogate
- Family member of an intended parent
- Legal practitioner
- Medical practitioner or counsellor
- Social worker
- Academic
- **Other individual**

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

Prefer not to give out tel no. publicly.

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration.

Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO

I vehemently disagree with this proposal. It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a very dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I profoundly disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I profoundly disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in

surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

I profoundly disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or

parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I profoundly disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and

facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the

recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy. (check box)

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

Leave both check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

Leave all check boxes blank.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the ‘new pathway’. The idea that a ‘surrogacy agreement’ could place restrictions on the birth mother’s lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children’s rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22

Response ID ANON-2V7F-Y88V-4

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 23:38:40

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

Surrogacy UK

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Intended parent

5 What is your email address?

Email address:

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 6: The parental order procedure

8 Consultation Question 1:

Not Answered

Please provide your views below:

Please provide your views below:

9 Consultation Question 2:

Please provide your views below:

Yes they should be heard by lay justices

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

11 Consultation Question 4:

Not Answered

Please provide your views below:

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Not Answered

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

Yes

Please provide your views below:

The child should be the responsibility of the intended parents as they are the parents of the child and should therefore be given the same rights that other parents would be given. To not be given this right because they are unable to medically carry their children is unfair when all they are doing is trying to have a family of their own.

15 Consultation Question 8:

Yes

Please provide your views below:

Not Answered

Please provide your views below:

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Not Answered

Please provide your views below:

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

18 Consultation Question 11:

No

Please provide your views below:

I think it should be shorter as the surrogate themselves do not want to be responsible for a child that is not theirs.

19 Consultation Question 12:

Not Answered

Please provide your views below:

20 Consultation Question 13:

Not Answered

Please provide your views below:

21 Consultation Question 14:

Yes

Please provide your views below:

Other children born into various situations, do not require a welfare check so why if our child is born through a surrogate would we require a welfare visit. Nobody would go through surrogacy unless they had a stable environment for a child.

22 Consultation Question 15:

Yes

Please provide your views below:

Not Answered

Please share your views below:

23 Consultation Question 16:

Yes

Please provide your views below:

The intended parent should be given the right to mourn their child as parents.

Not Answered

Please provide your views below:

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

Yes

Please provide your views below:

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

26 Consultation Question 19:

Yes

Please provide your views below:

Please provide your views below:

27 Consultation Question 20:

Not Answered

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

29 Consultation Question 22:

Please provide your views below:

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

Not Answered

Please provide your views below:

34 Consultation Question 27:

Not Answered

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Not Answered

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

Chapter 11: Eligibility Criteria for a Parental Order

62 Consultation Question 54: We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished. Do consultees agree?

Please provide your views below:

Yes I feel that six months is too long and surrogates do not want to be responsible for the child for that length of time. If you was to tell anybody who had a child, you now have your child in your arms but you cannot be responsible for them legally for 6 moths I am sure they would also object to that. I would love to have our child myself but sadly that is not to be so I feel I am entitled to have my child in my arms and as my full responsibility from the beginning.

63 Consultation Question 55:

Not Answered

Please provide your views below:

Yes

Please provide your views below:

Chapter 12: Eligibility Criteria for Both a Parental Order and for the New Pathway

64 Consultation Question 56:

Yes

Please provide your views below:

Please provide your views below:

65 Consultation Question 57:

Please provide your views below:

66 Consultation Question 58: We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them. Do consultees agree?

Yes

Please provide views below:

67 Consultation Question 59:

Not Answered

Please provide views below:

Please provide views below:

Not Answered

Please provide views below:

68 Consultation Question 60: We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order. Do consultees agree?

Not Answered

Please provide your views below:

69 Consultation Question 61: We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order. Do consultees agree?

Not Answered

Please provide views below:

70 Consultation Question 62:

Please provide your views below:

Please provide your views below:

71 Consultation Question 63:

Not Answered

Please provide your views below:

Please provide your views below:

Not Answered

Please provide your views below:

72 Consultation Question 64:

Yes

Please provide your views below:

Please provide your views below:

Yes

Please provide your views below:

73 Consultation Question 65:

Yes

Please provide your views below:

Yes

Please provide your views below:

Chapter 15: Payments to the Surrogate: Options for Reform

80 Consultation Question 72:

based on costs actually incurred by the surrogate, but without the need for production of receipts; or

Please provide your views below:

Obviously some receipts will be required but not everything comes with a receipt

81 Consultation Question 73:

Please provide your views below:

I agree

82 Consultation Question 74:

Please provide your views below:

83 Consultation Question 75:

Please provide your views below:

84 Consultation Question 76: We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Please provide your views below:

85 Consultation Question 77:

Please provide your views below:

86 Consultation Question 78:

Please provide your views below:

87 Consultation Question 79:

Please provide your views below:

Please provide your views below:

Not Answered

Please provide your views below:

88 Consultation Question 80: We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Please provide your views below:

IPs should take our life insurance cover so no extra payment should be needed.

89 Consultation Question 81:

Please provide your views below:

I agree, they will be your friends and you would always buy friend gifts.

90 Consultation Question 82:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Please provide any views below:

91 Consultation Question 83:

Please provide views below:

Not Answered

Please provide your views below:

92 Consultation Question 84: We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order. Do consultees agree?

Not Answered

Please provide your views below:

93 Consultation Question 85: We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

94 Consultation Question 86: We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Please provide your views below:

95 Consultation Question 87:

Please provide your views below:

96 Consultation Question 88:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Chapter 17: Miscellaneous Issues

109 Consultation Question 101: We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Please provide your views below:

110 Consultation Question 102: We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies. Do consultees agree?

No

Please provide your views below:

111 Consultation Question 103:

Please provide your views below:

Yes surrogacy needs to be taken into account

112 Consultation Question 104: We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Please provide your views below:

113 Consultation Question 105: We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Please provude your views below:

114 Consultation Question 106: We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Please provide your views below:

115 Consultation Question 107:

Please provide your views below:

Please provide your views below:

Please provide your views below:

116 Consultation Question 108: We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Please provide your views below:

CONSULTATION RESPONSE – 11/10/19

Law Commission: Building Families through Surrogacy: A New Law

Background

ILPA is a professional association founded in 1984, the majority of whose members are barristers, solicitors and advocates practising in all aspects of immigration, asylum and nationality law. Academics, non-governmental organisations and individuals with a substantial interest in the law are also members. ILPA exists to promote and improve advice and representation in immigration, asylum and nationality law, to act as an information and knowledge resource for members of the immigration law profession and to help ensure a fair and human rights-based immigration and asylum system. ILPA is represented on numerous government, official and non-governmental advisory groups and regularly provides evidence to parliamentary and official enquiries.

Introduction and methodology

ILPA has focussed only on those questions which involve an element of immigration law, these are all found in chapter 16 of the consultation document. ILPA sent the call for evidence out to its members, and has compiled the responses below. Please note that we have only listed questions to which we have received a response from members.

Detailed responses

Question 91: We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Immigration Law Practitioners' Association, registered charity no. 1155286. A company limited by guarantee no. 2350422.
Registered in England and Wales. Registered office Lindsey House, 40-42 Charterhouse Street, London EC1M 6JN.

Experience of applying for a child to be registered as a British citizen

By Home Office standards in general, the experience of ILPA members is that UKVI provides a good service in processing these applications. Once biometrics have been enrolled, the application is usually approved within a couple of weeks.

However, significant delays are often caused by the biometrics process itself. Over the last year, one ILPA member has had a client wait three weeks to even receive the biometrics letter, however this is unusual.

The biggest delay by far is arranging a biometrics appointment with the local partner. Two examples given are from the past ten months, two in Ukraine and one in Ghana. In both cases the local partner was TLS but the booking process was different.

In the first Ukrainian case, the ILPA member emailed the centre repeatedly only to be ignored. From the time of getting the letter until the biometrics were enrolled took a period of eight weeks.

In the second Ukrainian case, the ILPA member emailed repeatedly without a response, so the clients who were fortunately in Kiev eventually just showed up in person and were able to arrange an appointment. It took three weeks to secure an appointment.

In the Ghanaian case, there were four children involved and it was physically impossible to secure appointments until four months in the future. Again, in that case, the clients eventually travelled in person to the visa centre and were able to book appointments. It still took four weeks to secure these appointments.

Applicants should not have to attend in person in order to book a biometric appointment, and in the first Ukrainian case mentioned above, this was not possible as they were staying in another city miles away.

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Intended parents are already under vast amounts of stress and anxiety. These levels of inefficiency and total shortfalls in the booking process bring enormous extra amounts of stress and pressure.

This is a wider issue with overseas visa application centres but the problem is particularly acute with surrogacy cases, where the parents are frequently not residents of that country and where every extra week spent overseas entails great emotional and financial cost.

In the days before children had to enrol biometrics, these applications were being processed in a week. Given that the biometrics enrolment entails nothing more than taking a photograph of the baby, the whole process seems unnecessary and adds substantial amounts of time.

ILPA therefore recommends that the requirement for baby biometrics is removed, and that this will make a significant difference to the lives of everyone involved.

ILPA also recommends that the online application process is amended so that it asks at the beginning of the form if it is a surrogacy matter so that it can be identified as such easily and prioritised as appropriate.

Experience of applying for a British passport

ILPA members have had mixed experiences with applying for British passports in surrogacy cases. While sometimes HMPO are processing these applications efficiently and sensitively and more quickly than other passport applications, other times there has been a lack of recognition on the part of HMPO of the urgency required in surrogacy cases.

Further, the submission process in countries such as Ukraine is highly problematic. These again require an appointment with a local visa application centre and the same issues arise as above in actually securing such an appointment.

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ILPA members have also reported that employees of local VACs have made unhelpful and incorrect remarks on supporting documentation, advised applicants to remove essential documents or complained because irrelevant documents have not been provided (e.g. birth certificate of intended father who was born overseas, when the baby has in fact already been registered as British citizen) and thereby caused applicants unnecessary anxiety and stress. There have also been complaints about further documentation being requested weeks after the application has been submitted.

One possible solution may be the issuing of Emergency Travel Documents for children who have already been registered as British. It would also be useful if clarity can be provided as to what documents will be provided in surrogacy applications made in each country.

92. We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child. Do consultees agree?

There are some concerns that have been raised that this proposal could potentially complicate matters by spreading out the submission process unnecessarily. However, ILPA is supportive if such a process is designed in a way that would ensure parents are aware of what will be required of them to register their child and obtain a passport after the birth, as often parents only realise this after the birth when they are already outside the UK.

93. We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

ILPA members have said that the application process is perhaps a bit confusing and complicated for parents, however, this is not specific to the surrogacy process and is a function of all immigration applications made through UKVI.

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One member reported that the last two applications made were approved within a couple of months of submission having paid extra for the priority service. This is very much in line with other family visa applications.

ILPA members reported that the inter-country surrogacy and immigration (within and outside the rules) policy is out of date and should be consulted on and re-written.

94. (i) We provisionally propose that it should be possible to open a file, and being the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth. Do consultees agree?

ILPA members agree that parents should be able to open a file pre-birth.

94. (ii) We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules. Do consultees agree?

ILPA members agree with the proposal to bring these applications within the Immigration Rules, however reiterates the comment at Q93 that the policy needs to be updated and that this is the more pressing issue.

94. (iii) We provisionally propose that: (1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or
(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate. Do consultees agree?

ILPA agrees with the proposals.

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94. (iv) We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

If the proposal to remove the time limit on applications for parental orders is removed then ILPA agrees that it would not make sense to retain the time limit on applying for a parental order in the case of visa applications.

However, it should continue to be a requirement of the visa route itself that parents apply for a parental order generally and can prove they have done this. It is important that a child is not brought to the UK without the adults involved understanding the requirements to obtain parental responsibility.

95. We provisionally propose that it should be possible to open a file, and begin the process for applying for an EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child. Do consultees agree?

ILPA agrees with this proposal.

97. We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement. Do consultees agree?

Yes, and ILPA strongly recommends that this process is done in consultation with lawyers who specialise in this type of work.

98. We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood. Do consultees agree?

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ILPA's agrees with this proposal as there are concerns about the risk of exploitation.

99. We provisionally propose that: (a) the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but
(b) before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law. Do consultees agree?

Concerns have been raised about this, as it is unclear that it would ever be possible to achieve (b) and there is a risk that it could give rise to exploitation.

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Response ID ANON-2V7F-Y8JH-8

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 23:39:06

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a personal response

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Other individual

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

I am writing to express my deep concern at the proposals to reform the current UK surrogacy laws. Many European countries have a total ban on surrogacy, and for extremely important reasons. These countries include Austria, Bulgaria, Croatia, Denmark, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Norway, Poland, Romania, Slovenia, Spain, Sweden and Switzerland. The UK should be proposing to join these countries in a total ban on surrogacy, not to further facilitate it.

I believe that all forms of surrogacy should be banned in the UK for the following reasons:

1) A human being is not a commodity to be bought and sold, or gifted. Nobody should have the right to deliberately create a baby with the intention to immediately separate it from its birth mother. This is relevant whether the baby is genetically related to the birth mother, or conceived with a donor egg. There is much evidence to show that separating an infant from its birth mother causes neurobiological vulnerabilities into adulthood. Nobody has the right to inflict that kind of psychological trauma upon another human being. Such psychological difficulties are of course seen in adopted children, but adoptions only occur where it is not safe for a child to remain with its birth mother. Creating a child in order to separate it from its mother at birth, is a form of abuse.

2) Surrogacy is a means of exploitation of impoverished and/or vulnerable women. If commercialised, it will be a means by which wealthy commissioners ("intended parents") have financial power over poorer women. Women in difficult social situations will inevitably see surrogacy as a way to improve their situation by earning money, but it is not acceptable for anybody to put these women's mental and physical health (and even lives) at risk by paying them to carry and birth a baby for somebody else. There is also a risk that, however closely regulated, surrogacy could cause women to be coerced or forced into surrogacy by abusive partners or family members, for financial gain.

3) The long term health risks to the birth mother cannot be dismissed. A surrogate mother who has not previously been pregnant or given birth, will not have a full understanding of what she is consenting to when signing a contract to carry a child, give birth to it, and them give it away. Physically, pregnancy and childbirth take their toll upon a woman's body, and in many cases leave the woman with permanent medical conditions. These include urinary incontinence, faecal incontinence, pelvic organ prolapse, obstetric fistula, nerve damage and gestational diabetes, to name but a few.

Emotionally, a traumatic birth can leave a woman experiencing Post Traumatic Stress Disorder for many years after the event. For a woman who gives away the baby she has carried for nine months, she cannot possibly predict how that will feel if she has never carried a baby before, and may find it to be far more traumatic than she expected. Feelings of guilt and grief could lead to mental health problems for the woman for the rest of her life.

For a woman who already has children, the possibility that she could die as the result of a surrogate pregnancy and childbirth, leaving her existing children without their mother, is an unacceptable risk. Of course this is always a risk with any pregnancy, including when the mother is adding to her own family, but the risk is not justified for surrogacy.

In my opinion, this consultation has not been publicised widely enough to collect a representative range of views on the subject of surrogacy reform. I have seen the list of groups and organisations consulted, and it is unfairly biased towards those who would benefit or profit from surrogacy (solicitors, agencies, private fertility clinics and "intended parents"), and there is not enough input from groups representing those who could be exploited or damaged by surrogacy (children and impoverished or vulnerable women).

I have read the following statement that you have made:

"We note the concerns of those stakeholders who felt that the current law was not in need of reform, or that reform was needed to either restrict, or completely ban surrogacy. We do not think that this position is tenable or achievable, and is not what most stakeholders, or Government, have said that they would want."

I do not believe that you have consulted the correct balance of people to conclude that "most stakeholders" do not want to ban surrogacy, and to claim that a ban on surrogacy is not "tenable or achievable" is ridiculous when so many other European countries have chosen to ban it.

I acknowledge that infertility or inability to have a baby is extremely painful, I myself have tried to conceive for over five years yet remain childless, but nobody has the right to separate a baby from its birth mother (and I include situations involving a donor egg here) to alleviate such pain. Acquiring a baby is NOT a human right.

I hope that you will now listen to and carefully consider the views of those who believe that all forms of surrogacy should be banned in the UK.

Chapter 1: Consultation Questions

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and **YES**

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Yes Surrogacy organisations should be under duty to keep a record of surrogacy arrangements under the new pathway to which they are a party with such records behind retained for a specified minimum period and that period is 100 years the lifetime of the child born through surrogacy however further clarity will be required should a clinic cease to exist in relation to these records. In addition clarity of the contents within the records should be standardised across all clinics to avoid disparity.

1.9

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

Yes with the growing use of DNA kits and agencies offering this it feels like a false precept to both intended parents and donor believing that anonymity can be offered. It means should the child want to make a connection at a later date the 'anonymous' donors will be unprepared for this which could have severe consequences for the child born through surrogacy and we strongly advocate a childs right to his/her genetic origins.

Paragraph 8.21

Consultation Question 10.

We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

There were mixed views from our membership:

Some agreed that Yes prohibition of the use of anonymously donated gametes in UK Surrogacy and that in a traditional, surrogacy arrangement that it should prevent that arrangement from entering into the new pathway.

Anonymous sperm should be prohibited for the reasons above. If anonymous via private arrangement has the donor considered implications for himself, his immediate family and extended family, their expectations during pregnancy, when the child is born and as the child grows up, what it would be like to meet the child, what if is doesn't work out or ends in miscarriage, still birth, disability. These issues would be discussed in implications counselling individually with the donor and then with the intended parents if attending a clinic for treatment.

However, some of our members do not fully agree with this - although there would not be a genetic link to the child and the child may have less options regarding information in the future. All of this could be fully explored and understood in implications counselling if they were permitted to follow the new pathway. However, if IPs (not requiring surrogacy) chose an anonymous sperm donor overseas, they would not be prevented from becoming parents via self-insemination. Therefore, it may be prejudiced to action this within traditional surrogacy. The genetic link does not fulfill the role of parenthood but is part of a person's genetic heritage. If all IPs seeking out a surrogacy arrangement are encouraged to enter into the new pathway (rather than be punitively denied it) they may step 'out of the shadows legitimately' and this would be supportive and could be preventative of things going wrong in traditional surrogacy arrangements or by raising awareness of other options, which may then be explored by IPs. DNA testing also means that true anonymity of a donor is not guarenteed (and it currently remains universally unregulated) as is acknowledged universally, Donor Conceived people are aware of how to seek out anonymous donors and facial recognition technology in the future will increase these possibilities as could possible retrospective changes to legislation overseas.

1.11

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree

1. **Should be assessed in the way set out in Chapter 8 of the current Code of Practice;**
   Clinics and counsellors vary in their approach to this – in some, the counsellor sees the parties to surrogacy with a view to writing a factual report for the clinic of implications explored and the circumstances, attitudes, expectations of both IP's and surrogates. In most cases it is a factual report of what has been discussed in the session and the clients' circumstances, attitudes, expectations, relationships with the other parties and there is no recommendation or assessment. However, some counsellors do provide a recommendation to the clinic and do extensive information gathering from GP's and other professionals involved such as probation services and criminal record DBR checks. Many counsellors do not view this, as an appropriate role for them so would only advise the clinic if a matter of serious concern arose.
2. **Either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed**
   Clinics are not generally qualified to undertake the kind of welfare of the child assessments that a social care agency might consider to be a sufficient assessment. They are reactive to any information that gives rise to concern but, apart from taking account of a counsellor's report, not proactive in this regard. Unless the counsellor comes from a social work background, s/he is unlikely to have any training in welfare assessments. In fact, the HF&E Act requires clinics to assume that patients are able to offer supportive parenting unless there is evidence to the contrary.

- **Some members believe there is definitely a need for a standard form across all clinics and further specialist training/specialist skills for staff taking on the surrogacy assessment roles. Counsellors in clinic have varying levels of experience, training and membership of professional bodies, with different standards of accreditation. It seems necessary that, to be fair, a national standard might be considered that would satisfy the demands of the courts parental order qualification.**

linics and it may not be at all appropriate for counsellors to do this.

We are also aware of at least two clinics whereby sharing agreements are in place with local probation services. In addition we are aware of cases where IP's have withheld information from the clinic on the self declaration form resulting in no further information being sought from any external agency and no further assessment. This highlights the lack of serious approach currently being taken and that IP's and or surrogates are able to be refused

Treatment at one clinic and move to another with no alerts to the clinic. This is a fundamental flaw of the "system" and improved information sharing needs to be introduced.

GP contact for both IP's and surrogates should take place requesting current and past issues in addition to enhanced DBS checks for all parties. (Some of our members felt if DBS checks are required then this should be extended to all gamete donors to avoid discrimination)

Some members expressed concern at the final decision making once the findings of the DBS check had been received with recommendations for standardization across all clinics.

3. **There should be no requirement for any welfare assessment of the child after his or her birth.**
   The Law Commission is placing a reliance on the clinics being competent to do this work, which is not based on current reality. It is unclear how equivalence between clinics and the surrogacy agencies is achieved. The agencies may employ competent staff for assessments whilst the clinics retain the status quo, so that parties to surrogacy would have quite different experiences, depending on whether they are assessed by an agency or a clinic. Preparation work undertaken by surrogacy agencies is paramount in attempting to ensure a good match building trust and rapport between parties and nurturing this relationship over time and the majority of counsellors will be unable to offer this type of preparation (or post) work before or after birth thus we do not believe it would fall within a fertility counsellors role to satisfy themselves or the clinic that a post birth check is not necessary.

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

how the legal parenthood of the surrogate should be extinguished in this model. **There is disagreement with the LC in relation to the partner of the surrogate in the decision making process. As the surrogate will need support during the gestational period. Also any existing children will need support with the understanding the context of the pregnancy.**

(2)

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial

Some members believe that there should be an additional oversight acknowledging that the child will legally be the intended parents from birth and that this should be administrative

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

Concerns are raised in relation to any woman being asked to commit to relinquishing her genetic child before birth, even if there is provision for her to change her mind and go through the Parental Order route. Whilst it is acknowledged what has been said about some surrogates using their power inappropriately how does this proposal safeguard against that, given that the surrogate can change her mind. Some members have had experience of IP's intimidating surrogates when there is a significant difference in socio-economic status. This is viewed as an ethical issue and surrogates will be at psychological disadvantage if they first commit to the IP's being the legal parents from birth but find that the reality of their own genetic child makes this unacceptable. It is understood that in adoption arrangements the birth mother is not asked to make this commitment pre-birth and it is accepted that she needs time after a birth to make the final decision. Should surrogates not be treated in the same way?

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

It feels appropriate and suitable that the PR has ultimate responsibility for ensuring training; policies and protocols are put in place and will liaise with the regulator to ensure that clinics are following the law and providing data.

PR should have counselling skills, knowledge of surrogacy, knowledge of the psychological and emotional impact of treatment, working knowledge of legal aspects of surrogacy, working knowledge of the fertility clinic process of treatment for surrogate and intended parents, understanding possible alternative pathways to parenthood if surrogacy was not able to work out.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

We do not believe it is the responsibility of the HFEA to regulate surrogacy organisations and this will require a range of professionals. However we are in agreement for the HFEA focusing on and ensuring counselling is offered to surrogate (and partner) and intended parents by counsellors and that there is continuing access to support as both parties go through the process

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

We agree to a national register of surrogacy arrangements to be maintained by the authority and that all information regarding surrogacy should be documented and that the parental order will record all information regarding the child' genetic heritage

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

YES

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13

.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree? YES

BICA strongly agrees that all parties surrogate and partner and intended parents should attend implications counselling, that this is made a mandatory prerequisite of treatment. We strongly agree a counsellor who meets the requirements set out in the Code of Practice should complete this.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree? YES

BICA agree independent legal advice should be sought. It is recognised that those supported by some agencies such as Bright Beginnings, Surrogacy UK or COTS may be better informed however a standardised (accredited) legal service across the board to ensure both parties are making informed consent when they agree to take part in treatment.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

BICA are in agreement with the recommendation of enhanced criminal record certificates being obtained. However it was noted this raises further questions in relation to whether this needs to be extended to all parties receiving donor gametes to avoid discrimination and disparity. Further questions were raised as to whether reports from the parties GP would also be required reflecting any current and past issues such as Psychiatric or drug and alcohol related issues.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

Paragraph 18.22

Response ID ANON-2V7F-Y8ZU-5

Submitted to The Law Commissions' Consultation on Surrogacy
Submitted on 2019-10-11 23:58:12

About you

1 What is your name?

Name:
[redacted]

2 If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

Enter the name of your organisation:

Fife Campaign for Women's Rights

3 Are you responding to this consultation in a personal capacity or on behalf of your organisation?

This is a response on behalf of an organisation

If other, please provide details:

4 If responding to this consultation in a personal capacity, which term below best describes you?

Not Answered

5 What is your email address?

Email address:
[redacted]

6 What is your telephone number?

Telephone number:
n/a

7 If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

Please explain why you wish the information that you will provide to us to be treated as confidential:

n/a

Chapter 6: The parental order procedure

8 Consultation Question 1:

Yes

Please provide your views below:

International surrogacy arrangements have been and will continue to be abused. Abuse has been so widespread that a number of countries where women have been exploited through surrogacy have now outlawed international surrogacy.

The risk of children being trafficked is as high as that of the exploitation of birth mothers, and this is a serious human rights issue. And even where this isn't the case, because these arrangements are generally in the form of commercial surrogacy - an unethical practice that has been shown to be harmful to birth mothers in particular, which is not legal in the UK - all such agreements should therefore continue to be scrutinised by a judge of the High Court.

Please provide your views below:

These cases should be allocated to a judge of the High Court.

9 Consultation Question 2:

Please provide your views below:

Because of the serious potential of human rights abuses inherent in all surrogacy agreements, the high risk of children being sold or trafficked and birth mothers being exploited, these cases should always be heard by a senior judge, ie circuit judges at the very least.

10 Consultation Question 3: We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Please provide your views below:

No comment

11 Consultation Question 4:

No

Please provide your views below:

This suggestion is in direct conflict with the recommendations made by the UN's Special Rapporteur for Surrogacy who strongly recommends that any decisions about parental responsibility and legal parenthood should not be made until after the child is born and only following careful consideration for the best interests of the child by a legal authority, ie a High Court judge.

Under no circumstances should decisions about the transfer of parental responsibility or legal parenthood ever be automatic or foregone conclusions. Each and every case must be scrutinised by a senior judge before any orders are made.

12 Consultation Question 5: We provisionally propose that the rule currently contained in rule 16.35(5) of the Family Procedure Rules 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise. Do consultees agree?

Yes

Please provide your views below:

13 Consultation Question 6:

Please provide your views below:

Whatever reforms are needed for the system in Scotland, as curators ad litem are also appointed in other cases where a person does not have capacity to act on their own behalf, any such reforms should be undergone independent of this proposed new law.

Chapter 8: Legal Parenthood: Proposals for Reform - A New Pathway

14 Consultation Question 7:

No

Please provide your views below:

This proposal is in direct conflict with the recommendations made by the UN Special Rapporteur for Surrogacy. It also contradicts the provisions in the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. It is entirely incomprehensible to us how and why the Law Commission has seen fit to make such an unethical proposal in light of that.

The Hague Adoption Convention places the rights of the child over and above the wishes of any of the adults involved in order to ensure that decisions can be taken which are in the best interests of the child alone, in order to protect children from exploitation, trafficking or sale. As surrogacy arrangements have already led to children being abandoned, exploited, trafficked and sold, it is paramount for the UK to avoid adopting any law that will make such human rights abuses easier and less likely to be uncovered.

Furthermore, absolutely no proposals should be made legal that require the birth mother to object to handing over her parental rights at the time that she is most vulnerable in this entire process - in the immediate period after birth. This proposal reduces the birth mother to a mere vessel, a carrier who is expected to agree to hand over the child who she will grow with her own body long before this child exists. And long before the complicated psychological and hormonal processes that take place during pregnancy and birth have irrevocably changed her and the baby.

As your consultation paper acknowledges, the vast majority of the women entering surrogacy agreements are from poorer backgrounds, of lower social status and with less power than the people seeking to obtain a child through surrogacy. It is therefore unclear to us how you could propose to create a situation that puts the birth mother into an even less powerful position. One that will make it harder for her to maintain her bodily integrity and autonomy in light of entering a de facto contract and transaction that involves her growing a child that in essence legally belongs to someone else already, in a process that ends with her automatically losing legal parenthood unless she manages to object. While being, as mentioned above, in the most vulnerable state during the pregnancy and birth, when she is least likely to be able to exercise any of the rights you see fit to leave her with.

The Hague Adoption Convention stipulates that the birth mother is required to give consent freely, when she is in a fit state and position to do so and only after the child is born. Furthermore, as per current law in the UK, the person giving birth is considered to be the mother of the child. She is the person with legal parenthood and parental responsibility from birth and while she may exercise her right to give both away, your proposal may have far

reaching consequences in undermining the status of birth mothers. Yet it seems that you have considered neither the experiences of women, the nature of pregnancy and childbirth nor the human rights of mother and child in making your proposals.

15 Consultation Question 8:

Other

Please provide your views below:

We object to surrogacy in principle, both on human rights grounds and on ethical grounds. We do not agree with surrogacy and do not believe that it can be regulated without violating the human rights of birth mothers and children.

Not Answered

Please provide your views below:

n/a

16 Consultation Question 9: We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.Do consultees agree?

Other

Please provide your views below:

We object to this proposal as we do not believe that surrogacy can be regulated without violating the human rights of birth mothers and children.

17 Consultation Question 10: We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

Please provide your views below:

We reject any and all proposals aiming to regulate surrogacy. It should be banned in its entirety, not made easier. Also, the use of anonymously donated sperm violates the right of the child to know its genetic history.

18 Consultation Question 11:

No

Please provide your views below:

As outlined above this proposal violates the rights of the birth mother, conflicts with the recommendations made by the UN Special Rapporteur for Surrogacy and the Hague Adoption Convention. It puts birth mothers at a deliberate and distinct disadvantage and can only be designed to deprive birth mothers of their rights more easily.

19 Consultation Question 12:

Yes

Please provide your views below:

As outlined above, we disagree with the proposal to give the persons seeking to obtain a child through surrogacy automatic rights to legal parenthood and parental responsibility. As the UN Special Rapporteur for Surrogacy recommends, any decisions about legal parenthood and parental responsibility should be made after the child has been born and only after careful consideration by a senior judge. At five weeks (two in Scotland) the time period suggested is far to short and falls into the postpartum period when no mother should ever be required to make such momentous, life-changing decisions.

20 Consultation Question 13:

Other

Please provide your views below:

We refer you to our answer above. We reject this proposal, the new pathway and surrogacy altogether.

21 Consultation Question 14:

No

Please provide your views below:

We refer you to our answer above. The UN Special Rapporteur for Surrogacy has recommended that no decisions should be taken until a court has been able to carefully consider all of the facts and then only decide according to what is in the best interests of a child. Therefore a welfare assessment of the child is an absolute necessity.

The argument that parents in couples where the mother has carried her own child are not forced to undergo a welfare check is nonsensical. Persons seeking to obtain a child through surrogacy do not undergo the same bonding experience as the birth mother. Paying someone else to grow a child for you does not create this bond. Not undertaking a child welfare assessment would be negligent under those circumstances. The correct comparator for this situation is an adoption case because here also the birth mother is not the person asking for legal parenthood and responsibility.

22 Consultation Question 15:

No

Please provide your views below:

We profoundly disagree with this proposal. As per the UN Rapporteur's recommendations, the birth mother should be the legal parent of the child, just as with any other children she may have had. And in line with the law on legal parenthood and parental responsibility, the mother's partner should have the same rights as with any other children they may have together.

Furthermore, as you have acknowledged in your paper, women entering surrogacy agreements are less wealthy, less powerful and of lower social status. This puts them at a much higher risk of being exploited. Such exploitation may come at the hands of their current partners. If they do not have automatic parental rights, they may exert pressure on the birth mother to give up the child.

Yes

Please share your views below:

As we have stated above, the normal rules of parenthood should continue to apply. To do otherwise increases the risk of abusive or coercive spouses exploiting their wife through surrogacy for their own financial gain.

23 Consultation Question 16:

No

Please provide your views below:

As stated above, we wholly reject the proposal of removing the birth mother's legal parenthood automatically. She should continue to be the legal parent until she freely consents to transfer it. This should of course also apply in cases where the child is stillborn. What provisions exist in your proposals for helping the birth mother deal with the resulting trauma? What provisions exist in your proposals for supporting the spouse of existing children of a birth mother if she also dies in childbirth?

No

Please provide your views below:

As stated above, we wholly reject the proposal of removing the birth mother's legal parenthood automatically. She should continue to be the legal parent at birth and without a proper parental order being considered by the court there should be no transfer of legal parenthood. This should of course also apply in cases where the child is stillborn. What provisions exist in your proposals for helping the birth mother deal with the resulting trauma? What provisions exist in your proposals for supporting the spouse of existing children of a birth mother if she also dies in childbirth?

24 Consultation Question 17: We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.Do consultees agree?

No

Please provide your views below:

As stated above, we wholly reject the proposal of removing the birth mother's legal parenthood automatically. She should continue to be the legal parent at birth and without a proper parental order being considered by the court there should be no transfer of legal parenthood. This should of course also apply in cases where the child is stillborn. What provisions exist in your proposals for helping the birth mother deal with the resulting trauma? What provisions exist in your proposals for supporting the spouse of existing children of a birth mother if she also dies in childbirth?

25 Consultation Question 18: For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

Please provide your views below:

We reject the proposals for the new pathway entirely.

26 Consultation Question 19:

Not Answered

Please provide your views below:

Please provide your views below:

27 Consultation Question 20:

Not Answered

Please provide your views below:

28 Consultation Question 21: We invite consultees' views as to: (1) a temporary three-parent model of legal parenthood in surrogacy cases; and (2) how the legal parenthood of the surrogate should be extinguished in this model.

Please provide your views below:

29 Consultation Question 22:

Please provide your views below:

We reject the new pathway entirely. Surrogacy should be banned not made easier. Where is your evidence that your proposals are better than the existing evidence which strongly points at the benefits of banning surrogacy altogether?

30 Consultation Question 23:

Please provide your views below:

31 Consultation Question 24:

Please provide your views below:

32 Consultation Question 25: We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

Please provide your views below:

33 Consultation Question 26:

Not Answered

Please provide your views below:

34 Consultation Question 27:

Not Answered

Please provide your views below:

35 Consultation Question 28: We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.Do consultees agree?

Not Answered

Please provide your views below:

36 Consultation Question 29:

Please provide your views below:

Chapter 9: The Regulation of Surrogacy Arrangements

37 Consultation Question 30: We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.Do consultees agree?

Not Answered

Please provide your views below:

38 Consultation Question 31: We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

Please provide your views below:

39 Consultation Question 32:

Please provide your views below:

Please provide your views below:

40 Consultation Question 33:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

Not Answered

Please provide your views below:

41 Consultation Question 34:

Please provide your views below:

Please provide your views below:

Please provide your views below:

42 Consultation Question 35: We provisionally propose that regulated surrogacy organisations should be non-profit making bodies. Do consultees agree?

Not Answered

Please provide your views below:

43 Consultation Question 36: We invite consultees' views as to what should be included in the definition of matching and facilitation services.

Please provide your views below:

44 Consultation Question 37: We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway. Do consultees agree?

Not Answered

Please provide your views below:

45 Consultation Question 37: We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

Please provide your views below:

46 Consultation Question 38: We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

Please provide your views below:

47 Consultation Question 39: We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood. Do consultees agree?

Not Answered

Please provide your views below:

Please provide your views below:

48 Consultation Question 40: We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms). Do consultees agree?

Not Answered

Please provide your views below:

49 Consultation Question 41: We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements. Do consultees agree?

Not Answered

Please provide your views below:

50 Consultation Question 42: We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements. Do consultees agree?

Not Answered

Please provide your views below:

Chapter 18: Impact

117 Consultation Question 109:

Please insert the year of birth here:

Not Answered

If international, in which country did the arrangement take place?:

Not Answered

Not Answered

118 Consultation Question 110:

Not Answered

Not Answered

Not Answered

Please provide the cost of any legal advice or representation below:

119 Consultation Question 111: We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Please provide your views below:

120 Consultation Question 112:

Please provide your views below:

Please provide your views below:

121 Consultation Question 113:

Please provide your views below:

Please provide your views below:

122 Consultation Question 114:

Please provide your views below:

123 Consultation Question 115:

Please provide your views below:

Please provide your views below:

124 Consultation Question 116:

Not Answered

Please provide your views below:

Please provide your views below:

Please provide your views below:

Please provide your views below:

125 Consultation Question 117: We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Please provide your views below:

126 Consultation Question 118: We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this Consultation Paper.

Please provide your views below:

This consultation is an affront to democratic policy making. 118 questions in total, a 502 page consultation paper, incomprehensible language, legal jargon fit only for those already familiar with the technicalities of British law and an underlying attitude in formulating the questions that presupposes only one outcome - that of legalising commercial surrogacy in all but name.

I attended the meeting at the Law Commission in Edinburgh and was treated to a most astonishing display - lawyers so arrogant in their presentation, so contemptuous of anyone raising concerns about the rights of women and children that I actually feel ashamed for the Law Commission. It wasn't just women's and children's rights campaigners who were brushed off with the lazy retort that those writing the proposals and holding the event were but lawyers and that it wasn't their job to investigate the psychological and physiological risks of surrogacy but also medical professionals and experts in bioethics who had also raised concerns.

After attending a number of meetings related to public consultations I can honestly say this was by far the worst. That the outcome of this consultation is a foregone conclusion was obvious, but that legal professionals would behave in this disrespectful manner was wholly unexpected.

Additionally we stress that we disagree profoundly that the sole job of those proposing to change UK law is to look at legal issues alone. We expect those who propose to change a law to do a far more thorough job, to above all take into account concerns raised by medical professionals, by human rights campaigners and by experts in ethics.

Furthermore, as the proposals made by the Law Commission contradict and conflict with existing human rights legislation such as The Hague Adoption Convention and the UN Convention on the Rights of the Child as well as the Convention for the Eliminations of Discrimination Against Women, we do not believe it is even doing the job it has limited itself to - that of solely looking at legal matters - properly and to the best of its ability.

It is also unacceptable that the Law Commission's proposals go so thoroughly against the recommendations made by the UN Special Rapporteur for Surrogacy, especially given that the vast majority of European Countries have banned surrogacy outright. Nowhere in this proposal is there even the slightest attempt made to allow for the debate we as a society should have long before the law is changed - whether surrogacy is indeed an acceptable and morally justifiable way of building a family. And yet this is the Law Commission's starting point. Who decided that? How did we get here? It's a starting point one can arrive at only by misinterpreting existing human rights regarding the right to a family life and by ignoring all the evidence about the egregious abuses of surrogacy, the exploitation of vulnerable women and the sale and trafficking of children.

However, given that the Law Commission has not seen fit to consult with any women's or mothers' rights groups nor with the Royal College of Obstetrics and Gynaecology, it is hardly surprising that it has delivered this farcical version of a public consultation. For lawyers at the event to bemoan that attendees did not seem to use or even understand the legal jargon is of course wholly reprehensible given that this was an event aimed at the general public, but one of the attendees, a legal professional herself, sought to reassure the rest of us that those like her who sit in judgement about parental orders do take the very best interests of the child into account. Not even this sheriff of the court had properly understood that your proposals aimed to cut her from the process entirely.

To reiterate, we are against these proposals and we advocate for a complete ban of surrogacy because it is a violation of the human rights of the birth mothers and children involved.

We also wish to register a serious complaint about the - in our view - dishonest, manipulative nature of the consultation, which by its very design and language used discourages the general public to take part in this process. It is our considered opinion that the whole consultation is thoroughly biased towards the Law Commission's desired outcome.

Surrogacy Consultation Questions

*Email the completed document to **surrogacy@lawcommission.gov.uk** before the deadline of 11 October 2019.*

ABOUT YOU

1. What is your name?

Name (Required)

[redacted]

2. If you are a member of an organisation (for example, a surrogacy organisation or a university), what is the name of your organisation?

N/A responding as individual concerned with the proposals

3. Are you responding to this consultation in a personal capacity or on behalf of your organisation?

(Required – Choose one response)

- This is a personal response. Note due to the length and complexity of this consultation, I have used some standard wording in my responses but these are my views nonetheless.
- ~~This is a response on behalf of an organisation~~
- ~~Other~~

If other, please provide details:

4. If responding to this consultation in a personal capacity, which term below best describes you?

(Choose one response)

- ~~Surrogate~~
- ~~Intended parent~~
- ~~Person born of a surrogacy arrangement~~
- ~~Family member of a surrogate~~
- ~~Family member of an intended parent~~
- ~~Legal practitioner~~
- ~~Medical practitioner or counsellor~~
- ~~Social worker~~
- ~~Academic~~
- Other individual

5. What is your email address?

Email address:

[redacted]

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

6. What is your telephone number?

Telephone number:

[redacted]

7. If you want the information that you provide in response to this consultation to be treated as confidential, please explain to us why you regard the information as confidential. As explained in our privacy notice, we will take full account of your explanation but cannot give an assurance that confidentiality can be maintained in all circumstances.

My email & phone number should be kept confidential please for security purposes.

Consultation Question 1.

1.1 We invite consultees' views as to whether, in England and Wales:

(1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and

YES

International surrogacy arrangements pose opportunities for the sale, abuse and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should continue to be heard by a judge of the High Court.

(2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

Paragraph 6.42

Consultation Question 2.

1.2 We invite consultees' views as to whether, in respect of England and Wales

(1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and

(2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

All surrogacy arrangements pose opportunities for the sale and trafficking of children and the exploitation of birth mothers. These are human rights issues of the utmost seriousness and so the arrangements should be overseen by a senior and experienced judge. For this reason these cases should NOT be heard by a lay judge but rather by a senior judge, e.g. ticketed to circuit judges or higher.

Paragraph 6.51

Consultation Question 3.

1.3 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

Paragraph 6.53

Consultation Question 4.

1.4 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).

NO

The UN Special Rapporteur recommends* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration.

Nothing about the transfer of parental responsibility should be automatic and all options should be open.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 6.58

Consultation Question 5.

1.5 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?

YES

Paragraph 6.72

Consultation Question 6.

1.6 We invite consultees' views as to whether they are of the view that, in Scotland:

(1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators ad litem and reporting officers and, if so, how this should be addressed;

(2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or

(3) further procedural reform is needed and, if so, what that reform should be.

Paragraph 6.110

Consultation Question 7.

1.7 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

(1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,

(2) complied with procedural safeguards for the agreement, and

(3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?

NO, I totally disagree with this proposal.

It contradicts the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. These require the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be freely given AFTER the child's birth. I believe that this important safeguard against the sale of children and the exploitation of birth mothers should apply equally to surrogacy arrangements, in both an international and a domestic context.

This proposal would set a dangerous precedent for all women, all mothers, all children and all of the implications need to be fully understood. There is no evidence in the consultation paper that the law commissioners have considered these more general implications fully, if at all.

I understand that the proposal to automatically grant the 'intended parents' legal parenthood at birth is based on (or justified by) in part at least the wishes expressed by some 'surrogate' mothers prior to the consultation. I do not agree that these claimed wishes alone justify measures that contravene the recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children and to protect birth mothers.

Bringing a child into the world is a great responsibility and it is not ethical to encourage or condone a system that would require women to deliberately conceive and subsequently give birth with the expectation that they would have little or no legal responsibility for the child. The rights of the child must be prioritised regardless whether that is what some 'surrogate' mothers say they want or not.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.13

Consultation Question 8.

1.8 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations.

1.9 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

Paragraph 8.14

Consultation Question 9.

1.10 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?

OTHER

I profoundly disagree with the proposal for regulated surrogacy organisations, because they would inevitably lead to a normalising of surrogacy and an increase in its prevalence.

Paragraph 8.21

Consultation Question 10.

1.11 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

I profoundly disagree with the proposals for the 'new pathway.'

Paragraph 8.22

Consultation Question 11.

1.12 We provisionally propose that:

(1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;

(2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and

(3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?

NO

I disagree with the proposal that the 'intended parents' should automatically acquire legal parenthood at birth and that the birth mother has only a limited time to object. This contradicts the UN Special Rapporteur's recommendations,* including that the birth mother is the legal parent at birth and that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements are taken by a court or other competent authority AFTER the birth, with the child's best interests being the paramount consideration.

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.35

Consultation Question 12.

1.13 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

(1) the surrogate will be the legal parent of the child;

(2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and

(3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposals for the 'new pathway' – particularly with the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.36

Consultation Question 13.

1.14 We provisionally propose that, in the new pathway:

(1) the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

(2) if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3) if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?

NO

I disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects.

The birth mother should be the legal parent at birth, along with her husband, spouse or civil partner if she has one – and decisions about any subsequent change of legal parenthood and parental responsibility must be taken by a court or other competent authority AFTER the birth and with the child's best interest being the paramount consideration, in accordance with the UN Special Rapporteur's recommendations.*

The birth registration period is only 6 weeks and is shorter in Scotland – so the proposal is to give the birth mother less than 5 weeks to object. The 6 weeks after childbirth are recognised as the most rapid period of physical, physiological and emotional change that takes place in healthy human life. In a normal delivery there might have been significant blood loss leading to anaemia. After a Caesarean, to these changes is added all the stress of recovering from major abdominal surgery. It is totally inappropriate to expect the birth mother to make a calm and considered decision of such huge and life-changing significance at such a time – not to mention following through with the practical requirements of putting it in writing and ensuring it is received before the expiry of the deadline.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.37

Consultation Question 14.

1.15 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

(1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;

(2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and

(3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?

NO

I disagree with this proposal. It contradicts the UN Special Rapporteur's recommendation* that all decisions involving legal parenthood and parental responsibility in surrogacy arrangements

should be taken by a court or other competent authority AFTER the birth and that the child's best interests are the paramount consideration. A welfare assessment is an absolute requirement if an informed decision is to be made about the child's best interest. Therefore a welfare assessment MUST be made after the child's birth.

The pre-conception assessment would typically have been carried out more than a year before the birth of the child. Much can change in that time.

The justification that a welfare assessment after the birth of the child is not necessary because parents of children born through the normal process are not subject to such checks does not hold. Pregnancy, birth and the post-partum changes are intense physical and existential experiences that change you and prime you to love and be sensitive to the new-born child and rise to the challenge of the enormous task of raising him or her to adulthood. For obvious reasons 'intended parents' do not have this advantage.

In addition, pregnancy and childbirth are a huge investment of the birth mother's physical, physiological and emotional resources, which means she has already made a huge and unquantifiable, nearly year-long, commitment to the child. This means her practical and emotional commitment to the child is already well-developed, giving her the best chance of surmounting all the difficulties that will inevitably arise over the course of the child's childhood and adolescence.

The 'intended parents' have had no similar experience. The investment of financial resources does not in any way prepare you for the practical reality of caring for a new-born child and the long road of nurturing and shepherding him or her to adulthood.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.51

Consultation Question 15.

1.16 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents' acquisition of legal parenthood at birth, the surrogate's spouse or civil partner, if any, should not be a legal parent of the child.

Do consultees agree?

NO

As is being repeatedly stated, I disagree with the 'new pathway.'

There is a very real risk that spouses and partners will coerce women into being a 'surrogate' for financial gain. This risk is likely to increase if he or she does not have legal parenthood or

parental responsibility for any children born of the arrangement. This is enough reason to reject this proposal.

However, it also represents a significant change in legal parenthood rules and would therefore have an implication for all children, all families because it would set a precedent. It should not be introduced without a full assessment of all the implications, including on the rights of mothers and children. There is no evidence that the law commissioners have carried out any such assessment.

1.17 We invite consultees' views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate's spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

YES

The normal legal parenthood rules should apply. This will reduce the risk of spouses and partners coercing women into surrogacy for financial gain.

Paragraph 8.57

Consultation Question 16.

1.18 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:

(1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and

(2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

NO

I disagree with the proposals for the 'new pathway' – particularly the 'intended parents' acquiring legal parenthood automatically at birth unless the birth mother objects. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn.

1.19 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

NO

I absolutely disagree with the 'intended parents' being registered as the birth parents in this situation. The birth mother should always be the legal parent of the child at birth and this should not change if the child is stillborn and the registration should accurately reflect this.

Paragraph 8.77

Consultation Question 17.

1.20 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?

NO

I disagree with the 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and if the child dies before the parental order, the registration of birth should accurately reflect that the birth mother was the legal parent.

Paragraph 8.79

Consultation Question 18.

1.21 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 8.80

Consultation Question 19.

1.22 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I disagree with the deceased 'intended parents' being registered as the legal parents in this situation. The birth mother should always be the legal parent of the child at birth and the registration of birth should accurately reflect this.

1.23 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:

(1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:

(a) for an order for appointment as guardian of the child, and

(b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or

(2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

The intended parents should NOT be registered as the child's parents if they are already deceased – so option (2) is preferable.

Paragraph 8.81

Consultation Question 20.

1.24 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

(1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;

(2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and

(3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?

YES

Paragraph 8.86

Consultation Question 21.

1.25 We invite consultees' views as to:

(1) a temporary three-parent model of legal parenthood in surrogacy cases; and

(2) how the legal parenthood of the surrogate should be extinguished in this model.

I profoundly oppose a three-parent model of legal parenthood, even if it is temporary. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child with the best interests of the child being the paramount consideration, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.91

Consultation Question 22.

1.26 We invite consultees' views:

(1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and

(2) if so, as to whether should this oversight be:

(a) administrative, or

(b) judicial.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should be the legal parent and have parental responsibility at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child based on the best interests of the child, as recommended by the UN Special Rapporteur.*

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.93

Consultation Question 23.

1.27 In respect of England and Wales, we invite consultees' views as to:

(1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and

(2) if so, as to what those additional factors should be.

The child's best interests should drive all decisions about the child in the event of a dispute about a surrogacy arrangement. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and conforms to the UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.120

Consultation Question 24.

1.28 In respect of England and Wales, we invite consultees' views:

(1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and

(2) what those additional factors should be.

The child's best interests should drive all decisions when considering whether to make a parental order. The welfare checklist provides a comprehensive summary of the issues to be considered and is adequate as it is, and it conforms to UN Special Rapporteur's recommendation* that the child's best interest is the paramount consideration. I therefore do not believe any other factors should be added.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.121

Consultation Question 25.

1.29 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

NO

There are real risks of the sale and trafficking of children and of exploitation of the birth mother and her reproductive capacities in all surrogacy arrangements. The court should therefore always have oversight of the arrangements. I am also concerned that there should be no liberalisation of the law on surrogacy because of the potential human rights abuses involved. I do not believe that 'intended parents' should be added to the list of those who can apply for a section 8 order without leave.

Paragraph 8.123

Consultation Question 26.

1.30 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

(1) the child is living with them or being cared for by them; and

(2) they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with this proposal. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, as

recommended by the UN Special Rapporteur* in order to reduce the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify measures that contravene recommendations of the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no legal responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.132

Consultation Question 27.

1.31 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

(1) the intended parents should acquire parental responsibility on the birth of the child; and

(2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should acquire parentage or parental responsibility automatically. The birth mother should be the legal parent at birth and all decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

I understand that the decision to automatically grant the 'intended parents' parental responsibility is based on (or justified by) the wishes expressed by some 'surrogate' mothers prior to the consultation. Their wishes alone do not justify a measure that contravenes recommendations of

the UN Special Rapporteur and the provisions of the Hague Convention that are designed to reduce the risk of the sale and trafficking of children.

Bringing a child into the world is a great responsibility and it is not ethical to condone a system that would require women to give birth with the expectation that they would have no responsibility for that child – other than a temporary right to 'object'. The rights of the child must be prioritised regardless whether that is what some birth mothers say they wish.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.134

Consultation Question 28.

1.32 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?

OTHER

I agree that the birth mother should have parental responsibility for the child but NOT that the 'intended parents' should get automatic legal parenthood and parental responsibility.

All decisions involving legal parenthood and parental responsibility in surrogacy arrangements should be taken by a court or other competent authority AFTER the birth of the child, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their women's reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.139

Consultation Question 29.

1.33 For all surrogacy arrangements, we invite consultees' views as to:

(1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and

(2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

I profoundly disagree with the proposals for the 'new pathway'. The birth mother should have legal parenthood and parental responsibility at and after the birth and all subsequent decisions involving legal parenthood and parental responsibility should be taken by a court or other competent authority, with the child's best interest the paramount consideration. This is the recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 8.140

Consultation Question 30.

1.34 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 9.29

Consultation Question 31.

1.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

N/A

Paragraph 9.35

Consultation Question 32.

1.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

1.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. It is inappropriate and contradicts binding obligations under the UNCRC and its first optional protocol.

Paragraph 9.36

Consultation Question 33.

1.38 We provisionally propose that:

(1) there should be regulated surrogacy organisations;

NO

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

(3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.

Do consultees agree?

OTHER

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.61

Consultation Question 34.

1.39 We provisionally propose that the person responsible must be responsible for:

(1) representing the organisation to, and liaising with, the regulator;

(2) managing the regulated surrogacy organisation with sufficient care, competence and skill;

(3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;

(4) training any staff, including that of the person responsible; and

(5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

LEAVE ALL CHECK BOXES BLANK (i.e. none of the above)

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.40 We invite consultees to identify any other responsibilities which a responsible individual should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

1.41 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

I disagree with this proposal because regulated surrogacy organisations would sanction and legitimise surrogacy and inevitably lead to an increase in its prevalence. I consider surrogacy to be a violation of the human rights of both women and children.

Paragraph 9.62

Consultation Question 35.

1.42 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy. Even if surrogacy organisations are non-profit making, they will inevitably be driven by commercial imperatives (for example, to cover costs, salaries, etc.) and will need to continuously seek new business and to convince or coerce more women to act as 'surrogates.'

Deriving income from surrogacy is abhorrent and, given the parallels between surrogacy and prostitution, is a potential violation of Article 6 of CEDAW, which prohibits third-parties profiting or otherwise benefiting from the prostitution of women.

Paragraph 9.84

Consultation Question 36.

1.43 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

I disagree with organisations being able to provide matching and facilitation services, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.94

Consultation Question 37.

1.44 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and

facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

1.45 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

I profoundly disagree with the proposals for the 'new pathway'. I disagree with regulated surrogacy organisations or any other organisations being able to provide matching and facilitation services for any type of surrogacy, because that would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children.

Paragraph 9.95

Consultation Question 38.

1.46 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

I do not accept that matching and facilitation services should be allowed – regardless who they are provided by – because they would inevitably lead to an increase in surrogacy, which I consider a violation of the human rights of both women and children. Offering such services should be a criminal offence.

Paragraph 9.97

Consultation Question 39.

1.47 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

Do consultees agree?

OTHER

I disagree with the proposal for regulated surrogacy organisations because they would sanction surrogacy, which I consider a violation of the human rights of both women and children, and would drive an increase in surrogacy.

1.48 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

Paragraph 9.117

Consultation Question 40.

1.49 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?

YES

Paragraph 9.129

Consultation Question 41.

1.50 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with this proposal and the opening up of surrogacy in this country, because I consider it a violation of the human rights of both women and the child. The idea of organisations charging to facilitate it is utterly abhorrent and violates the spirit, if not the letter, of Article 6 of CEDAW, given the parallels between surrogacy and prostitution. Article 6 prohibits the exploitation of the prostitution of women – which includes deriving any form of benefit from women's prostitution.

Paragraph 9.135

Consultation Question 42.

1.51 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?

NO

I VEHEMENTLY disagree with removing the current ban on advertising in respect of surrogacy. Surrogacy is a violation of the human rights of both women and children, and enabling advertising sites (and other 'service' organisations) to financially benefit from it is abhorrent.

At this time of increasing poverty and inequality, it would be unethical to promote the idea that being a 'surrogate' mother would be a solution to an impoverished woman's financial problems. If this proposal is implemented, Facebook and Google are likely present surrogacy ads to female students and young women suggesting that becoming a 'surrogate' would provide the solution to their financial worries. The most disadvantaged young women would be the most vulnerable to this idea and it is doubtful it would ever truly be in her best interest.

Just as we protect disadvantaged people from the temptation of selling their kidneys for money, we need to protect disadvantaged women from the temptation of renting their wombs. This means that advertising of surrogacy MUST remain banned.

Paragraph 9.145

Consultation Question 43.

1.52 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?

YES

Paragraph 10.80

Consultation Question 44.

1.53 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. I do not agree that the 'intended parents' should be recorded as parents on the original birth certificate. The birth mother should be recorded as the birth mother on the birth certificate and all decisions involving legal parenthood and parental responsibility should be taken after the birth by a court or other competent authority, with the child's best interest the paramount consideration. This is the

recommendation of the UN Special Rapporteur* and has the aim of reducing the risk of the sale and trafficking of children and the exploitation of women and their reproductive capacities.

However, if the 'intended parents' are recorded as parents on the birth certificate, the full form of the certificate should make clear that the birth was the result of a surrogacy arrangement.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 10.85

Consultation Question 45.

1.54 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

I do not consider the birth registration system to be in need for reform. I am particularly opposed to changes to allow for the registration of three parents or for anyone other than the birth mother to be recorded as the mother on the original birth certificate. Such proposals could lead to the facilitation of the sale of children and an erosion of mothers' rights and a diluting of the understanding that the relationship between the birth mother and the child is unique.

Paragraph 10.87

Consultation Question 46.

1.55 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?

YES

Paragraph 10.89

Consultation Question 47.

1.56 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

YES

1.57 We provisionally propose that:

(1) the register should be maintained by the Authority;

(2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:

(a) identifying information about all the parties to the surrogacy arrangement, and

(b) non-identifying information about those who have contributed gametes to the conception of the child; and

(3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway' and regulated surrogacy organisations. However, should surrogacy take place, it is important that the children have access to information about their origins and these proposals seem generally sound, except that the information held on gamete donors should also include identifying information – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.102

Consultation Question 48.

1.58 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

I agree but with the proviso that all the information should be identifying – because otherwise it trivialises the creation of a child and denies the child the right to know her or his genetic parentage.

Paragraph 10.104

Consultation Question 49.

1.59 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

YES

1.60 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

(1) where his or her legal parents have consented;

(2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or

(3) in any other circumstances.

I agree with (1) and (2) and believe there might be other circumstances where this is reasonable.

Paragraph 10.110

Consultation Question 50.

1.61 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

YES, this should be possible.

Paragraph 10.114

Consultation Question 51.

1.62 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

Do consultees agree?

YES

1.63 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

YES, I agree.

Paragraph 10.121

Consultation Question 52.

1.64 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

(1) if they are genetically related through the surrogate; and/or

(2) if they are not genetically related through the surrogate.

YES to both (1) and (2)

Paragraph 10.123

Consultation Question 53.

1.65 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

The intended parent who is not a party to the application for a parental order should be recorded in the register.

Paragraph 10.128

Consultation Question 54.

1.66 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 11.20

Consultation Question 55.

1.67 We provisionally propose that:

(1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

(2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:

(a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or

(b) following a determination by the court that the child should live with the intended parents; and

(3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

NO

I disagree with this because it is a violation of women's rights and would increase the risk of child trafficking and exploitation of the rental of women's wombs. An adoption order can be considered as an option when a parental order is not possible.

Paragraph 11.58

Consultation Question 56.

1.68 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway'. The 'intended parents' should be domiciled (and not simply habitually resident) in the UK in order to avoid surrogacy tourism.

1.69 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

I profoundly disagree with opening up parental orders to 'intended parents' who are habitual residents but not domiciled in the UK – because of the risk of surrogacy tourism.

Paragraph 12.15

Consultation Question 57.

1.70 We invite consultees' views on whether:

(1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or

(2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

The qualifying categories of relationship should not be reformed or removed.

Paragraph 12.29

Consultation Question 58.

1.71 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 12.34

Consultation Question 59.

1.72 We provisionally propose that the new pathway –

(1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but

(2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

NO

I profoundly disagree with the proposals for the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

1.73 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

I profoundly disagree with the proposals for the 'new pathway' and all other proposals that are likely to result in an increase in surrogacy. I therefore do not believe that double donation should be permitted under the parental order pathway in domestic surrogacy arrangements.

1.74 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

YES

Paragraph 12.64

Consultation Question 60.

1.75 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?

NO

I fundamentally disagree with proposals to introduce the 'new pathway' and believe the genetic link should be retained. I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.71

Consultation Question 61.

1.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?

NO

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.76

Consultation Question 62.

1.77 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

(1) for cases under the new pathway to parenthood; and/or

(2) for cases where a post-birth parental order application is made.

I oppose surrogacy and believe that it is a fundamental violation of women's and children's rights and that it should therefore be banned. I dispute that surrogacy is ever a 'medical necessity.'

1.78 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

I dispute that surrogacy is ever a 'medical necessity.'

Paragraph 12.94

Consultation Question 63.

1.79 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

OTHER

I profoundly oppose the introduction of the 'new pathway'. However, I support the requirement in any surrogacy arrangements for the recording of the identity of all genetic parents and the birth mother.

1.80 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

(1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or

(2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

While I oppose surrogacy and want to see it banned, I support this condition for a parental order in the circumstances described in both (1) and (2).

1.81 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

YES

While I oppose surrogacy and want to see it banned, if it happens, I support this provision.

Paragraph 12.115

Consultation Question 64.

1.82 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

NO

I am opposed to surrogacy and would like to see it banned, because it is a violation of both women's and children's human rights.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood. Surrogacy is therefore particularly unethical when the 'intended parents' are old. If surrogacy is to be opened up, a maximum age limit for 'intended parents' is imperative. This will make it clear that society does not condone older people entering a surrogacy arrangement and will make it less likely that older people will go ahead with such an arrangement and present the court with a fait accompli.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age but not beyond. It is therefore imperative that age limits are set very carefully.

1.83 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a maximum age limit for 'intended parents' and it should be 45.

Raising children is demanding and requires vital parents who are engaged with life and society and who can reasonably be expected to survive in good health until the child reaches adulthood.

I am opposed to surrogacy per se, because it is a violation of both women's and children's human rights. However, it is particularly unethical when the 'intended parents' are old. I therefore consider that a maximum age limit for 'intended parents' is important. This will make it clear that society does not consider it acceptable for older people to enter into a surrogacy arrangement and will make it less likely that they will.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement up to that age. It is therefore imperative that age limits are set very carefully.

1.84 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'. However, if surrogacy is to be allowed, there should be a minimum age for 'intended parents' and it should be much older than 18. I suggest that 25 would be more appropriate.

Any age limits in the legislation will have a normative effect – and will inevitably be understood as society sanctioning entering a surrogacy arrangement at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year olds to believe that it would be reasonable for them to become 'parents' through a surrogacy arrangement – before they have taken even their first steps into independence and adulthood?

Paragraph 12.133

Consultation Question 65.

1.85 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

OTHER

I am opposed to surrogacy per se and would like to see it banned, because I consider it a violation of both women's and children's human rights.

At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There

should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

1.86 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for a 'new pathway'. At 18 a woman is barely out of childhood and has not yet had an opportunity to establish herself as an adult. This means that she is particularly vulnerable to coercion and manipulation. There should be a significantly older minimum age for entering into a surrogacy arrangement and I suggest that 25 years would be more appropriate.

Any age limits will have a normative effect – and will inevitably be understood as society sanctioning surrogacy at that age. It is therefore imperative that age limits are set very carefully. What kind of society would want 18-year old girls to believe that entering a surrogacy arrangement is a reasonable thing for them to be doing before they have taken even their first steps into independence and adulthood?

Paragraph 12.144

Consultation Question 66.

1.87 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.88 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

Paragraph 13.16

Consultation Question 67.

1.89 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

(1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and

(2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.44

Consultation Question 68.

1.90 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.65

Consultation Question 69.

1.91 We provisionally propose that, as an eligibility requirement of the new pathway:

(1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;

(2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and

(3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.92 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 13.73

Consultation Question 70.

1.93 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

OTHER

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women who have never had a child of their own entering an arrangement to undergo pregnancy and childbirth for someone else. It is impossible to understand what pregnancy and childbirth are like and how they will change you until or unless you have had that experience yourself.

Paragraph 13.95

Consultation Question 71.

1.94 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?

NO

I am profoundly opposed to surrogacy and the introduction of the 'new pathway'.

Society should not condone women undergoing multiple 'surrogate' pregnancies and childbirths. Even the Kennel Club recognises that female dogs should not be allowed to undertake more than four pregnancies. It is abhorrent that female dogs have better protections than women would have under this proposal.

Paragraph 13.99

Consultation Question 72.

1.95 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

(1) based on an allowance;

(2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or

(3) based on costs actually incurred by the surrogate, and only on production of receipts.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.16

Consultation Question 73.

1.96 We invite consultees' views as to:

(1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and

(2) the types of expenditure which should be considered "essential".

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.22

Consultation Question 74.

1.97 We invite consultees' views as to:

(1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and

(2) the types of expenditure which should be considered additional, rather than essential.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above the actual essential costs of the pregnancy and birth – such as medical supplies, extra food and vitamins, and travel to medical appointments – backed up by receipts.

Paragraph 15.26

Consultation Question 75.

1.98 We invite consultees' views as to:

(1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and

(2) the types of cost which should be included within this category.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.29

Consultation Question 76.

1.99 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.37

Consultation Question 77.

1.100 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

(1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or

(2) other lost potential earnings (as defined in paragraph 15.36 above).

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for lost earnings.

Paragraph 15.38

Consultation Question 78.

1.101 We invite consultees to share their experiences:

(1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and

(2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

N/A

Paragraph 15.47

Consultation Question 79.

1.102 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

(1) pain and inconvenience arising from the pregnancy and childbirth;

(2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or

(3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

It is absurd to propose that one could place a monetary value on the pain of adverse pregnancy outcomes. In putting a price tag on perineal tear for example, some mothers report little pain or symptoms, others have profound ongoing fear of vaginal penetration, which can result in very significant emotional and relationship difficulties. Infection may complicate healing, and some women report long term sequelae from this, such as impaired wound healing.

Haematology conditions should also be considered. Blood loss, for example due to placental haemorrhage can be very significant, and potentially result in emergency hysterectomy and blood transfusion to save the life of the mother. It is a fact that although blood is thoroughly screened in the UK there still remains the potential for blood borne illnesses to be transmitted, and the fact that some of these may not have been identified yet by researchers is also a real risk to a mother receiving transfusion. Persons who have had a blood transfusion are currently unable to donate blood themselves in the UK, due to the risk of (vCJD) transmission. This is an indication of the gravity of receiving blood products.

No medical intervention is EVER risk free. Receiving multiple blood products in the context of Massive Transfusion Protocol (eg platelets, Fresh Frozen Plasma, cryoprecipitate) only heighten those risks.

Conditions such as HELLP (Haemolysis, Elevated Liver enzymes, Low Platelets) can be fatal, and although the maternal mortality rate is low, it can have significant sequelae, including renal failure potentially requiring dialysis, placental abruption (potentially fatal for mother and baby) permanent liver damage and retinal detachment resulting in visual impairment.

Each of these conditions have long term consequences for a woman, psychologically, physically and emotionally, and may also affect her ability to return to work or care for other children.

Also, the late complications of childbirth have been disregarded. Late consequences of childbirth can include vaginal or rectal prolapse, urinary and faecal incontinence. Women who have had a C section may experience ongoing pain around the scar. Some sources quote this as affecting between 6 and 18 percent of women. These symptoms can be profoundly distressing, and may take years to present (conversely, may present immediately).

How could we ensure that women suffering these complications are compensated? They are multifactorial, and risk increases with instrumented delivery and parity. How would it be proposed to unpick the role of a surrogate pregnancy in causing these symptoms in relation to other risk factors, for example parity, smoking history, personal medical history?

Psychiatric conditions are also absent from this list. Complications including depression and anxiety may be worsened by pregnancy. Other mental health conditions such as post natal depression and post partum psychosis can be fatal, and impact on a woman's health for many years to come. I'm quite shocked that none of these conditions have been explicitly mentioned and it does make me wonder how the list of complications was created. I'd also like to know what level of haemorrhage would be considered "excessive".

The wording of the question "should" be able to pay compensation is not the same as being mandated to do so. This potentially creates a situation where some "luckier" women would receive compensation others would not.

All of the above illustrates the risks of surrogacy and confirms my support for a total ban on surrogacy in the UK, as there is in Spain.

1.103 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

1.104 We invite consultees' views as to whether the level of compensation payable should be:

(1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or

(2) left to the parties to negotiate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain.

Paragraph 15.53

Consultation Question 80.

1.105 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question illustrates the risks of surrogacy and why I oppose it.

Paragraph 15.56

Consultation Question 81.

1.106 We invite consultees' views as to whether:

(1) intended parents should be able to buy gifts for the surrogate; and

(2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to give the birth mother gifts.

Paragraph 15.60

Consultation Question 82.

1.107 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.108 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

(1) any sum agreed between the parties to the surrogacy; or

(2) a fixed fee set by the regulator.

Neither of the above.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to pay the birth mother for her 'services'.

1.109 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

(1) no other payments;

(2) essential costs relating to the pregnancy;

(3) additional costs relating to the pregnancy;

(4) lost earnings;

(5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or

(6) gifts.

None of the above.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

I am therefore opposed to allowing the 'intended parents' to make any type of fee or payment to the birth mother for her 'services'.

Paragraph 15.69

Consultation Question 83.

1.110 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

1.111 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

(1) in the first trimester of pregnancy only;

(2) to any miscarriage or termination; or

(3) some other period of time (please specify).

None of the above.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

This question is therefore not applicable because I oppose the payment of birth mothers for their 'services'. However, it illustrates the grave risks of surrogacy.

Paragraph 15.72

Consultation Question 84.

1.112 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?

OTHER

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I am opposed to the 'new pathway' but consider that regardless of the surrogacy arrangement being used, the only payments that should ever be made are essential and basic expenses for which receipts are provided.

Paragraph 15.74

Consultation Question 85.

1.113 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.75

Consultation Question 86.

1.114 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

I would like to see a total ban on surrogacy in the UK, as there is in Spain. If surrogacy is accepted, however, legislation should allow no payments to the birth mother above actual essential costs, backed up by receipts.

Paragraph 15.76

Consultation Question 87.

1.115 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

(1) for cases within the new pathway to parenthood; and

(2) for cases where a parental order is made after the birth of the baby.

I am opposed to paid surrogacy because it commercialises women's reproductive functions, commodifies children, and risks the sale of children, against which there is an international prohibition. Surrogacy is therefore a violation of the human rights of both women and children.

There is rising inequality in the UK and any payments above the reimbursement of the most essential and basic expenses will act as an incentive to poor women to engage in surrogacy when it is not in their best interests.

The only payments that should be made are essential and basic expenses and for which receipts are provided. The judge or other competent authority should closely monitor all financial aspects of the arrangement (in line with the UN Special Rapporteur's recommendations*) and refuse the parental order when payments have exceeded basic expenses. If it is not a judge overseeing the arrangements, the competent authority should be totally independent and not, for example, an agency (or 'regulated surrogacy organisation') that has been involved in the arrangements in any way.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 15.89

Consultation Question 88.

1.116 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

1.117 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the ‘new pathway’. The idea that a ‘surrogacy agreement’ could place restrictions on the birth mother’s lifestyle is utterly abhorrent.

Paragraph 15.99

Consultation Question 89.

1.118 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences f international surrogacy arrangements.

N/A

Paragraph 16.10

Consultation Question 90.

1.119 We invite organisations focused on children’s rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

N/A

Paragraph 16.12

Consultation Question 91.

1.120 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

N/A

Paragraph 16.52

Consultation Question 92.

1.121 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.53

Consultation Question 93.

1.122 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.68

Consultation Question 94.

1.123 We provisionally propose that it should be possible to open a file, and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for registration of birth and a passport before the child is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling

and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

1.124 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

NO

1.125 We provisionally propose that:

(1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or

(2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

Do consultees agree?

YES

1.126 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

NO

The time limit should be retained but the court should be able to dispense with it in certain circumstances when this is in the best interests of the child.

Paragraph 16.69

Consultation Question 95.

1.127 We provisionally propose that it should be possible to open a file, and begin the process for applying for a EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?

NO

Allowing the 'intended parents' to start the application process for an EU Uniform Format Form for the child before she or he is born in international surrogacy arrangements appears to contradict the UN Special Rapporteur's recommendations* that are designed to protect against the selling and trafficking of children and the protection of the rights of the birth mother. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.76

Consultation Question 96.

1.128 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

N/A

Paragraph 16.77

Consultation Question 97.

1.129 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

OTHER

I agree with such a guide, but would like to see it explaining the reasons why surrogacy is a violation of the human rights of women and children and all the other ways in which it is possible for people to enjoy children in their lives.

Paragraph 16.82

Consultation Question 98.

1.130 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?

OTHER

I profoundly disagree with the proposals for the 'new pathway'.

Paragraph 16.93

Consultation Question 99.

1.131 We provisionally propose that:

1.132 the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but

1.133 before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?

NO

I do not see how this proposal for such a blanket power would align with the UN Special Rapporteur's key recommendations* and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The latter requires the birth mother to have legal parenthood and parental responsibility when the child is born and that her consent to giving up the child must be given AFTER the child's birth and that the transfer of 'parenthood' should be overseen by the courts or a competent authority on an individual case by case basis, with the best interests of the child being the paramount consideration. This is an important safeguard against the sale of children and for the protection of the birth mother and I believe it should apply equally to international surrogacy arrangements. I therefore strongly disagree with this proposal.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 16.94

Consultation Question 100.

1.134 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

N/A

1.135 We invite consultees' views as to whether:

(1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and

(2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

Restrictions and checks MUST be in place to protect the child and the birth mother from trafficking and exploitation. The process should include the same checks as would be used in an international adoption.

Paragraph 16.120

Consultation Question 101.

1.136 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

I do not believe this needs changing.

Paragraph 17.18

Consultation Question 102.

1.137 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?

NO

Paragraph 17.32

Consultation Question 103.

1.138 We invite consultees' views as to:

(1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and

(2) if reform is needed, suggestions on reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.36

Consultation Question 104.

1.139 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children.

Paragraph 17.40

Consultation Question 105.

1.140 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.43

Consultation Question 106.

1.141 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

I am opposed to any reform in this area because it would act to normalise surrogacy, which is a human rights abuse of both women and children

Paragraph 17.56

Consultation Question 107.

1.142 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

It is important that all health and care professionals are aware that surrogacy agreements are not legally binding and that 'intended parents' have no legal right to override the birth mother's wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour and childbirth. Even if she has previously agreed to them sharing decisions and being informed on these matters, she can withdraw her consent at any time for any or no reason. All professionals involved in her care are duty-bound to comply with her wishes.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

Surrogacy arrangements place additional and complicated pressures on healthcare staff and this could reduce the standard of impartial care given to birth mothers and new-borns – especially when the 'intended parents' are entitled, rich or of high status. This itself is a valid reason to be extremely cautious about making changes that will increase the numbers of surrogacy births.

It is generally recognised that egg donation and IVF pregnancies carry additional health risks. As most surrogacy pregnancies involve IVF, any increase in surrogacy is likely to lead to additional pressure on the NHS.

Adoption research suggests that the separation of the new-born and the birth mother has long-term negative effects on the well-being of both of them. This is likely to be the same for birth mothers and babies in surrogacy arrangements and so can be expected to place additional long-term pressures on the NHS and society as a whole. This has not been considered and there are no questions about this.

An increase in surrogacy will require an increase in egg donation, which is a risky procedure that can have a long-term negative impact on the woman's health, including premature death. Ethical issues abound. Young women might be coerced by financial pressures to donate eggs when this isn't in their best interests and there are worries about eugenics – where egg donors are selected on the basis of blonde hair, blue eyes and stereotypical measures of 'attractiveness' for example.

The law commissioners do not appear to have considered the likely impact of any of these issues. There is no question about people's thoughts about the NHS picking up the tab for the extra costs involved in surrogacy and whether this affects their opinions on surrogacy itself.

There appears to have been no evaluation of the size of the additional costs to the NHS and society.

At a time when the NHS is under severe strain, and life changing therapies (for cancer, cystic fibrosis etc) are not funded due to financial constraints it is a slap in the face to provide money for prospective parents to indulge their parenting fantasies while denying patients access to drugs which are standard of care in other counties.

1.143 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

The guidance should be revised to clarify that surrogacy agreements are not legally binding and that the birth mother has the right to change her mind at any time, for any or no reason. Healthcare professionals must accept that her wishes are paramount and that the 'intended parents' have no legal right to override her wishes or decisions in regards to her lifestyle or medical and health care, including during pregnancy, labour, childbirth and the postpartum period.

All health and care professionals should also be aware that the birth mother may be being coerced to engage in the surrogacy arrangement by one or more persons, including her spouse or partner. If paid surrogacy is legalised, this will become more prevalent, but it can still be present in so-called altruistic surrogacy arrangements.

The guidance should make it clear that healthcare professionals should be even more alert than normal to the possibility that she is being coerced and to ensure that they can speak to her alone, including during labour, and that if she changes her mind about who is present in consultations, and the labour ward/delivery suite, they must respect her wishes.

1.144 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

It is important that midwifery practice always prioritises the wishes of the birth mother and the wellbeing of herself and the child.

Paragraph 17.76

Consultation Question 108.

1.145 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

It is of considerable concern that the law commissioners appear to have given no consideration to the significant risk that women will be coerced into agreeing to participate in surrogacy

arrangements for someone else's benefit. This can be true in 'altruistic' surrogacy but is even more likely if substantial payments are involved.

It is well-known that women and girls are groomed and/or coerced into prostitution by partners and 'boyfriends' who act as their pimp and take all or much of their earnings. This is a major route by which many women enter prostitution and is a major factor in preventing their exit. There is no reason to expect that the same dynamics will not occur in relation to surrogacy if it is opened up and provides opportunities to make significant amounts of money.

If the law commissioners' proposals are enacted, there must therefore also be legislation that prohibits coercing a woman into a surrogacy arrangement. This should be a criminal offence and carry a hefty penalty – in recognition that it is a human rights violation and so that it acts as a deterrent. That such a law would be difficult to enforce just adds to the arguments for why paid surrogacy is a bad idea – and especially for women.

It would be far better to simply ban all surrogacy arrangements – or at the very least any payments beyond basic and essential expenses backed by receipts and overseen by a judge.

Paragraph 17.80

Consultation Question 109.

1.146 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:

(1) when the child was born;

(2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;

(3) whether the arrangement led to the making of a parental order in the UK; and

(4) whether they are a:

(a) opposite-sex couple;

(b) male same-sex couple;

(c) female same-sex couple;

(d) single woman; or

(e) single man.

N/A

Paragraph 18.2

Consultation Question 110.

1.147 We invite consultees who have experience of applying for a parental order in the UK to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) whether they had legal advice before the making of the parental order;

(3) whether they were represented by a lawyer in court; and

(4) the cost of any legal advice or representation.

N/A

Paragraph 18.4

Consultation Question 111.

1.148 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

Paragraph 18.6

Consultation Question 112.

1.149 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:

(1) medical screening; and

(2) implications counselling

(where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).

N/A

1.150 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:

(1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13; and

(2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

N/A

Paragraph 18.8

Consultation Question 113.

1.151 We invite consultees to tell us of the impact of:

(1) the current requirement of a genetic link; and

(2) any removal of this requirement in cases of medical necessity:

(a) in the new pathway;

(b) in the parental order route for domestic surrogacy arrangements; or

(c) in both situations.

Paragraph 18.11

Consultation Question 114.

1.152 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

(1) their profession; and

(2) what they would charge to provide such a service.

N/A

Paragraph 18.13

Consultation Question 115.

1.153 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

1.154 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

(1) if particular proposals will increase accessibility, and why; and

(2) if particular proposals will restrict accessibility, and why.

N/A

Paragraph 18.15

Consultation Question 116.

1.155 We ask consultees who are intended parents to tell us:

(1) whether the surrogacy arrangement was domestic or international;

(2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;

(3) how they raised the funds for the surrogacy arrangement(s);

(4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and

(5) how they raised the funds for the fertility treatment.

N/A

Paragraph 18.18

Consultation Question 117.

1.156 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

Paragraph 18.20

Consultation Question 118.

1.157 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

It seems that before the law commissioners designed this consultation, they had already decided that surrogacy is a positive thing and so legislation should enable it. This may be explained by a limited 'pre-consultation' mainly focusing on people who already had a vested interest in surrogacy – 'intended parents,' women who claim to have had a positive experience of surrogacy, and lawyers and other organisations who stand to make money from commercial surrogacy if it is given the green light.

It seems that the law commissioners did not consider women as a group to be key stakeholders in this endeavour. This is a major error, because just as all women are affected by the institution of prostitution, so all women will be affected by any opening up of commercial surrogacy in this country.

It could even be argued that one of the key drivers of commercial surrogacy is a desire by men to break the legal and cultural recognition of the unique bond between birth mother and child – and indeed the proposals to make the 'intended parents' the legal parents from the moment of birth are a major step in this direction, and are likely to have a significant impact down the line – potentially affecting the status of all women.

Paid surrogacy opens up enormous potential for abuse and risks spouses, partners and other family members coercing a woman into engaging in commercial surrogacy for their (and not her) financial benefit. This will be a potential risk for thousands of women, which appears to have been completely overlooked by the law commissioners.

UK and Scottish Law Commissions are obliged to comply with the Public Sector Equality Duty (PSED) when carrying out public functions, such as this consultation. There doesn't appear to be any evidence they have done so, because they have not provided their equality considerations and impact assessments. As surrogacy has a very different impact on women and children than on adult males, we believe the law commissioners are in breach of equality legislation.

The Equality and Human Rights Commission describes the obligations under the PSED to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are many ways in which opening up surrogacy in the UK is likely to worsen women's position relative to men's, and the relationship between the sexes. Any loosening of the laws around surrogacy could therefore be considered discriminatory. Surrogacy is also likely to have an impact on the relations between the different generations. Imagine the rage that young people may feel when they discover that their 'parents' not only bought them but took advantage of their birth mothers.

It is of major concern that the law commissioners' ethical arguments hinge on ideas that are not based on any recognised human rights instruments – such as the idea that 'procreative liberty' confers some kind of human right to surrogacy and the idea that a woman has a human right to be a 'surrogate.' These arguments do not hold up to scrutiny and have been clearly rejected by the UN Special Rapporteur.*

It is shocking that the proposals for the 'new pathway' violate many of the recommendations of the UN Special Rapporteur that are designed to guard against the sale of children and the exploitation of birth mothers, including:

- The birth mother must be accorded the status of legal mother at birth, and must be under no contractual or legal obligation to participate in the legal or physical transfer of the child.
- All payments to the birth mother must be made before the legal and physical transfer of the child and must be non-reimbursable – even if she decides not to relinquish the child.
- The birth mother's choice to transfer the child "must be a gratuitous act, based on her own post-birth intentions, rather than on any legal or contractual obligation."
- Pre-conception checks, while encouraged, cannot take the place of appropriate welfare checks after the birth of the child.
- Decisions about parentage and parental responsibility must be made by a court or other competent authority on an individual basis after the birth with the best interests of the child being paramount.

The consultation is confusing and it does not conform to the government's consultation guidelines. There are too many questions, they are too detailed and do not ask the important high-level questions – such as whether you think surrogacy can ever be ethical, etc.

For all these reasons, the law commissioners should go back to the drawing board and start again from the position of women's and children's human rights. If it is found that there is no way to liberalise surrogacy law that is compliant with obligations under international treaties such as CEDAW and the UNCRC and its first optional protocol, then the law must not be liberalised.

* https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx

Paragraph 18.22