

Report on understandings of the law and practice of surrogacy



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THE ALL-PARTY PARLIAMENTARY GROUP

on Surrogacy

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Foreword

Families in modern Britain come in all shapes and sizes, reflecting the wonderful diversity of the United Kingdom in the 2020s. That diversity extends to how children come into the world and, without surrogacy, many thousands of loving families would never have existed.

Surrogacy is a route to parenthood for some who otherwise would not have had children, including same-sex couples and those who have undergone aggressive medical procedures. Surrogacy is normal, it is just another way for people to create families just as adoption or any of the other routes to parenthood are.

Despite all this, the law on surrogacy has not been updated for nearly forty years. Legislation that was created at a time when many still viewed surrogacy with suspicion, is no longer fit for purpose. Crucially, that legislation is no longer operating in the best interests of surrogates, children or intended parents. Legislation which has prevented some from becoming parents, or has driven others overseas is now in need of urgent reform.

We welcome the UK Government's recognition of this and also their recognition of the benefits and value surrogacy brings and the important role it plays in creating families.

The purpose of this APPG is to support surrogacy as a means of family creation, while seeking to ensure that surrogacy takes place in the best legal and social context that it can, and in the best interests of the children and families that are created. We support law reform which will improve how surrogacy works in this country, and also want to improve the understanding of surrogacy more generally, all with the underlying aim of facilitating children being born into loving families.

The report has been long in the writing with considerable delays due to the parliamentary and political calendar of the past few years and, of course, the impact of COVID-19.

We thank everyone who gave their time to contribute to our evidence sessions and in the following pages offer our recommendations for future law reform. We wish the Law Commission and the Government well in this endeavour and stand ready to support them in this important work.



Andrew Percy MP
Chair of the APPG on Surrogacy



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Executive Summary

Having studied the context in which surrogacy arrangements are entered into, and heard from numerous participants in our evidence sessions in 2018-19, our observations and recommendations are as follows:

1. We acknowledge and welcome the Government's support for surrogacy, evidenced in its commitment to reform of the existing law, and the publication by the Department of Health and Social Care of two guidance documents on surrogacy.
2. The Department of Health and Social Care's guidance documents on surrogacy should be more widely and clearly disseminated, particularly to healthcare settings which might encounter surrogacy. Education and training about surrogacy as a form of family building, and about the law, should be given to healthcare and other professionals who may become involved with surrogacy.
3. We recommend that completely new surrogacy legislation be drafted and fully debated in Parliament. Such legislation should be underpinned by the principle that the interests of children created by surrogacy are paramount.
4. We consider 'at birth' legal parenthood for intended parents to be a key ask for reform.
5. When drafting new legislation, consideration should be given to what elements of the process could best happen pre-conception, how these should be done, and by whom, in order to enable legal parenthood to be assigned to the intended parents at birth.
6. Creation of legitimate and robust surrogacy agreements should be a key focus of new legislation, in the best interests of children and all other parties. Surrogacy organisations that have already established good practices should be able to rely on their existing procedures and processes where possible.

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Executive Summary (continued)

7. As part of legislative reform, the criteria needed to be met for intended parents to attain legal parenthood should be comprehensively reviewed, and those which it would be contrary to the welfare of the child to be applied should be removed.

8. An important imperative for law reform should be to create a more stable system in the UK which removes the push factors for seeking surrogacy overseas, including the way legal parenthood is currently assigned. Not only is this a matter of fairness for those intended parents who do not have the finances to pursue arrangements overseas, it is also an important welfare issue for some surrogates overseas.

9. The principle of altruism should be maintained, whilst enabling greater transparency around expenses, for example allowing modest recuperative holidays and gifts.

10. We agree that there should be no move towards a commercial model of surrogacy.

11. Surrogacy organisations/agencies should remain non-profit. However, we agree that it would be preferable for them to be regulated and that existing good practice be supported to continue.

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Context of the Report

1. Surrogacy is the practice whereby a woman ('the surrogate') agrees to carry a child on behalf another couple or person, with the intention that that couple/person ('the intended parent[s]') will become the social and legal parents of that child. Usually, such arrangements are entered into because of infertility experienced by a couple or person or, in the case of same-sex male couples or single men, the biological impossibility of achieving pregnancy.
2. Surrogacy takes two main forms. First: 'gestational', 'host' or 'IVF' surrogacy, whereby a surrogate is implanted with an embryo formed from gametes of either both of the IPs, or from donated sperm or egg. This requires IVF procedures and if taking place in the UK, the procedures will be performed in fertility clinics licensed by the Human Fertilisation and Embryology Authority (HFEA). Secondly: 'traditional' or 'straight' surrogacy, whereby the surrogate also donates her own egg. She may be inseminated in a licensed clinic or, more likely, undertake private or home insemination in order to attempt to become pregnant.
3. The practice of surrogacy is legal in the UK. It is regulated by the Surrogacy Arrangements Act 1985 and the Human Fertilisation and Embryology Act 2008, alongside some secondary legislation. Commercial aspects of surrogacy, such as brokering, negotiating or facilitating surrogacy arrangements on a for-profit basis, are prohibited under the Surrogacy Arrangements Act, and attract criminal penalties.¹ The Human Fertilisation and Embryology Act sets out the rules on legal parenthood, defining the surrogate as the legal mother at birth (and her spouse or partner usually as the legal father or second legal parent).² It also provides a mechanism (the 'Parental Order') where, subject to court approval upon the meeting of certain conditions, legal parenthood can be transferred from the original legal parent[s] to the intended parents.³ Even without a Parental Order, intended parents can obtain parental responsibility, alongside or instead of the legal parents.
4. Nothing prohibits money from changing hands between intended parents and surrogates, though it is one of the formal conditions of obtaining a Parental Order that the court be satisfied that no money other than for 'reasonable expenses' has changed hands.⁴ In practice, however, the court may and does retrospectively authorise payments which may be considered to be beyond mere expenses, including payments made in a commercial context in other jurisdictions. The court is ultimately bound by the paramountcy principle: that its foremost consideration must be the lifelong best interests of the child concerned. For this reason, judges in surrogacy cases have, on many occasions, ruled that the child's best interests are best served by authorising a Parental Order even where payments have been made.

¹ Surrogacy Arrangements Act 1985, S 2.

² Human Fertilisation and Embryology Act 2008, Ss 33-47.

³ Human Fertilisation and Embryology Act 2008, S 54.

⁴ Human Fertilisation and Embryology Act 2008, S 54(8).

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Context of the Report (continued)

5. In recent years, many of the other formal conditions for the award of a Parental Order have been successfully argued around in surrogacy cases, to reach a conclusion that would be in the best interests of the children concerned. These include:

- The six-month time limit for intended parents to be able to make their application,
- The requirement that the child's home be with [both] the intended parents,
- The requirement that the intended parents be married, in a civil partnership or an enduring family relationship.

A further requirement, that only couples may apply for a Parental Order, was ruled incompatible with human rights legislation in 2016 in a case in which a single male applicant sought to become a legal parent. This led the Government to introduce a Remedial Order (passed December 2018) which amended the Human Fertilisation and Embryology Act to allow single applicants who have a genetic relationship with the child to obtain a Parental Order.

6. The APPG on Surrogacy was established in December 2017 after a number of meetings between Andrew Percy MP and the Surrogacy UK Working Group on Surrogacy Law Reform (SUKWG). The SUKWG published a Report in November 2015 outlining the need for reform of the laws on surrogacy (Surrogacy in the UK: Myth Busting and Reform), reflecting issues raised in some of the cases involving Parental Orders described above, as well as real-life experiences of surrogacy and discussion of surrogacy myths that impact on perceptions of surrogacy in society. Alongside representations from a constituent, this Report led to Andrew's interest in surrogacy and his support for law reform. Andrew asked a number of questions in Parliament about surrogacy, based on aspects highlighted in the SUKWG Report. Subsequently, Baroness Barker held a debate on surrogacy in the House of Lords in December 2016, having also been persuaded by the need for law reform by the SUKWG Report.

7. At our launch on 19 December 2017, we heard from parents through surrogacy and from surrogates, all of whom agreed the existing law is in need of reform, particularly in respect of legal parenthood. The Law Commission was also in attendance, having just announced that it would fully review our surrogacy laws. Members of the Commission team, as well as the APPG Chair and officers and other MPs in attendance spoke at length with the many attendees who were largely those who had completed their families through the use of surrogacy, were going through the process, or were currently acting or had previously acted as a surrogate. One set of parents we heard from had been unable to apply for a Parental Order in respect of their biological children (who were also at the launch) because of the requirements in the legislation. Others told us about how long, or how stressful, frustrating, invasive or even humiliating the Parental Order process had been for them.

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Context of the Report (continued)

8. The launch began conversations with surrogates and intended parents that led APPG members to confirm its position, derived initially from the SUKWG Report and cases in the family courts, that the current law on surrogacy does not necessarily always operate in the best interests of surrogates, parents or children.
9. The APPG on Surrogacy supports surrogacy as a means of family creation. It aims to support a full review of our surrogacy laws, encourage and promote debate on the issues raised by surrogacy arrangements, facilitate further research into how surrogacy is conducted, bring the law into line with modern social realities and to encourage domestic surrogacy in the first instance. This should all be underpinned by the principle that the interests of children created by surrogacy are paramount.
10. The APPG was formed in order to keep our surrogacy laws under review and ensure that up to date, correct information is disseminated in public and in Parliament, and to correct misinformation with evidence-based research. The APPG believes that the whole regime of surrogacy law needs to be reviewed as it no longer reflects the realities of modern-day surrogacy and, to an extent, is likely to be responsible in part for the increase in the cross-border surrogacy market. Our belief is that surrogacy can be (and usually is) undertaken safely and legitimately domestically, and that this situation – which reflects the law’s underpinnings based on altruism and not transactional or commercial relationships – should be facilitated by the law rather than hindered. There are many other aspects of surrogacy law – including the determination of legal parenthood following surrogacy – that need to be (re)considered, and the APPG will keep these under review, alongside the review being jointly undertaken by the Law Commission of England and Wales and the Scottish Law Commission in respect of its 13th Programme of Law Reform.
11. Part of our process of review was to hold evidence sessions in Parliament, chaired by Andrew Percy MP and attended by other APPG members. Details on the evidence sessions are provided in the following section.

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The Evidence Sessions

The APPG held four evidence sessions in October/November 2018 in Portcullis House, with invited participants including surrogates, parents through surrogacy (from both ‘domestic’ and overseas arrangements), those seeking to become parents through surrogacy, legal professionals (family law solicitors and barristers with experience of surrogacy cases), representatives from CAFCASS, the three main UK surrogacy non-profit organisations, donor conception and children’s rights organisations, related other organisations, and academics (in law, sociology and psychology). All sessions were chaired by Andrew Percy MP. Members of the Law Commission surrogacy team also attended some of the sessions. In January 2019 a further, smaller evidence session was held in the offices of Andrew Percy MP with Tom Daley (Olympic diver and father through surrogacy), Sarah Jones (surrogate and chair of SUK) and Julie Bindel (journalist and women’s rights campaigner). Some participants in the evidence sessions, as well as some others who were unable to attend, submitted written responses to the APPG.

A summary of the discussion that took place in each session is below.

Evidence Session 1

Attendees: Baroness Barker, Paul Masterton MP, Richard Westoby, Melanie Carew, Susie Blamire, Dr Brian Tobin, Sam Everingham, Wes Johnson-Ellis, Michael Johnson-Ellis, Sarah Norcross, Dr Kirsty Horsey, Natalie Smith, Nicola Ponting, Jason Brown.

Part of the discussion focussed on the reasons people might choose to go overseas for surrogacy. Where once there had been little information on UK surrogacy (which may have led people to presume it was easier to go overseas), it was acknowledged that much more information was available now; however some kind of ‘best practice’ benchmark would be welcomed. The idea was mooted that intended parents in the UK go overseas because the (pre)screening is better. It was also discussed that the way legal parenthood is determined in the UK is something that drives people overseas: the fact that there are contracts, and the intended parents can be named on the birth certificate in many overseas jurisdictions is a driver, notwithstanding the fact that foreign birth certificates are not recognised in the UK and a parental order must still be applied for. The understanding that the surrogate is the legal mother if the arrangement takes place in the UK also leads to the fear that she could change her mind and keep the child(ren) even if they were not genetically related to her. There was agreement that many potential intended parents found the law regarding legal parenthood confusing. It was agreed that ‘overseas surrogacy’ does bring problems, and that countries should try to ‘fix up their domestic models’ in order to make it easier for intended parents to choose not to travel for surrogacy. It was acknowledged that until that happens, the global nature of surrogacy would continue.

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“I think what would be great is if there were a mechanism or format to be able to remove that area of uncertainty here in the UK. Because what you’re then going to do is you’re going to stop people going abroad. You’re going to be able to stop potentially unscrupulous business practice happening. I think you’re going to be able to protect people who are aiming to have families.”

The regulation of surrogacy in Australia was also discussed. Surprise was expressed that the UK does not have a pre-screening model as problems might be identified too late. In Australia, participants in surrogacy arrangements are assessed with mandatory counselling. Pre-conception support for surrogates as well as intended parents was thought to be essential, and it was agreed that the UK non-profit surrogacy organisations were doing this as well as they could, with the little resources they have available to them, but that not everyone joined one of these organisations.

The option of surrogacy in the Ukraine was also discussed. The meeting was told that people went to Ukraine because they either couldn’t navigate or were ‘too scared’ to navigate the system in the UK. But the problem with this was that the whole journey could take some time. It was also posited that it was unjust that some people would ‘only’ go to the Ukraine, if they couldn’t afford to go to the US, where provision and care was felt to be better. There was a report of parents having to stay in the Ukraine for months after the child was born, before they could travel home. As for the costs of a US journey, Richard Westoby told the meeting that the total cost he incurred was over \$200,000 6-7 years ago (though in fact it should have been lower than this, particularly as they trusted the people helping them). He cited around \$250,000USD for a US journey now; around \$100,000USD for a hybrid US/Canada journey and around \$90,000USD for a Canadian journey. There was some agreement that it was common for the quoted prices of overseas surrogacy to be inflated once the process started.

Parents through surrogacy, Michael and Wes Johnson-Ellis explained how they researched surrogacy for five years before even starting their journey. They looked at surrogacy in the US (estimated cost upwards of \$120,000), Canada, India, Nepal and other places but ruled out the US/Canada because of cost and decided to pursue surrogacy in the UK, later successfully having a daughter (and since the evidence sessions, also a son, with the same surrogate). The UK was also the best choice for them as they could be at scans, feel the baby kick etc, so they got to experience the pre-birth time. Because their surrogate was married and they understood the position regarding legal parenthood, they took independent legal advice and spoke to Cafcass and surrogacy organisations before proceeding. They also had to do some hard work with the NHS in order to be able to go home with their baby from the hospital, rather than having her handed to them in the hospital car park, which was what had been suggested to them originally (others had also heard of people having similar problems). Overall, it was a positive experience and one they were planning to repeat for a sibling journey with the same surrogate. They agreed it was hard to find information or that there was misinformation around, and said they knew of people selling everything to be able to go to the US or Canada, believing it to be their only (safe) option.

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The fact that very few surrogacy arrangements actually go wrong was also discussed, and the very small number was acknowledged by representatives of Cafcass (when asked directly how many of the surrogacy cases seen by Cafcass raised a concern over the welfare of the child, the answer was ‘one’, with some others raising ‘low-level’ concerns which wouldn’t prevent a parental order being made, including in relation to age of the intended parents). Cafcass also said that they would prefer for there to continue to be some kind of parental order process or for “parts of the current system to continue”, so that the welfare of the child could continue to be considered. However, it was also acknowledged by Cafcass and other participants that by the time such welfare assessments are made, the child is usually settled and happy with the intended parents and on this basis it was agreed that welfare checks or screening could take place prior to a child’s birth through surrogacy, or even prior to conception. One participant commented that for IVF surrogacy this would already be being done by the clinic. In relation to the parental order, intended parents’ fear was discussed. This was said to be generated even when everything went smoothly, especially on a first journey, and one participant (a mum via surrogacy) said that it felt like she was ‘not really’ the parent and was somehow ‘lying’, which undermined the identity of her, her husband and her children.

“Until you actually get it [the parental order], you have that fear where you just don’t know. And it shouldn’t be like that.”

It was agreed that a system whereby legal parenthood was conferred at birth (e.g. if there had been pre-birth screening and perhaps pre-approval of the arrangement) would be better than having to come to court about a child the parents were already caring for. Not having legal parenthood at birth was again agreed to be something that drove people to surrogacy overseas (even if the position about still needing parental orders was commonly misunderstood). It also was agreed that it could cause problems with e.g. consent to medical treatment in the time after birth when the surrogate was the legal parent but the baby was in the parents’ care.

Dr Vasanti Jadva, researcher in psychology at the University of Cambridge’s Centre for Family Research, told the meeting how she and fellow researchers had studied the psychological well-being of surrogacy families and surrogates (in the UK context). She explained that there were generally no psychological problems with women who act as surrogates, nor with their own children or partners (who generally expressed feeling proud). One participant pointed out that surrogates’ points of view need to be considered: they don’t want to be on the birth certificate, or have responsibility for the child. This was confirmed by Dr Jadva, who said a lot of the surrogates she had interviewed said their main worry was that the intended parents would not take the child. She also said that many of them found it ‘bizarre’ that their name goes on the birth certificate (and their partner’s name, especially if they were separated). Other participants expressed agreement with this understanding. The Australian position was cited – that there is a compromise that the intended parents become parents at birth unless this is vetoed by the surrogate (for a limited period after birth).

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One participant asked whether it was public perceptions that needed to be changed: that the public fundamentally doesn't understand surrogacy and there is a perception that surrogates change their mind far more frequently than they do in reality. There was general agreement with this point. There was also a mention of anti-surrogacy groups and campaigners who view any form of surrogacy as exploitation, particularly in Scandinavia.

There was some discussion about the confusion that often surrounds the question of 'reasonable expenses' and what can and cannot be included in that definition. It was agreed that there was a lot of good practice in the area (e.g. from the guidance given by non-profit surrogacy organisations in the UK) but that there could be confusion not only for those entering surrogacy arrangements but for some professionals who support them, particularly where they have little experience of surrogacy. It was acknowledged that non-profit organisations, some lawyers, some Cafcass officers etc had built up good experience and knowledge, but that there needs to be more clarity. A suggestion was that everyone should discuss expenses upfront so that everyone knows where they stand – not whether each individual expense is justified or unjustified – the question was whether the surrogate and the intended parents agreed. There was a lot of agreement with this and various suggested models including use of spreadsheets, monthly payments throughout the pregnancy term etc. Three examples were given from experience of the participants who had been through surrogacy in the UK: expenses of £13,000 (out of a total cost of £35,000 including IVF) and expenses of £9,000, and £23,000.

There was some discussion of the situation in the Republic of Ireland and the new legislation proposed there, including what were felt to be its shortcomings. The introduction of medical and psychological assessments for potential surrogates, implications counselling for both potential surrogates and intended parents was thought to be good. However, proposing upper age limits [47] for surrogates and intended parents was not. Under the Irish proposals, surrogates should be over 21 years old and must have already given birth to a child. Ireland would also establish an Assisted Human Reproduction Regulatory Authority (AHRRA), akin to the Human Fertilisation and Embryology Authority (HFEA), though a difference would be that the Irish AHRRA will pre-approve surrogacy agreements. However, legal parenthood would not be automatically granted, and there would continue to be a post-birth parental order-style route, despite the pre-approval of the agreement and the screening and safeguards this is supposed to provide.

"Ireland is proposing to introduce a two-stage process, it has elements of a pre-birth approval system and a post birth approval system. It works in some respects and in others it simply follows what has been done here in the UK and that's not necessarily as good thing. What I think works about it, is the safeguards put in place for the intended parents and the surrogate."

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Ireland was, however, responding to some of the thorny issues that have arisen in the English courts, by planning to remove the aspect of the law that means the surrogate's consent could not be dispensed with if unreasonably withheld, and allowing single parents to become legal parents following surrogacy. Some responses were given on the proposed arbitrary cut off of 47 years old for intended parents. Dr Jadva said that in egg donation, for example, you would have parents who were over 50 having a child, with the welfare assessment being done by clinics, and that 47 seemed very young as a cut-off point. It was also pointed out that if 47 was the cut-off age for surrogates (as also proposed in Ireland) this would preclude mothers acting as surrogates for their own daughters in most such situations.

Single person surrogacy was discussed when solo intended mother Nicola Ponting and solo intended father Jason Brown joined the session. Both had been waiting some time to become parents via surrogacy and were now 'patiently waiting' for the Remedial Order allowing single parents to obtain a parental order was passed through Parliament, so that they could begin their journeys. Both expressed concern that time was not on their side, with Jason saying that this was a factor that might drive him to consider the independent route (rather than joining an organisation) or the option of going overseas, or remaining childless. In an earlier part of the conversation, Cafcass representatives expressed some concern about older parents in relation to the child's welfare – but conceded that an arbitrary line (such as proposed in Ireland) was not proportionate and all circumstances were different. Nicola and Jason were invited to stay for the second session as they had not been able to attend the full session.

Evidence Session 2

Attendees: Baroness Barker, Paul Masterton MP, Nick Dakin MP, Guto Bebb MP, Nicola Ponting, Jason Brown, Sarah Norcross, Dr Kirsty Horsey, Natalie Smith, Rose-Marie Drury, Kate Fruin Smith, Gina Kinson, Matthew Brown, Robert Gilmore, Sarah Bentley, Sarah Haworth, David Willis, Ricardo Tamagnini.

The session began with a discussion among the surrogates present about how they felt about the current situation regarding parental orders – specifically looking at where they could start, for example, whether there could be pre-birth parental orders. One surrogate said that she does feel that the parental order system needs changing – it made no sense for her wife to be on the birth certificate and therefore 'legally representing a child at the other end of the country'. It was also her view that the genetically-related parents (in her case) should be on the birth certificate and should be able to have the say on medical treatments that might be needed, especially as they are the ones who will be with the child in hospital.

"We do care, but we do not want to be legally responsible for that child".

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There was agreement with this sentiment from intended parents.

“My boy is 14 weeks tomorrow, but we are still not his parents, so if anything happened we would be on the phone with our surrogate, who we are great friends with, and it would be fine but you don’t want to be in that position. It is not satisfactory”.

Similar agreement came from a legal professional, who said surrogates can still be ‘involved’ in issues to do with the child until the parental order is granted, which can take some time. Issues such as having to change wills (to protect existing family) had arisen. Another surrogate said that the parental responsibility issue wouldn’t put her off, but she did know some other people who had been put off by it. Another agreed that it had been hard for her husband to agree to her being a surrogate because of that issue. There was some agreement that this was due to a misunderstanding of parental responsibility (as opposed to legal parenthood). One pointed out that her husband (who had been sterilised) had to lie on the birth registration that the twins she had given birth to were ‘his’. They also said that parental orders should be in place before the child is born, so that it can be switched straight after birth. On the issue of legal parenthood, there was more general support for pre-birth orders, particularly for those entering surrogacy arrangements in the UK (or perhaps in some pre-approved overseas destinations), and agreement that these would be preferred by both surrogates and intended parents.

One reason suggested for having pre-birth orders was the possibility of stillbirth and an example given of a surrogate having to make hospital and funeral arrangements for a child who was not hers (and the parents were given no access at the hospital as they were not seen as parents).

“It’s disgusting. I think at birth: infertile couples have gone through a lot already, then to add insult to injury you cannot walk out of that hospital with your own child.”

Another example was of twins being hospitalised as babies in emergency situations and the stress felt by intended parents thinking they might be challenged about giving consent for medical treatment. There was also agreement that some hospitals/maternity units handle things better than others both during a surrogate pregnancy and following a surrogate birth. Some hospitals have very old policies, or no policy at all. Some parents had experienced a complete lack of empathy from medical personnel. One reported feeling that in retrospect she should have complained, but did not do so because of the feeling of vulnerability at the time. Some examples were given of intended parents not being able to attend scans with the surrogate. Another example was the parents not being able to meet their child until more than 12 hours after the birth (in ‘ordinary’ hospital visiting hours). Further examples were given of surrogates not being allowed to hand over the baby to the intended parents immediately after birth (in two cases only the surrogate and her husband were allowed to carry the car seat out of the ward and they were told that the handover had to happen off of hospital property).

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“It felt like the baby was contraband goods being exchanged in a car park, even though we had this fantastic journey with our surrogate”.

It was suggested that there ought to be education and training for healthcare professionals who come into contact with surrogacy. One attendee who works in a surrogacy programme said that this does take place in some cases, though there is no guidance for it. There was agreement that there should be up-to-date policies in place and training on those policies. This sentiment extended in one case to health visitors undertaking post-birth visits.

It was pointed out that the parental order process can take some time (six and eight months were cited by meeting participants), even when started as soon as possible, and that some courts are not familiar with it, which adds to the time and stress felt by intended parents. Even when the surrogacy had been an overall positive experience, intended parents could feel vulnerable by not having parental responsibility at birth and not having legal parenthood for some time. It was explained that every situation was different and that there was a lack of consistency experienced. A single parent through surrogacy explained that he was waiting for the law to change (via Remedial Order) so that ‘when he is around one and a half my son will become mine’. Issues such as difficulties registering the baby with a GP surgery were raised, and getting immunisations, however there was also an example cited of GP surgeries who clearly knew a baby had been born through surrogacy but registered them anyway.

Two of the surrogates present defined themselves as ‘independent’. Asked why they had not worked with an organisation, they said that their support networks were already good and so they didn’t need the framework. One already had to have DBS checks regularly undertaken for work. One said she had worked with agencies before, but the last time she was a surrogate it just happened that the couple she met was through an independent group. As independent surrogates there is a support network in place but how everything happens is thought not to be as rigid as when working with an organisation. However, even the independent surrogates worked within an informal organisation, which offered advice and support and guidance on aspects of the agreement including thinking about every issue that might arise (e.g. the need for a caesarean or a hysterectomy, and the effect this might have on expenses accrued), as well as life insurance, wills, and guardians being appointed by the intended parents.

There was some discussion of traditional versus gestational surrogacy. There was some agreement that it was ‘different’ when the surrogate is genetically related to the child she carries. A medical professional said that data she had seen suggested that only 6% of surrogacies in the UK up to 2017 were traditional surrogacies. It was suggested that most surrogates prefer not to be genetically related to the child; also that intended parents prefer this (and may use donor eggs to avoid this). Another reason suggested was the difficulty of travelling for inseminations etc, and being ‘hard work’ to time properly. However, some thought the proportion of traditional surrogacy was higher than stated (though it was still less common). It was agreed that research and data on the split between traditional and gestational surrogacy would be useful.

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Asked about the law and what would like to be seen from law reform, there was agreement that the law (of 1985) was a knee-jerk reaction to the situation at the time and fear of the commercial aspects of surrogacy. It was pointed out that many more clinics are today involved in IVF, providing IVF and other services, which is an indication that times and attitudes have changed. However, there was some agreement that there was still stigma attached to surrogacy and that surrogates and parents through surrogacy sometimes get negative comments directed at them.

Asked about expenses, surrogates replied that the average they had seen was around £15,000 and that receipts were kept. There was agreement that expenses should be 'transparent', but it was also stated that, for example, a fixed sum should not be forced on anyone, nor should there be a cap. What should be respected is what the parties openly and transparently agree between themselves; not having this transparency is part of what keeps the stigma attached to surrogacy. On the other hand, one surrogate raised instances that she had seen of surrogates setting their expenses so (too) low, so they were not construed as income and therefore having an effect on any benefits being received. Baroness Barker commented that she had been struck by speaking to surrogates after her House of Lords debate in 2016 that being a surrogate is 'an extraordinary act of generosity' which is 'completely misunderstood by everyone else'.

There was no support for a commercial model of surrogacy, however there was some support for changing the law to enable organisations to advertise for surrogates. Some said that it would be good to be able to have some of the expertise seen in commercial systems, but without the high prices. One parent through surrogacy in the US said that although intended parents can pay 120,000 (not specified if USD or GBP), not much of this goes to the surrogate – maybe 30,000. Another who had been to the US did so because he 'couldn't become a surrogate parent in the UK being single'. He cited the cost of his journey as £147,000.

The difference between the operation of the law in England and Wales, and in Scotland was discussed. It was highlighted that due to some of the processes in Scotland, some parents resident in Scotland might apply for their parental order in England, and that there is no legislative barrier to prevent them from doing so. One reason suggested for this choice was the availability of more expert lawyers in England as compared to Scotland, as well as a higher prevalence of surrogacy and therefore more familiarity with it. It was reported that there were 13 parental orders granted in Scotland in 2017, but that this might be a skewed figure as there 'may well be a number in England and Wales which are, for all intents and purposes, Scottish'.

The practising lawyers in the session were asked what they would like to see in any reform of the law. One said that the process for applying for a parental order was 'pretty straightforward'. However, there was agreement that practitioners had to be very cautious when people sought advice, because of the restrictions in the law.

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It was agreed that the prohibition on being able to advise about surrogacy arrangements was something reform should look at removing, as it led to people not getting the correct advice and having to do things themselves, including setting out expenses. This was a particular concern for intended parents who had entered into surrogacy arrangements overseas, or who have to prove domicile. It was also agreed that a test of habitual residence would be a better test than domicile in relation to applications for parental orders.

Evidence Session 3

Attendees: Guto Bebb MP, Paul Masterton MP, Diana Johnson MP, Professor Susan Golombok, Natalie Gamble, Wendy Norton, Olivia Montuschi, Andrew Powell, Cara Nuttall, Hannah Moxom, Spencer Clarke, Kirsty Horsey, Sarah Norcross.

Initial discussion focussed on the longitudinal studies undertaken by the Cambridge Centre for Family Research, on families created by surrogacy (both heterosexual families and families with gay fathers) and also surrogates. Families created by surrogacy are functioning well. Another study to come from the Centre looked at surrogacy in India which found that while some of the concerns about surrogates there played out, others did not. In particular, Indian surrogates didn't seem to be as badly treated, or concerned about the way they were treated as often as portrayed in the western media. But they did feel that the outcome was something that was quite inhumane; they carried this baby and then weren't allowed to see it when it was born - some just wanted a photograph - or to just see the baby once. They didn't want to keep the baby, but this was something that was denied to them. There was comment that broad agreement exists that the law in relation to who the parents of a child are at birth need to be updated. The law was not written with surrogacy in mind, but for donor conception families. The concept of parental orders was a 'kind of sticking plaster' for the few cases of surrogacy it was thought might occur. The law was not designed to cope with hundreds of surrogacy families being created each year. There was agreement that a new law is required, which secures and recognises children in the right family, the moment they are born, as happens for children who are conceived through donor conception and other kinds of assisted reproduction.

'There needs to be certainty, redesigned as possible to ensure that the reality between the child relationship with the parent is reflected'.

One participant, however, expressed the opinion that it was correct for parental orders not to be able to be applied for until six weeks after the birth, so as to enable welfare checks and a paper trail to be created. One participant showed support for pre-birth orders or at-birth legal parenthood, acknowledging that there would sometimes be issues with this, but that for the straightforward cases which make up the majority, it would be in the best interests of children and families to have these issues sorted out before birth.

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It was pointed out that many people who come to surrogacy come after many years and failed attempts at IVF, so are vulnerable in that way. There was agreement that surrogacy had to be seen as a form of assisted reproduction and that it is not like adoption.

In relation to surrogacy taking place overseas, there was consensus that better domestic law might disincentivise some people from going overseas for surrogacy, but also a point made that international surrogacy is 'here to stay'. Because of this, any new law needs to accommodate all children who have been born through surrogacy, including those born overseas. The current process was described as 'jumping through hoops', even where there was legal parenthood granted in an overseas jurisdiction.

Even in 'straightforward' cases of domestic surrogacy, it was agreed that there is still a great deal of uncertainty hanging over intended parents. Legal proceedings 'hang over them' and they have application forms to fill out and witness statements to prepare. It is a daunting process and places a great deal of pressure and stress on new parents through surrogacy, who can't simply enjoy being parents, even though that is what everyone wants. Some parental order cases have gone on for as long as up to two years.

There was concern expressed about a proliferation of surrogacy agreements being conducted via social media – where people met online and entered into a surrogacy process with no kind of screening or support from third parties. This has inevitably led to a growth in problems (including breakdown of relationships, or people being taken advantage of), even though sometimes such arrangements can work out.

Commercial surrogacy was described as one of the more emotional issues in discussions on the need for surrogacy law reform. The point was made that the definition of what is meant by 'commercial' must be made clear, as many people would think that it means to pay surrogates. The reality is that surrogates in the UK and overseas can receive some degree of compensation and this is routinely authorised by the courts, and is not illegal. One participant expressed the opinion that the 'horse had already bolted' around payments to surrogates, and that there needs to be transparency about this built in to any new law. It is illegal for third parties to make a profit from arranging surrogacy in the UK. Clarity about what is meant when commercial surrogacy is discussed is needed. There was support for having professionals more closely involved in supporting people through surrogacy; there are many benefits from being able to get proper advice before proceeding with an agreement. There was widespread agreement in the advantages of having a defined process to follow, including screening, counselling, legal advice etc before entering arrangements and, if this was done, this should make the presumption of parenthood in favour of the intended parents. This led to a question about traditional surrogacy and how that could be regulated in a way that would protect the parties concerned.

There was discussion of the reasons that some intended parents may go overseas for surrogacy and what the challenges – real or perceived – were with undertaking surrogacy in the UK.

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Research was discussed that showed that many of those who entered domestic surrogacy arrangements cited affordability as a driver of their choice, with the financial implications of going overseas weighing against doing so. There was agreement that many intended parents would prefer to stay in the UK if they thought it was possible to do so. However, there were some problems with staying in the UK, especially faced by gay male couples, who had to contend with a level of heteronormativity in healthcare services (including midwifery and in fertility clinics), which led to some negative experiences. There was also a degree of vulnerability demonstrated in the research when, despite couples having good relationships with their surrogates in domestic arrangements, it could never be certain whether the agreement would go ahead as planned. Furthermore, hearing of others' experiences with hospitals and maternity units in the UK, where intended parents and surrogates are made to feel like they are doing something 'wrong' might make people opt to go overseas. Other reasons suggested were the certainty and the reassurance that surrogates would be available, with the perception that this would make the overall timescale shorter. There was some discussion of the Department of Health Guidance for health professionals working with surrogacy, with agreement that it was valuable but needed better dissemination and follow-up. It was too early to consider whether the guidance had had any effect on the way healthcare professionals were handling surrogacy situations.

One parent through surrogacy described why she and her husband had opted for surrogacy in Canada. Originally seeking a surrogate (and having sourced an egg donor) in the UK, they just 'didn't get a match', so looked at other options. Having ruled out Ukraine, the attraction of Canada was

'the altruistic nature of it in terms of you just paying expenses, but then you had a network around you, such as an agency that was managing your backup, they're managing the expenses'.

The fact that both sides had to have their own lawyers, and there was a 35-page surrogacy agreement drawn up that specifically stated the surrogate would hand over the child was also a deciding factor. Within two weeks, the intended parents had a birth certificate in their names. The real-life experience was also said to be good – the intended parents were given their own room in the hospital and they were treated as if they were the parents. That said, there was still a 'weird limbo stage' between this and getting the parental order nearly ten months later. The family has had a second child using the same Canadian surrogate and described the surrogate as 'part of our family'. Discussion continued in relation to the use of donated gametes in surrogacy. Concerns were expressed about the level of openness about genetic origins. Where egg donors are used, this should be an ongoing part of an open conversation between parents and their children about the children's origins. The fact that there was no legal requirement to disclose the use of a donor was discussed. In the donor conception community, the perception is that the prevalence and ease of DNA testing is a 'timebomb waiting to go off', and this was likely to happen with surrogacy as well. Another participant expressed surprise that there were cases where gay male parents through surrogacy were not open about egg donation, because research had shown that openness was common.

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'Parents through surrogacy are very open because they're being open about surrogacy, they tend to be kind of very well educated about the importance of being open with children across the board'.

It was pointed out that the voice not heard in the discussions on surrogacy were the voices of those who had been conceived and born through surrogacy. This was stated to have been very important in the debates on donor conception, and it was suggested that particularly in respect of commercial surrogacy, or where payments were made to surrogates, it would be a useful viewpoint to consider.

Evidence Session 4

Attendees: Baroness Barker, Louisa Ghevaert, Andrew Spearman, Professor Emily Jackson, Colin Rogerson, Andrew Powell, Adem Muzaffer, Elizabeth Isaacs QC, Michelle Green, Alan Green, Ruth Cabeza, Spencer Clarke.

There was agreement that there was a clear need for reform and that the law does not currently serve the best interests of all participants in a surrogacy arrangement. Three participants, including one surrogate, described the law as 'a mess'. It was pointed out that the update to the Human Fertilisation and Embryology Act in 2008 was not a complete overhaul of the law. Out of the 80 hours of debate on the whole bill, only one hour was spent debating legal parenthood. Now ten years on, modern families created through surrogacy have increasingly complex dynamics and structures and the legislation is no longer fit for purpose. It has been too slow to catch up with developments in society, and now is a good time to reflect what really happens in modern family building.

It was suggested that there should be a more streamlined process for both surrogates and intended parents. The current process of obtaining a parental order is 'cumbersome and unyielding'. Though there should be safeguards in place for the child, there should be a better process that involves a less heavy-handed approach. One attendee suggested that the only criterion for the granting of a parental order application should be the child's best interests – other than the times when the court has found it impossible to read down a part of the legislation, this is what is driving decisions anyway. It was also suggested that any court intervention could come much earlier – even prior to conception, rather than after the birth, which is too late. There was widespread agreement that parenthood should be established before birth, or come into effect at birth, or at the very least parental responsibility to be granted to the intended parents upon birth. A surrogate commented that surrogates do not want legal parenthood at birth.

"We have gone into this with the mindset that we are not and never were the parent... I'm not the mother".

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The husband of a surrogate agreed.

“I don’t see why I should be the legal parent... if anything happened to the IPs in that six weeks, I would be the legal parent of that child forever and I have no biological connection to the child. I think that is just crazy. Many surrogacy partners do not want to get involved with surrogacy because of issues like this”.

The domicile requirement was also mentioned as a criterion that should be removed from the parental order requirements.

One lawyer said that she had seen the courts struggle with some tricky issues that have arisen from cases involving commercial overseas surrogacy arrangements in countries with varying levels of protection for surrogates. One example was of an ‘elderly’ couple (70+ and 60+) applying for a parental order, where it was difficult to convince the judge that the parental order would be in the best interests of the child. The fact that there was different treatment, for example about expenses, between the magistrates’ courts and the High Court was also discussed. It is problematic that while magistrates (especially those unfamiliar with surrogacy) look in detail at expenses, the High Court now tends not to do so, when it is the court that sees the results of overseas commercial surrogacy arrangements. The courts’ hands are generally tied by their obligation to consider the welfare of the child as paramount. Other examples were given of complex cases where intended parents ‘muddled though’ not realising that a parental order was necessary or what the implications of not having one could be. In addition, there were cases where it simply had not been possible for the court to grant a parental order, which was not in the child or family’s best interest.

There was some discussion that there should be proper debate about the criteria for becoming a surrogate. For example, could someone be a surrogate aged 16? Should there be a capacity test? Should someone be prevented from being a surrogate if they had their own health difficulties? Or if they have never had a child before? Having open and honest (public) debate about these issues may go some way to protect women and to ensure legitimacy of the whole process, thus positively influencing public perceptions. If any such rules were to be put in place, this should be enforced before an agreement is entered into, rather than presenting situations to the courts post-birth, when the welfare of the child becomes paramount.

“If there is going to be any gatekeeping, it needs to happen before conception, not after conception”.

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However, another participant disagreed, and contested the fact that there should be involvement by the state at all – families should be allowed to ‘get on with it’ and the state or courts should only intervene when there is a reason to. There should be no statutory criteria other than to consider the child’s best interest, as is the case in every other area of family law. It is paternalistic to do otherwise. Surrogacy arrangements could be dealt with by existing legislation, including the Children’s Act 1989. Parenthood should be resolved before the child is born. A legal professional agreed that the statutory conditions had set up a situation that was ‘artificial’ and that streamlining the process (of assigning legal parenthood) should not require the courts to intervene, unless there was a child welfare issue. There was further agreement that the state should not intervene unless the child was at risk of harm.

“We have to be careful of imposing a higher standard of paternalism on an artificially-conceived family”.

A discussion took place on whether surrogacy agreements should be enforceable and it was felt that this should not be the case as there could be no oversight to ensure agreements were fair and non-exploitative. The usual provisions of contract law should not be what guides surrogacy arrangements. In any case, agreements should not need to be enforceable if the agreement is robust. There was agreement about this, in the context of regulated surrogacy (via some mechanism akin to the HFEA) which, when everything went as planned according to the agreement, should not need to be ‘enforced’ and the intended parents should simply be able to register the birth, unless there was any dispute. To do anything else is a waste of courts’ time and resources.

The discussion moved to international surrogacy: even if the state did not intervene in domestic surrogacy arrangements and legal parenthood was given to the intended parents at birth, should this be the case for international arrangements? Comparisons were made with adoption law in which a list of recognised jurisdictions is relied on, with the suggestion that the same could be the case for surrogacy, where this had taken place in a destination recognised in law as maintaining the standards expected of an agreement that should be upheld: where there is a good process and ethical conditions are satisfied.

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Evidence Session 5

Attendees: Sarah Jones, Tom Daley, Julie Bindel.

The attendees had a more intimate and informal discussion about surrogacy. Tom Daley discussed why he and his husband had opted to undertake surrogacy in California, and how he felt the system worked. As a couple, they had considered surrogacy in the UK as well, but eventually ruled this out due to a variety of factors: their respective fame, certainty, and living between the UK and US. Julie Bindel expressed her views that all surrogacy is wrong, as it exploits women. Sarah Jones discussed how she perceived herself as a surrogate (four times) and how she did not believe herself to have been exploited: surrogacy was a reflection of her autonomy. Julie Bindel did not agree, and stated that allowing any surrogacy to take place, even in an altruistic model, meant that somewhere, women would be exploited, as it gave the message that women's bodies could be used by others in return for money.

The APPG received written submissions from:

- CAFCASS
- Dr Brian Tobin
- Dr Katherine Wade
- Stonewall

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Recommendations

Summary of observations and key points for reform:

1. Though we heard and understand that there are objections to surrogacy from some women's or children's rights advocates, this group supports surrogacy as a modern form of family creation for those who need it. There was widespread agreement across the evidence sessions and from different types of participants that surrogacy was a valuable and legitimate form of family building that should be supported by Government for those who need to use it.

We acknowledge and welcome the Government's support for surrogacy, evidenced in its commitment to reform of the existing law, and the publication by the Department of Health and Social Care of two guidance documents on surrogacy.

2. Government support for surrogacy should extend to education and training of health professionals involved with surrogacy. The APPG heard that experiences differ considerably among surrogates and intended parents.

The Department of Health and Social Care's guidance documents on surrogacy should be more widely and clearly disseminated, particularly to healthcare settings which might encounter surrogacy. Education and training about surrogacy as a form of family building, and about the law, should be given to healthcare and other professionals who may become involved with surrogacy.

3. There was widespread agreement among participants that surrogacy law needs to be reformed and some acknowledgement that public perceptions of surrogacy may not match the reality of surrogacy agreements.

We recommend that completely new surrogacy legislation be drafted and fully debated in Parliament.

4. There was widespread agreement that parents through surrogacy should be the child's legal parents from birth as that represents the intention of the parties from the outset.

We consider 'at birth' legal parenthood for intended parents to be a key ask for reform.

5. There was some support for pre-approval of surrogacy agreements prior to conception, so as to enable at-birth legal parenthood.

When drafting new legislation, consideration should be given to what elements of the process could best happen pre-conception, how these should be done, and by whom, in order to enable legal parenthood to be assigned to the intended parents at birth.

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Recommendations (continued)

6. Implications counselling for all parties is important for those undertaking surrogacy and other forms of best practice, such as DBS and health checks, should be promoted.

Creation of legitimate and robust surrogacy agreements should be a key focus of new legislation, in the best interests of children and all other parties. Surrogacy organisations that have already established good practices should be able to rely on their existing procedures and processes where possible.

7. There was agreement that many of the criteria used to determine eligibility for a parental order were unnecessary or had become superfluous due to decisions of the courts.

As part of legislative reform, the criteria needed to be met for intended parents to attain legal parenthood should be comprehensively reviewed, and those which it would be contrary to the welfare of the child to be applied should be removed.

8. The APPG heard evidence of vastly different experiences of those accessing surrogacy overseas. These arrangements can be prohibitively expensive for some parents, whereas in some jurisdictions the welfare of the surrogate and the parties to the arrangement is not to a standard we would expect in the UK.

An important imperative for law reform should be to create a more stable system in the UK which removes the push factors for seeking surrogacy overseas, including the way legal parenthood is currently assigned. Not only is this a matter of fairness for those intended parents who do not have the finances to pursue arrangements overseas, it is also an important welfare issue for some surrogates overseas.

9. There were divergent views on payments to surrogates but overall preference for the retention of an 'altruistic' (non-commercial) model. There was no real support for US-style payments to surrogates. If anything, a modest sum at most was supported.

The principle of altruism should be maintained, whilst enabling greater transparency around expenses, for example allowing modest recuperative holidays and gifts.

10. The APPG has not received significant representations in favour of the introduction commercial surrogacy

We agree that there should be no move towards a commercial model of surrogacy.

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Recommendations (continued)

11. There is agreement that surrogacy organisations should remain non-profit.

Surrogacy organisations/agencies should remain non-profit. However, we agree that it would be preferable for them to be regulated and that existing good practice be supported to continue.

Surrogacy laws are out of date, and out of step with the modern reality of surrogacy as it is practised in the UK. A 2015 Report by the Surrogacy UK Working Group on Law Reform (SUKWG) highlighted the reality of the practice and lived experience of surrogacy in the UK, while recognising the problems that international surrogacy arrangements can potentially bring.⁵ Apart from concerns related to commercialisation and (in some surrogacy destinations) potential exploitation, not least of these is the confusing message sent by the Courts in retrospectively authorising commercial payments.

It is true that some aspects of the landscape of surrogacy have changed – the digital age brought an expansion of international surrogacy fed by easily-accessible information and cheap international travel, alongside the willingness of other nations to facilitate commercial surrogacy arrangements which are marketed as providing certainty. Cross-border surrogacy is not without risk and is one of the key reasons that this group was established – to support proposed reform of the domestic law on surrogacy not only to bring it into line with modern good practice that already exists, but also to lessen the appeal of overseas surrogacy.

The 2015 SUKWG Report showed that although the proportion of overseas surrogacy arrangements was growing, the majority of arrangements undertaken by intended parents from the UK are relationships entered into using UK-based surrogates and on an expenses only basis, rather than a transactional, contractual basis. We also know, from longitudinal academic studies following families created by surrogacy, that surrogate-born children fare well in supportive environments, and that surrogates are happy and well-adjusted.

This group believes that the careful formulation of new legislation on surrogacy which recognises the value of surrogacy as a way of having children, as the Government has already done. New laws should help to protect and facilitate the altruistic, compensatory nature of surrogacy in the UK, while averting a move towards commercialisation. Our recommendations are premised on the welfare of children being born through surrogacy being paramount.

⁵ Horsey, K., 'Surrogacy in the UK: Myth Busting and Reform', Report of the Surrogacy UK Working Group on Law Reform (November 2015) (<https://kar.kent.ac.uk/59740/>). It should also be noted that there has been a subsequent report, published while the APPG evidence sessions were ongoing: Horsey, K., 'Surrogacy in the UK: Further Evidence for Reform', Second Report of the Surrogacy UK Working Group on Law Reform (December 2018) (<https://kar.kent.ac.uk/71557/>).

APPG: Report on understandings of the law and practice of surrogacy

Recommendations (continued)

The Government has lent its support to a review being conducted by the Law Commission, including in a debate in the Lords' chamber in 2016,⁶ and in responses to many subsequent parliamentary questions in both Houses. It has passed a remedial order to allow single parents to apply for a parental order following surrogacy, following the issue of a declaration of incompatibility with human rights laws issued by the President of the Family Division of the High Court in 2016, demonstrating in part its commitment to change. This group will continue to urge the Government to fully review our surrogacy laws, to bring the law into line with modern social realities in order to be best able to support those using surrogacy to found their families, and to discourage those who need to undertake surrogacy from doing so overseas. The APPG also supports the facilitation of further research into how surrogacy is conducted, and the outcomes for surrogacy-created families.

COVID-19

With the uncertainty in international travel caused by the global pandemic, entering into a surrogacy arrangement overseas now or in the immediate future carries with it a huge degree of uncertainty. In some countries that typically tend to be surrogacy destinations this may seem even more risky.

Even the US – which tends to be the place where those with more money go to for surrogacy – is extremely problematic. There has never been a more important time to reform the law to make it easier and more attractive for people to undertake surrogacy in the UK. Nobody wants to see people in very difficult and stressful situations at what should be the joyous start of family life and unable to perhaps meet and start to care for their child or unable to bring their baby home.

⁶ <https://hansard.parliament.uk/Lords/2016-12-14/debates/391AB95D-1999-4D52-A5D0-C9EF6CF44407/Surrogacy>

APPG: Report on understandings of the law and practice of surrogacy

Appendix 1:

List of Participants - Evidence Sessions 1-4

Note: Participants' details/affiliations were correct at the time of the evidence sessions but may since have changed.

Session 1 Tuesday 30 October 2018

Baroness Liz Barker
Liberal Democrat Peer

Sarah Norcross
Director of charity PET (Progress Educational Trust) and a member of the Surrogacy UK working group on surrogacy law reform.

Dr Kirsty Horsey
Reader in Law at the University of Kent and a member of the Surrogacy UK working group on surrogacy law reform.

Natalie Smith
Mother via surrogacy and member of the Surrogacy UK working group on surrogacy law reform.

Dr Brian Tobin
Legal academic, National University of Ireland, Galway, Republic of Ireland

Dr Vasanti Jadv
Psychology researcher, Centre for Family Research, University of Cambridge.

Melanie Carew
Head of Cafcass legal services

Susie Blamire
Cafcass (former parental order reporter, now the practice expert in National Improvement Service)

Sam Everingham
Founder of Families Through Surrogacy – international consumer-based non-profit surrogacy organisation.

Michael Johnson-Ellis
Father via surrogacy (and co-founder of @twodaddiesUK)

Wes Johnson-Ellis
Father via surrogacy and co-founder of @twodaddiesUK

Richard Westoby
International surrogacy 'mentor', father of twins through surrogacy in US

Nicola Ponting
Solo intended mother

Jason Brown
Solo intended father

APPG: Report on understandings of the law and practice of surrogacy

Appendix 1: List of Participants - Evidence Sessions 1-4 continued

Session 2

Kim Cotton Surrogate in 1980s and 1990s and founder of Childlessness Overcome Through Surrogacy (COTS)	Kate Fruin-Smith Independent surrogate – Hope surrogacy support
Sarah Bentley Mother via surrogacy (COTS)	Gina Kinson Independent surrogate – Hope surrogacy support
Sarah Howarth Mother via surrogacy (COTS)	Robert Gilmour Director, SKO Family Law Specialists, Edinburgh
Dr Kirsty Horsey As above	Matthew Brown Single father via surrogacy in the US
Sarah Norcross As above	Ricardo Tamagnini Founder, non-profit support group Family GenerAid Foundation (FGaF); father through surrogacy in US
Rose-Marie Drury Senior Associate layer, Mills and Reeve, Manchester	Nicola Ponting As above
David Willis Father through surrogacy (SUK)	Jason Brown As above
Francesca Steyn Head of Nursing at the Centre for Reproductive and Genetic Health, London	Caroline Evans Surrogate – trustee of Surrogacy UK

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Appendix 1: List of Participants - Evidence Sessions 1-4 continued

Session 3 Tuesday 13 November 2018

Natalie Gamble
Solicitor, Natalie Gamble Associates (NGA Law), and co-founder Brilliant Beginnings

Professor Susan Golombok
Psychology researcher, Director of Cambridge University's Centre for Family Research.

Cara Nuttall
Partner at JMW Family Law, Manchester

Sarah Jones
Surrogate and Chair of Surrogacy UK.
Member of SUK Working Group on Law Reform.

Andrew Powell
Barrister, 4 Paper Buildings. Member of SUK Working Group on Law Reform.

Wendy Norton
Former fertility nurse; Senior lecturer health and social care at DMU

Olivia Montuschi
Practice Consultant, Donor Conception Network; member of Project Group on Assisted Reproduction (PROGAR); mother of donor-conceived adults

Hannah Moxom
Mother via overseas surrogacy (Canada)

Session 4

Liz Isaacs QC
Barrister, St Ives Chambers, Birmingham.

Adem Muzaffer
Barrister, 30 Park Place Chambers, Cardiff.
Junior on Re Z (single man) case (when at St Ives Chambers)

Professor Emily Jackson
Professor of Law at the London School of Economics

Spencer Clarke
Law Commission

Andrew Spearman
Solicitor, A City Law Firm (family law)

Colin Rogerson
Senior Associate, Dawson Cornwell

Ruth Cabeza
Barrister, Field Court Chambers. Co-author of Surrogacy: Law, Practice and Policy in England and Wales

Louisa Ghevaert
Director and Head of the Fertility & Surrogacy Law team, Vardags, London

Sarah Jones
As above

Andrew Powell
As above

Al Green
Partner of surrogate, trustee Surrogacy UK

Michelle Green
Surrogate (SUK)



THE ALL-PARTY PARLIAMENTARY GROUP

on Surrogacy

This is not an official publication of the House of Commons or the House of Lords. It has not been approved by either House or its committees. All-Party Groups are informal groups of Members of both Houses with a common interest in particular issues. The views expressed in this report are those of the Group. This report was written by Andrew Percy MP.