

Surrogacy in the UK:

Myth busting and reform 10 years on

Third Report of the SurrogacyUK Working
Group on Surrogacy Law Reform

December 2025

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Foreword

In 2015, when we published our first report, it was prefaced by a Foreword signed by three women who had, each in their own way, shaped the practice, understanding or law of surrogacy in the UK. We republish that Foreword on the following page, as a reminder.

Unfortunately, since 2015, we have lost two of those original signatories, and the third has happily retired. The formidable moral philosopher Baroness Mary Warnock, widely considered the 'architect' of this country's regulation of assisted reproduction and embryology (including surrogacy), died in 2019. Professor Margaret (Margot) Brazier, one of the great intellects of medical law teaching and research, died in March 2025. Professor Susan Golombok, former director of the Cambridge University Centre for Family Research, is now Professor Emeritus; her impressive body of work on modern families continues to influence scholars not only in her field of social psychology, but across sociology, law, social policy, cultural studies and more.

Mary Warnock, charged by Government in 1982 to lead an inquiry into human fertilisation and embryology in the wake of the then new science of IVF, was initially against surrogacy, as is apparent in the eponymous 1984 Warnock Report. However, when we presented her a draft of our 2015 report, she was gracious enough to say that her understanding of surrogacy, and how it worked in the UK, had been coloured by early cases and scare stories, and that she would happily put her name to our report. Writing in 2016 in the *Journal of Medical Law and Ethics*, she said 'I now think the time has come to revise our law on surrogacy' and hoped that the arguments 'will be taken heed of by our legislators, and widely discussed, and that it will have the consequence that the law governing surrogacy will be changed, and brought into line with modern understandings of the family'.

In 1997, the Government asked Margot Brazier to lead a further inquiry into surrogacy, in particular to consider the question of whether payments in surrogacy, including expenses, should be allowed and what changes potentially needed to be made to the existing legislation. The subsequent 1998 Brazier Report recommended that payments cover the reimbursement of expenses incurred and that no compensation should be provided for gestational services. It also recommended that the activities of surrogacy support organisations be regulated.

Susan Golombok, part of the review team alongside Margot Brazier, also led a longitudinal study on assisted reproduction families, including families created by surrogacy, for over 20 years. Surrogacy families were followed up when the children were aged 1, 2, 3, 7, 10, 14 and 20 and the findings demonstrate that the children's wellbeing and psychological adjustment was as good as, if not better than, children from families created in other ways at most stages of development.

All of these contributions remain pertinent to the debate today. This new report seeks to set out the current situation by providing an update on how things are '10 years on' from our first report and 40 years since this country's (and the world's) first legislation on surrogacy was enacted.

December 2025

Foreword to Surrogacy in the UK: Myth Busting and Reform 2015

The UK has regulated surrogacy arrangements for 30 years and many other countries have, in that time, modelled similar laws on ours. Little, however, has changed in the law in that 30 year period, other than to provide a mechanism for the transfer of legal parenthood from surrogates to intended parents from 1990 and to recognise, in 2008, that intended parents may legitimately comprise people other than married heterosexual couples.

In recent years, some aspects of the landscape of surrogacy have changed. The explosion of the internet, bringing easily-accessible information and cheap international travel has, alongside the willingness of other nations to open their borders and clinics for those willing and able to travel to enter surrogacy arrangements, led to an expansion of international surrogacy. For some, this has brought its own problems – for example with immigration or the acquisition of legal parenthood. Such cases, coupled with high-profile media coverage of the rare occasions when surrogacy goes wrong, raise concern about the ethics of some international surrogacy practices and their commercialisation.

However, despite some claims to the contrary, the majority of surrogacy arrangements undertaken by intended parents from the UK are relationships entered into using UK-based surrogates and on an altruistic basis. We also know, from academic studies following families created by surrogacy, that surrogate-born children fare well in supportive environments. This report seeks to highlight the reality of the practice of surrogacy in the UK in 2015, while recognising the problems that international surrogacy arrangements may bring. It recommends the careful formulation of new legislation on surrogacy which recognises the value of surrogacy as a way of having children and helps to protect and facilitate the altruistic, compensatory nature of surrogacy in the UK while preventing commercialisation and sharp practice. Its recommendations are premised on the primary assumption that the welfare of the children born through surrogacy is paramount.

We support this report and urge the government to reconsider surrogacy, to facilitate further research into how it is conducted and what compensations are paid, to bring the law into line with modern social realities and to discourage those who need to undertake surrogacy from doing so overseas.

**Signed: Mary Warnock, Professor Margot Brazier and
Professor Susan Golombok**

Executive Summary

- This report examines the **current realities of the practice and regulation of surrogacy** in the UK, considering changes and events that have occurred since our previous reports in 2015 and 2018.
- It concludes that **surrogacy law reform remains necessary** and makes a series of recommendations to that effect. The now 40-year-old **law regulating surrogacy in the UK is seriously out of date and in dire need of reform.**
- Our **recommendations for reform centre on the welfare of surrogate-born children** and on ensuring the law reflects their best interests.
- Reform should support UK intended parents in **exploring UK surrogacy as their starting point.** Many intended parents are pushed into seeking surrogacy abroad by inadequacies in the existing law.
- **Existing data on surrogacy remains inadequate.** Data purporting to show the incidence of surrogacy and/or where surrogacy arrangements take place differ considerably by source in relation to how many people enter surrogacy arrangements, how many travel for surrogacy, where they go and whether they apply for or are granted parental orders.
- We must **guard against a move towards commercial surrogacy and protect the principle of altruism that underpins surrogacy** in the UK. However, no surrogate should be left out of pocket as a result of her choice to help others have a family.
- The **law must effectively recognise the correct people as parents of children born through surrogacy.** Not to do so is not in children's or families' best interests. It is preferable for the determination of legal parenthood to occur before birth.
- **More research should be undertaken with those who have experienced surrogacy** in or from the UK, importantly including children born from surrogacy.

This group recommends that the Surrogacy Bill as drafted by the Law Commission of England and Wales and the Scottish Law Commission should be put before Parliament without further delay.

- **The Bill is backed by a comprehensive Report and recommendations of the Law Commissions, following a five-year research and consultation project.**
 - It is only by putting the Bill before Parliament that comprehensive and democratic debate on surrogacy regulation can occur.

- **The proposed new 'pathway to parenthood' allowing intended parents to become legal parents at birth, when certain conditions are met, should be supported.**
 - The pathway is in the best interests of surrogacy-born children as it would remove the precarity of their legal position from birth, where they are cared for people who are not recognised as their parents, while those who are so recognised are not the carers.
 - The pathway reflects the intention of the parties and is supported by both surrogates and intended parents.
 - The pathway would be entered in a regulated context, supported by non-profit Regulated Surrogacy Organisations, which would give further legitimacy to surrogacy arrangements.
 - The pathway and its legal consequences reflect surrogates' continuing consent, where the right to withdraw this is not exercised, and thus respects their decisional autonomy.
 - An administrative rather than judicial process to determine legal parenthood would save court and other bodies' (e.g. Cafcass) time and money.
- **The revised parental order route for those unable or unwilling to follow the pathway (or where arrangements exit the pathway as they progress, e.g. if a surrogate withdraws consent) remains a sensible 'back up' option.**
 - The proposed revisions to the parental order process represent a move towards increased consideration of children's lifelong welfare needs rather than bright line rules.
 - Maintaining the parental order route allows for judicial scrutiny of international and 'independent' arrangements, as well as those where the surrogate withdraws consent.
 - The revisions to the parental order process, including allowing some of the requirements to be dispensed with by the court where the child's lifelong welfare needs demands this, are generally sensible and should be supported.
 - Detaching the question of what expenses or other money has been paid from the assessment of the requirements for legal parenthood is welcome.
- **The proposed Surrogacy Register is welcome and would allow those born from surrogacy to access information about their origins at an appropriate time.**
 - Origins information is an important component of an individual's identity.
 - The Register would mirror the donor conceived register already held by the HFEA in relation to those conceived by gamete donation.
 - Consideration should be given to linking between the two registers, for example where a surrogacy arrangement also uses egg donation.

- **The requirement on both the 'pathway to parenthood' and parental order routes that at least one intended parent be genetically related to the child should be reconsidered in the context of medical need.**
 - An exception is already proposed to be built into the parental order route where a non-genetically related intended parent makes an application alone after a relationship breakdown with a genetically related intended parent.
 - A further exception should be considered for both routes in circumstances where medical need means that both donated sperm and eggs (or a donated embryo) must be used, for example when intended parents begin the surrogacy journey using their own gametes, but due to failed implantations or later circumstances (such as cancer) are later unable to continue to do so.

We also recommend the following actions for government:

- **The Department of Health and Social Care should continue to consult with the surrogacy community and related professionals to keep its world-leading guidance on surrogacy up to date.**
- **The Department of Health and Social Care's guidance for professionals should inform hospital and other maternity service provision and other related NHS policies, so all parties undertaking surrogacy arrangements are treated similarly.**
- **Increased funding should be provided to the Human Fertilisation and Embryology Authority when the law is updated, to enable it to establish a new arm to effectively regulate surrogacy and Regulated Surrogacy Organisations.**
- **Surrogacy should be included in the Department for Education's relationships, sex and health education (RSHE) guidance for schools and linked to awareness of (in)fertility, family options for same sex partners etc.**

1. Surrogacy in the UK: Myth busting and reform 10 years on

A lot has happened since the publication of our first two reports: ***Surrogacy in the UK: Myth busting and reform*** (2015)¹, and ***Surrogacy in the UK: Further evidence for reform*** (2018)². The number of children born using surrogacy each year in the UK – though still a very small proportion of the total number of annual births – has grown. At the same time, the proportion of children born through overseas (usually commercial) surrogacy arrangements has increased, as has the proportion of surrogacy-born children born to same sex parents.

Never having been illegal, surrogacy has been regulated in the UK for 40 years. The Surrogacy Arrangements Act 1985, a response to the 1984 Warnock Report, was hastily passed to criminalise commercialised surrogacy arrangements. It did not (and does not) cover all aspects of surrogacy. The later Human Fertilisation and Embryology (HFE) Act 1990 added a provision to the 1985 Act to ensure that all surrogacy agreements are unenforceable by or against any of the parties to them. Importantly, it also answered the question about who would be recognised as the legal parents after a surrogacy birth and created a legal mechanism, bespoke for surrogacy, which allows legal parenthood to be transferred from a surrogate (and any other legal parent at birth) to intended parents (IPs), when certain conditions are met. The parental order replaced adoption as the only way IPs could achieve legal parenthood following surrogacy. Initially only available to married heterosexual couples, eligibility for a parental order has since been extended to all couples who are married, in a civil partnership or in an enduring relationship, where at least one of the IPs is genetically related to the child. More recently, following a successful challenge under the Human Rights Act 1998, legal change (which was in process as we wrote the 2018 report) has allowed single people to apply for a parental order, where they are genetically related to the child.

We called for better data collection and retention on surrogacy in both 2015 and 2018. The Human Fertilisation and Embryology Authority (HFEA), the UK's fertility sector regulator, now includes data on surrogacy in its reports. HFEA data shows that IVF now accounts for around one in 32 UK births each year, though only a small proportion of these involve surrogacy: 233 surrogates received IVF treatment in licensed centres in 2023.⁴ The Ministry of Justice records and makes publicly available the number of parental orders granted each year. However, given that there is no obligation to apply for an order, it is not possible to say that this captures all births that occur following surrogacy. Cafcass (the Children and Family Courts Advisory and Support Service) records applications made for parental orders including the location of the respondent surrogate, but this is not formally linked to the number of orders granted. Consistent data therefore still do not currently exist regarding how many people from the UK undertake surrogacy arrangements, how and where they do so, who they are and what financial and/or other costs are involved.⁵

In 2018, as we had recommended in 2015, official guidance for IPs, surrogates and relevant health professionals about the surrogacy process in England and Wales was published by the Department of Health and Social Care (DHSC).⁶ This contains a clear message that the

¹ Available at <https://surrogacyuk.org/wp-content/uploads/2023/02/Surrogacy-in-the-UK-Report-FINAL.pdf>

² Available at <https://surrogacyuk.org/wp-content/uploads/2023/02/Surrogacy-in-the-UK-2nd-Report-20181230.pdf>

³ Report of the Committee of Inquiry into Human Fertilisation and Embryology, Cm 9314, (HMSO, July 1984) ('The Warnock Report')

⁴ HFEA, *Fertility treatment 2023: trends and figures. Preliminary UK statistics for IVF and DI treatment, storage, and donation* (June 2025) at <https://www.hfea.gov.uk/about-us/publications/research-and-data/fertility-treatment-2023-trends-and-figures/>

⁵ See further discussion of available data in section 2 of this report.

⁶ *Having a child through surrogacy* (DHSC 2018, updated October 2025) at <https://www.gov.uk/government/publications/having-a-child-through-surrogacy>

⁷ HFEA, *Code of Practice 9th edition* (latest edition 9.4, revised October 2023) at <https://portal.hfea.gov.uk/media/ykrn55xa/2024-10-01-hfea-code-of-practice-v9-4.pdf>

⁸ The APPG was dissolved at the last general election and not re-formed as its Chair was no longer an MP. Report on file.

⁹ *Guidance: Surrogacy overseas* (FCDO, updated 1 November 2022) at <https://www.gov.uk/government/publications/surrogacy-overseas/surrogacy-overseas>

¹⁰ Surrogacy360 maintains a database of surrogacy regulations around the world, see *Surrogacy Regulation by Country* at <https://surrogacy360.org/considering-surrogacy/current-law/>

¹¹ See Bowers, S., 'Anger as UK police claim they're unable to prosecute 'criminal' surrogacy agency New Life' *Finance Uncovered*, 16 July 2023 at <https://www.financeuncovered.org/stories/new-life-surrogacy-agency-metropolitan-police-illegal-uk>

¹² Fischer LR., Gamble N., Horsey K., Jackson E., Seidelman D.E., & Vaughn R. 'Surrogacy needs to be regulated, not prohibited' *British Medical Journal* (2024) 386: e079542. See also Women Deliver, *Surrogacy: A Human Rights-Based Approach* (September 16, 2025) at <https://womendeliver.org/wp-content/uploads/2025/09/A-Human-Rights-Based-Approach-to-Surrogacy.pdf>

¹³ As can be seen in some reported surrogacy cases showing exploitation of IPs by clinics and the potential exploitation of the surrogate in, for example, Cyprus (*Re Z (Foreign Surrogacy)* [2024] EWHC 2690 (Fam) and *X v W & Anor* [2025] EWHC 25) and Nigeria (*Re H (Anonymous Surrogacy)* [2025] EWHC 220 (Fam) and *B & Anor v D & Anor* [2025] EWHC 366). See also Neofytou K., 'Eight arrested in Crete over surrogacy and IVF fraud' *BioNews* 1204, 29 August 2023; Sowry B., 'Police discover 20 Filipino surrogates in Cambodia' *BioNews* 1260, 14 October 2024; Sowry B., 'Woman describes ordeal in Georgian human egg "farm"' *BioNews* 1277, 17 February 2025.

¹⁴ Law Commissions, *Building Families Through Surrogacy: A New Law; Volume II: Full Report* (HC 1237, 2023, Law Comm No 411, Scot Law Com No 262). See <https://lawcom.gov.uk/project/surrogacy/>. Excellent discussion of all aspects of the Law Commissions' recommendations and draft Bill can be found on the 'Reforming Surrogacy Law' blog, hosted by legal academic Dr Lottie Park-Morton, at <https://reformingsurrogacylaw.blog/>

¹⁵ As had been recommended in 1998 in *Surrogacy: Review for Health Ministers of Current Arrangements for Payments and Regulation, Report of the Review Team Cm 4068* (HMSO, London 1998) ('The Brazier Report').

'government supports surrogacy as part of the range of assisted conception options' and in two separate documents explains how surrogates and IPs can create a family through surrogacy in England and Wales (*'The Surrogacy Pathway'*) and outlines best practice for healthcare professionals providing care to those who have a child through surrogacy (*'Care in Surrogacy'*). Surrogacy was also included for the first time in the 9th edition of the HFEA's Code of Practice, published January 2019.⁷ Surrogacy law reform was also recommended by the All-Party Parliamentary Group (APPG) on Surrogacy in its 2020 report.⁸ In addition, the Foreign, Commonwealth and Development Office (FCDO) has published and updated practical guidance for IPs on 'Surrogacy Overseas'.⁹

Though the proportion of IPs who enter transnational surrogacy arrangements has grown, some of the most common destinations where overseas surrogacy is accessed by IPs from the UK have changed. While surrogacy in India had been the most popular choice when we reported in 2015, changes to its national laws mean that most foreign IPs can no longer access surrogacy there.

Meanwhile, the option for surrogacy in the USA has grown and most American states now allow IPs from other countries to access surrogacy. However, the financial cost of surrogacy in the USA is out of reach for many. Recent actions by the current US administration – including a 2025 executive order seeking to end automatic birthright citizenship, as well as broader moves to roll back women's reproductive rights – have generated profound uncertainty and concerns about pursuing surrogacy arrangements there. Because of its well-respected clinics and lower cost compared to the USA, as well as the fact its legal framework allows for IPs who provide genetic material to be listed on the birth certificate, Ukraine became a popular choice for many, though this has inevitably been affected by the Russian invasion and ongoing war. Alongside these, other destinations' popularity and accessibility to IPs rise and fall.¹⁰ There has also been an increase in adverts for overseas agencies on the internet and UK social media, with no critical assessment of their claims and guarantees, or the risks involved.¹¹ As in 2015, when we had already observed various overseas destinations beginning to close the doors to those coming from overseas, we continue to see new 'markets' for surrogacy emerge. Sometimes this is concerning, as while not all overseas surrogacy is problematic or unethical,¹² there are clear risks of exploitation of women who are surrogates, and of IPs, especially where the practice is unregulated.¹³

Recognising a growing movement in support of reform of surrogacy law, the Law Commission of England and Wales, jointly with the Scottish Law Commission, has undertaken a comprehensive review of the law in the UK, beginning with a public consultation in 2019 and making final recommendations for reform in March 2023.¹⁴ They also published a new Surrogacy Bill, which would repeal and replace the 1985 Act and relevant sections of the 1990 and 2008 HFE Acts.¹⁵ The Law Commissions' proposals would retain prohibitions on commercial aspects of surrogacy, while recognising that there should be more clarity about what IPs are allowed to pay surrogates and whether this may extend beyond reimbursable expenses. Significantly, and in line with recommendations made in our previous reports, they also recommend that in some circumstances it would be appropriate to recognise IPs as legal parents *from birth*. This represents a major change, but one that is supported, crucially, by most surrogates who engaged with the Law

Commissions' consultation, as well as those who responded to the surveys informing our previous two reports. The Law Commissions view such a change to be in the best interests of children born from surrogacy, when a *regulated* and supported 'pathway' (as outlined in the recommendations and draft Bill) with in-built safeguards, including eligibility requirements, front-loaded (pre-conception) medical and criminal record checks, and independent legal advice and implications counselling for all parties, is followed, overseen by a 'Regulated Surrogacy Organisation (RSO)' and detailed in a 'Regulated Surrogacy Statement (RSS)'.¹⁶ Currently, no legal requirements exist in relation to pre-conception checks or screening. Additionally, it is proposed that details of each surrogacy arrangement would be expected to be included on a new Surrogacy Register, giving those born from surrogacy access to information about their origins, including the identity of the surrogate, any gamete donors and the IPs, at an appropriate time. For IPs who choose not to follow the proposed new 'pathway', including by pursuing surrogacy overseas, a slightly revised parental order route would remain to enable legal parenthood to be transferred to them post-birth. In part, the Law Commissions' recommendations seek to encourage IPs to undertake surrogacy domestically and following a regulated (and thereby state sanctioned) model of good practice, rather than entering international arrangements or unregulated informal or 'independent' agreements at home.

Though the Law Commissions' work was comprehensive and welcome, no formal response to their recommendations has yet been received from Government. This is disappointing as, although a vast body of good *practice* has built up in this country, it remains the case that surrogacy *law* does not always act in the best interests of all parties (including children) and needs to be reformed.¹⁷ Surrogacy laws are complex, and it is well known that IPs can perceive surrogacy at home to be risky and uncertain, compared to commercial destinations abroad, where enforceable contracts and guarantees may exist. Much of this perception is fed by longstanding and pervasive surrogacy myths, as we identified in 2015, and these undoubtedly drive some IPs to seek surrogacy overseas.¹⁸ There is a perceived risk due to the fact the surrogate is always the legal mother and could therefore decide to keep the child as her own, as popular tropes in television dramas etc would have us believe is common (though case law shows otherwise). Uncertainty is further fuelled by the lack of clarity or 'rules' around the reimbursement of expenses to surrogates (as identified in the Brazier Report as long ago as 1998) and the perception that getting this 'wrong' may affect the success of a parental order application.¹⁹

We would therefore welcome the Law Commissions' recommendations and draft Surrogacy Bill being put before parliamentarians, so that there can be proper political and public engagement with the debates.

As we did in 2015 and 2018, this report again surveys the current landscape of surrogacy as practised in and from the UK. We include the results of a new survey undertaken by this working group, from which – again mirroring our work in 2015 and 2018 – we draw several conclusions about how surrogacy works best in practice and whether the reforms proposed by the Law Commissions would support or hinder this.

¹⁶ We acknowledge here that the concept of 'best interests' of the child has the potential to be manipulated to support arguments both in favour and against reform. Though it is important that it 'remains a fluid concept' it must not be empty of meaning and should be used in truly child-centric ways (see Park-Morton, L., 'Best Interests as a Rule of Procedure: Reflection on Different Regulatory Responses to Surrogacy' (2025) *Amicus Curiae Series* 2, 6(2), 280).

¹⁷ See section 4 of this report.

¹⁸ See Jadvā, V., Gamble, N., and Prosser, H., (2021) 'Cross-border and domestic surrogacy in the UK context: an exploration of practical and legal decision-making' 24 *Human Fertility* 93.

¹⁹ See Horsey, K., and Sheldon, S., (2012) 'Still hazy after all these years: the law regulating surrogacy' 20 *Medical Law Review* 67.

Alongside some analysis of problems that emerge from overseas surrogacy and other cases that have come before the courts, we remain of the conclusion that reform of surrogacy law is necessary to protect and enhance existing good practice, surrogates, intended parents and children born through surrogacy, and we make a series of recommendations.

2. Surrogacy data

A. Parental orders

The number of parental orders being granted annually has steadily risen since they came into existence. This was recorded by Crawshaw *et al* in 2012, who identified an average of fewer than 50 orders being granted per year up to 2007, rising to 75 in 2008; 79 in 2009; 83 in 2010 and 149 in 2011.²⁰

Crawshaw *et al* surmised that this rise would continue and would be influenced by clinics beginning to offer services to a wider range of individuals and/or targeting specific groups. Their article was published just before same sex marriage was legalised. The Marriage (Same Sex Couples) Act 2013 came into force on 29 March 2014 and though it is silent on surrogacy, its very existence (alongside Civil Partnerships, the recognition of adoption by same sex parents and the extension of parental order eligibility to same sex partners in 2008) would indicate state support for same sex families and thus might suggest that both the number and proportion of same sex couples using surrogacy might increase. Data from a small retrospective cohort study undertaken on one clinic group providing treatments for surrogacy between 2014 and 2021 supports this, finding that 'both the number of surrogacy treatments and the proportion of those undertaken on behalf of same-sex male intended parents increased year on year in the period studied'.²¹

As was clear in our last two reports, figures detailing the true incidence of surrogacy and/or where surrogacy arrangements take place are not easy to obtain. Data is collected and recorded differently by different agencies and organisations. As there is no *requirement* to apply for a parental order and because there are limits on who may do so (or who is eligible), the records of who applies for or are granted orders cannot be an accurate indicator of how many surrogacy arrangements are entered, nor where they take place.

i) The Ministry of Justice (MoJ)

The MoJ records the number of parental orders granted in the family courts in England and Wales and publishes this data as part of its Family Courts Statistic Quarterly. The last dataset was published on 25 September 2025, detailing orders made from 2011 to June 2025.²²

²⁰ Crawshaw M., Blyth, E., and van den Akker, O., (2012) 'The changing profile of surrogacy in the UK – Implications for national and international policy and practice' 34(3) *Journal of Social Welfare and Family Law* 267 at 269.

²¹ Horsey et al, (2022) 'First clinical report of 179 surrogacy cases in the UK: implications for policy and practice' 45(4) *Reproductive BioMedicine Online* 831.

²² It should also be noted that the figures are not necessarily an accurate depiction of the number of births by surrogacy in any year, as an application made in one year may be granted in a later year. Also, though applications should be made between six weeks and six months after the birth, in practice this later limit has effectively been judicially removed. For example, in 2022, for the first time, the court made a parental order in respect of a person who was by then an adult (*X v Z (Parental Order Adult)* [2022] EWFC 26). The person concerned was born in 1998.

Figure 2.1: Parental orders granted in England and Wales

Year	Parental orders granted
2011	117
2012	184
2013	158
2014	242
2015	331
2016	400
2017	332
2018	374
2019	443
2020	423
2021	435
2022	449
2023	514
2024	477
2025 Q1	146
2025 Q2	125

ii) National Records of Scotland

Parental orders granted in Scotland (where there is a different and more expensive process compared to that for IPs in England and Wales) are recorded by National Records of Scotland in its Vital Events Reference Tables, published annually.²³ Before 2011, no more than eight parental orders were recorded in Scotland in any one year. The data show an overall increase; however the numbers remain very small.

Figure 2.2: Parental orders granted in Scotland

Year	Parental orders granted
2011	15
2012	9
2013	5
2014	9
2015	9
2016	18
2017	13
2018	15
2019	8
2020	9
2021	15
2022	17
2023	27
2024	20

²³ The latest data were published on 26 August 2025. For context, there were 45,763 live births registered in Scotland in 2024 and 369 adoptions.

iii) The Children and Family Court Advisory and Support Service (Cafcass)

Cafcass is the agency responsible for reporting to the court on whether the eligibility conditions for a parental order (as outlined in ss. 54 and 54A HFE Act 2008) have been met. The following table details the number of parental order applications received by Cafcass annually since 2014 and information relating to the recorded country of the address of female respondents in the applications.²⁴ Earlier data is included in our 2015 and 2018 reports; data started being centrally collected in 2008.

Figure 2.3: Table showing Cafcass data on PO application respondents by country 2014-25 (all applicant groups)

Country	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025
Argentina	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6
Canada	<6	<6	<6	12	10	16	9	8	17	11	13
Colombia	<6	<6	<6	<6	<6	<6	<6	<6	18	11	15
Cyprus	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6	6
Georgia	<6	<6	<6	<6	<6	<6	19	6	32	39	61
Ghana	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6	6
Greece	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6
India	42	45	50	<6	<6	<6	<6	<6	9	<6	<6
Kazakhstan	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6
Kyrgyzstan	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6
Mexico	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6	11
Nigeria	<6	<6	<6	<6	<6	<6	<6	11	14	23	42
Russia	<6	<6	<6	<6	<6	<6	9	<6	<6	<6	<6
Sth Africa	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6
Thailand	9	8	<6	<6	<6	<6	<6	<6	<6	<6	<6
Uganda	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6
Ukraine	<6	<6	<6	20	31	43	49	46	50	17	22
UK	97	126	168	137	133	166	161	142	208	162	165
USA	42	69	65	76	84	109	79	89	85	93	123
Unknown	14	11	7	<6	<6	7	<6	<6	6	7	12
Non-UK other	10	13	13	22	24	30	9	<6	12	6	16

²⁴ The data was obtained via a Freedom of Information Act request and was received on 21 July 2025. Cafcass notes:

- The data includes all Parental Order (s54/s54A HF&E) and Parental Order (s30 HF&E) applications received by Cafcass in the period 1st April 2014 to 31st March 2025.

- o International surrogacy is determined by the female respondent's address (i.e. the surrogate). Where the address is unknown or not recorded, this data is not available.

- o 'Unknown' relates to female respondents whose addresses are not recorded.

- o Values under 6 have been anonymised as <6 for data protection purposes.

- o 'Non-UK other' is a collective total of up to 26 countries where each country had a total value of <6 for the whole period 2014-2025.

- There may be some margin of human error in the data entry. The data are taken from the Cafcass national database, which is a live database continually updated and subject to change when further updates are made.

As can be seen from the table, most surrogacy births occur in the UK and USA. Changes such as the decline in the number of arrangements taking place in e.g. India and Thailand can clearly be seen, as can an increase in arrangements occurring in Ukraine (declined since 2022), Colombia, Georgia and Nigeria.

Figure 2.4: Table showing Cafcass data on PO application respondents by country 2014-25 (same sex applicants)

Country	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025
Canada	<6	<6	<6	8	7	12	6	7	14	8	12
Colombia	<6	<6	<6	<6	<6	<6	<6	<6	16	9	12
Cyprus	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6
Georgia	<6	<6	<6	<6	<6	<6	<6	<6	7	7	<6
Mexico	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6	7
Sth Africa	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6
Thailand	<6	7	<6	<6	<6	<6	<6	<6	<6	<6	<6
Ukraine	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6
UK	23	21	39	36	39	56	64	56	89	66	72
USA	22	27	36	45	48	63	42	44	46	54	62
Unknown	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6	<6
Non-UK other ²⁵	<6	7	<6	<6	<6	<6	<6	<6	10	6	8

The data indicate that same-sex IPs travel to fewer destinations for surrogacy overall, though the reports do include some countries where surrogacy is not legal for same sex couples. Most arrangements for same-sex IPs also take place in the UK and USA with the proportion of these being relatively equally split for several years, moving towards a slightly higher proportion of these occurring in the UK in the past few years. As regards single applicants, nearly all such arrangements occurred in the UK and USA, with some in 'non-UK other' destinations in the two years 2023-2025.²⁶

Further data provided by Cafcass about the age of applicants showed negligible numbers (all <6) for 'under 20' and 'over 70', with a maximum of 17 in any year where one of the applicants was aged 60-69. The median age for applicants was either 30-39 or 40-49 in all years. This suggests concerns about legislating for lower and upper age limits for surrogacy are largely unsupported by the data, though of course those IPs who are applying older should, as the courts have recently determined, have put arrangements in place that ensure the child can be cared for throughout their life.²⁷ Clinics providing treatments in the surrogacy context may impose their own clinically assessed upper age limits, and in any case are obliged by legislation to consider the welfare of the prospective child when determining whether to provide treatment.

A separate request asking about failed applications generated totals of <6 per year in all years, reflecting applications where one of the following outputs have been recorded on the child's case file: Order of No Order, Order Refused/Application Dismissed, Application refused, Order not made, Parental Order Refused, Case Withdrawn/Dismissed, or Application Withdrawn. This suggests that most people applying for parental orders do so successfully, supporting the idea that in most cases obtaining a surrogate's consent to the granting of a parental order is uncontroversial

²⁵ Here made up of up to 12 countries where each country had a total value of <6 for the whole period 2014-2025.

²⁶ Made up of up to 13 countries where each country had a total value of <6 for the whole period 2014-2025. Only five of these countries appeared in the same sex couples data.

²⁷ See e.g. *K & Anor v Z & Anor* [2025] EWHC 927 (Fam), discussed in Section 4. The Law Commissions recommend that IPs should be at least 18 years old and surrogates at least 21 (on both the pathway and parental order routes), though no upper age limit is recommended for either.

and surrogates do not typically change their mind, or conversely that parental order applications are refused for reasons connected to the IPs.

B. Surrogacy organisations

There are five surrogacy organisations that are listed across the publicly available official guidance on the DHSC and HFEA websites: Childlessness Overcome Through Surrogacy (COTS), SurrogacyUK, Brilliant Beginnings, My Surrogacy Journey and Nappy Endings. Each organisation has different structures, operational models and costs.²⁸

Information presented here is taken from the website of each organisation and from responses received from all of them to a request for information about the number of surrogacy births it had supported since its inception. The information is correct to the end of October 2025.

i) COTS

COTS was the UK's longest running surrogacy support organisation, having been established in 1988 by Kim Cotton, widely known as the UK's 'first' surrogate. It closed in September 2025 though Kim Cotton has since established a Surrogacy Advice Line.

During its years of operation, COTS helped to facilitate **1,143 births** (with another four surrogates pregnant when the organisation closed). It worked with over 1800 surrogates, 427 of whom went on to give birth successfully (some will have ended their journey after failed transfers, medical issues or a change of mind). Many of the 427 completed more than one journey.

ii) SurrogacyUK

SurrogacyUK was formed in 2002 by a group of women who had been surrogates. Today, it is a not-for-profit company, governed by a board of directors and run by a small team of staff and a community of volunteers. It has a sister charity, the SurrogacyUK Foundation, whose purpose is 'to advance the education of the public about surrogacy and, in particular, approaches to surrogacy that are ethical and safeguard the interests of all parties'. SurrogacyUK has facilitated the birth of **525 babies** with another 11 due by the end of 2025.

To become IP members of SurrogacyUK, an initial £800 application fee must be paid, then (once the application is approved) there is a £1800 membership fee (with an annual renewal fee of £240). IPs undertake a bespoke surrogacy preparation course ('covering legal, emotional and practical aspects' of surrogacy) and have access to resources and events. IPs must be able to meet the eligibility criteria for a parental order to be accepted as members. There is no joining fee for surrogates, but they must be aged 21 or over (if childfree, 25 or over). There is no specified maximum age limit though this is determined by willingness of a licensed fertility clinic to treat. The SurrogacyUK website says there is currently no waiting list to become members.

²⁸ When assisting with UK surrogacy, organisations may not facilitate or help negotiate surrogacy arrangements on a commercial basis (SAA 1985, s. 2) i.e. they must be 'non-profit making bodies'. However, they may receive 'reasonable payments' in this context 'not exceeding the body's costs reasonably attributable to the activity.

iii) Brilliant Beginnings

Brilliant Beginnings was formed in 2013, at the time offering fully managed support for surrogacy journeys in the UK, USA and Canada. The organisation is dedicated to safe and ethical surrogacy and works with IPs based in the UK and overseas, alongside its sister organisation NGA Law. It has facilitated the birth of 124 babies: 51 teams with a UK surrogate (screening, matching and supporting); 67 teams matched and managed through a USA journey and six teams via Canada before this pathway was paused. It has a further 10 teams in which the surrogate is pregnant, with six of these based in the US and four in the UK. According to the information provided, it has also held initial consultations with a further 70+ IPs in the past 12 months who are actively looking at either a UK or USA surrogacy journey. At the time of writing Brilliant Beginnings was not currently accepting new applications for its UK pathway (other than already matched surrogacy teams).

iv) Nappy Endings

Nappy Endings Surrogacy Agency was founded in September 2017 by a team including one woman who has herself been a surrogate several times. It offers support for surrogacy journeys in the UK and in California including matching IPs with surrogates or assisting already matched teams. Since 2017 they have seen 57 babies born (some of which were multiples) and have worked with over 70 surrogates (however not all ended in a live birth). At the time of writing, Nappy Endings also had 'many journeys at various stages'.

v) My Surrogacy Journey

My Surrogacy Journey was established in 2021 by a same sex male couple who had their own children through surrogacy. It offers surrogacy pathways in the UK, the USA and Mexico. Since April 2022, it has facilitated the birth of 39 babies (25 UK, 13 in Mexico and one in the USA). At the time of writing, it was supporting further teams where the surrogate was pregnant: 25 in Mexico and seven in the UK.

Eligibility criteria for surrogates in the UK include that they should be in the age range 21-43 if a first-time surrogate, be fit, healthy and a non-smoker, with BMI below 35. For IPs, at least one must be domiciled in the UK, together they must have a combined age of under 100 (or 55 for a solo journey) and have a clinical need for surrogacy to be eligible for a choice of two different membership packages (which depend on whether embryos have already been created or not). My Surrogacy Journey estimates that the average wait time to be matched with a UK surrogate is 18-24 months.

C. Other sources of information and support

The British Surrogacy Centre (BSC)²⁹ says on its website that it is 'the only truly international agency in the world'.³⁰ It also says that it has enabled 'over **300 babies** and more on the way' and that there is no waiting list as they 'have a current list of surrogates who are screened and ready to start the process right away, both in the USA and UK'. The company is registered in California and operates on a commercial basis (with a clear warning to IPs from places where either surrogacy or commercial surrogacy is not legal to check their legal situation before contacting them). A 'project management fee,' payable on the signing of an agreement is \$8000.

Circle Surrogacy, established in 1995, also offers support with commercial arrangements in the USA. Though the organisation is based in Boston, USA, it has a London office which caters for 'European intended parents'. Circle's website says that it has 'helped grow many families in the UK, Ireland, Norway, Sweden and more countries' and claims to have helped 'bring over **3600 babies** into the world'. It estimates that an average surrogacy journey lasts 24-27 months.

IPs do not have to join surrogacy support organisations or enlist the help of an agency. There are several 'independent' surrogacy groups existing on Facebook and other sites.

D. Conclusions from the available data

There is much variability in the data by year and by source of information. Ministry of Justice and National Records of Scotland data show overall that the number of parental orders granted annually has risen across the UK in the years since our last two reports. However, this is a gradual rather than exponential rise and probably reflects (other than a gradual increase in the base number of annual surrogacy arrangements) greater recognition among IPs that a parental order should be sought to secure the legal family relationship of the child (especially among parents who have undertaken surrogacy overseas, where a birth certificate issued with their names on it may have suggested that this was not necessary). A greater 'visibility' of surrogacy since our 2015 report was published, including in the Law Commissions' public consultation work, is also likely to have contributed. The data may also reflect greater social acceptance of same sex parenting over time, also supported by other legal and social changes, and indicated by the increased proportion of parental orders granted to same sex parents.

²⁹ Set up by Barrie and Tony Drewitt-Barlow, the first gay male couple from the UK to publicly have children via surrogacy (in the US).

³⁰ <https://www.britishsurrogacycentre.com/> [accessed 5 Nov 25].

Key Findings:

- The number of parental orders granted annually across the UK has risen, though reflects only a small proportion of overall total births.
- The proportion of parental orders granted to same sex couples has also increased.
- There is no requirement to apply for a parental order, and some IPs may be ineligible, so data held on parental orders may not be wholly accurate.
- The UK's non-profit surrogacy organisations offer different models of support and have supported the birth of many babies through surrogacy.
- Data show surrogacy for UK-based IPs takes place in several different countries, though it remains the case that the USA is the most popular destination.
- The data reflect changes in the international surrogacy landscape, where some countries have closed down foreign surrogacy and others have emerged as new surrogacy destinations.

3. Our 2025 survey data

We conducted an in-depth online survey from October–November 2025, asking respondents about their perspectives on surrogacy and its regulation, based on their lived experience or involvement with surrogacy. The survey was created using Jisc Online Survey software and was largely the same as the survey we used in 2015, with some questions updated to reflect legal or terminological changes.³¹

The survey was disseminated through direct circulation to members and contacts by SurrogacyUK, COTS, Brilliant Beginnings, My Surrogacy Journey and Nappy Endings non-profit surrogacy organisations, as well as to ‘independent’ surrogate groups. It was also distributed via the BioNews newsletter and website, via some clinics and several patient groups, and more generally via social media,³² including posts generated by the surrogacy organisations mentioned, the British Infertility Counselling Association (BICA), academics, legal practitioners and others.

There were **354 responses** in total, including from **66 surrogates**, 7 partners of surrogates, **187 IPs** and 94 ‘others’. Of the IPs, 122 were seeking or had undertaken surrogacy in the UK. There is a great deal in the survey responses to analyse both quantitatively and qualitatively (including many free text responses), but the major preliminary findings are presented here. 218 (62%) of the respondents indicated willingness to participate in follow-up activities, which we hope will lead to further research opportunities in the future.

**66 surrogates and
187 intended parents
responded to the survey.**

A. What the surrogates said

Of the **66 surrogates** who responded, 35 (53%) had completed one or more surrogacy arrangement, 13 (20%) were pregnant, 11 (17%) were trying to conceive and seven (11%) were at the initial meetings stage or seeking information. Fourteen (21%) had been surrogates more than once previously, for different IPs each time. Another six (9%) had been a surrogate once before, but for different IPs. Four (6%) had done it once before for the same IPs (‘sibling journeys’) and four others (6%) had done it more than once before for the same IPs each time. For 38 respondents (58%), including those trying to conceive, this was the only time they have been a surrogate.

The surrogates were geographically well-spread across the UK, including some in Scotland, Wales or Northern Ireland, with the highest proportions reporting that they lived in the south-east (n=21/32%), Midlands (n=16/24%) or the south-west of England (n=11/17%). One said that she currently lives in (and was a surrogate in) the USA. At the time of completing the survey, most surrogates (n=41/62%) were aged between 31–40 years old. Twelve (18%) were 41–45 and five (8%) were older than 45.³³ Eight (12%) were between 26–30 years old and none were younger than this. This data supports the data on parental orders in the previous section and confirms that concerns about about upper and lower age limits for surrogates in the context of UK law reform are unfounded.

³¹ Ethics approval for the survey was granted by Loughborough University Ethics Review Sub-Committee on 15 September 2025 (project ID 23356). To enter the survey, all respondents had to read and acknowledge a page detailing their informed consent and acknowledging that they could withdraw from the survey at any time (see Appendix I).

³² Primarily LinkedIn; also Facebook, BlueSky and Instagram.

³³ Note we do not know how long ago the respondents were surrogates.

Of the 64 surrogates who were beyond the initial seeking information stage, 29 (45%) were or were intending to be gestational (or 'host') surrogates using an embryo created with a donated egg. A further 18 (28%) were or were intending to be gestational surrogates using an embryo created using both IPs' gametes. Sixteen surrogates (26%) were using or intended to use their own egg and sperm either from the/one male IP (n=14) or donor sperm (n=2). Of those using or intending to use sperm from the/one male IP, 12 underwent or were attempting insemination outside of a clinical setting).

Sixty (91%) of the 66 respondents said that they 'agreed' or 'strongly agreed' with the statement "I enjoyed being a surrogate" (two surrogates (3%) 'strongly disagreed'). 57 (86%) 'agreed' or 'strongly agreed' that they would recommend surrogacy as an option to others (two surrogates (3%) 'strongly disagreed').³⁴ These responses

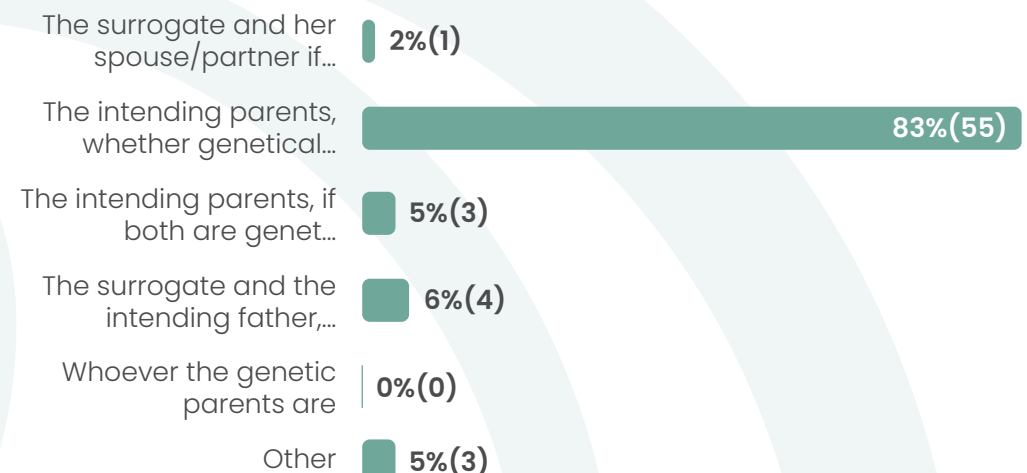
counter a common misperception that surrogates are exploited or coerced into arrangements in the UK.

91% of surrogates surveyed "enjoyed being a surrogate". 86% said they "would recommend surrogacy to others".

i) Legal parenthood and origins information

62 (94%) of the surrogates said that the IPs they are working/have worked with will 'definitely' apply for a parental order and one other (2%) said that they think so. No-one said 'no'. Most (n=55/83%) of the surrogates said that they thought that the legal parents of a child born to a surrogate should be 'the intending parents, whether genetically related or not'. Another three (5%) said it should be the intending parents when both are genetically related, and a further four (6%) said the surrogate and the intending father, if he provided the sperm. Only one respondent (2%) said that the surrogate and her spouse/partner if she has one (as the law currently states) should be the legal parents;³⁵ nobody chose the option 'whoever the genetic parents are'.

Figure 3.1: Surrogates' opinions on who should be the legal parents of a child born through surrogacy



³⁴ One of these was the surrogate from the US.

³⁵ This was caveated with 'surrogate until parental order has passed' so reflects the current position though may suggest this respondent thought this should be the surrogate only initially, not her spouse/partner.

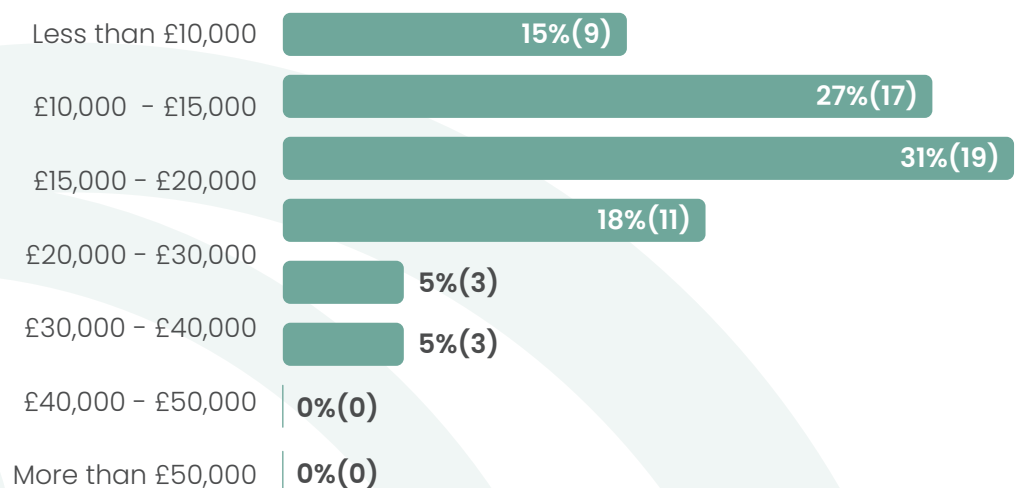
Three selected 'other', with the free-text explanations for this being i) parentage should lie with the biological parents, alongside a contact order for the surrogate if she wishes one; ii) that surrogacy 'should be outlawed' because it is 'a form of human trafficking'; iii) that there should be a more flexible system based on the genetic and social relationships involved'. One who selected 'intending parents, whether genetically related or not' caveated this excluding at-home traditional surrogacy.

58 (88%) of the surrogates said that they knew the IPs they had worked with had told or intended to tell their child about the means of their conception. Three (5%) did not know. None said they thought that the child would not be told. One who selected 'other' explained that this was different for past children born, depending on their age, with some already told and another to be told; another respondent agreed that telling would occur at an appropriate age; a third was currently pregnant but said there was full intention to make the 'child aware of how he was created' and a fourth said the children had already been told (so these four should be added to the 58 who responded positively initially).³⁶

ii) Compensation

62 of the surrogates (94%) said that they had received or would receive compensation for the expenses they incurred by being a surrogate.³⁷ Nine (15%) of these reported that this compensation was/would be less than £10,000, while 17 (27%) reported £10-15,000, 19 (31%) reported £15-20,000, 11 (18%) reported £20-25,000 and six (10%) reported expenses above £25,000, with none reporting more than £40,000.

Figure 3.2: Compensation received by surrogates in the UK



³⁶ The fifth 'other' answer did not answer the question but was clearly from the respondent who said that surrogacy should be outlawed.

³⁷ The question asked 'In your most recent surrogacy journey, did/will you receive any money (compensation for your expenses) for being a surrogate?'

Figure 3.3: Comparison of UK compensation received to that in 2015 and 2018

Amount	2015 survey		2018 survey		2025 survey	
	No.	%	No.	%	No.	%
Less than £10,000	29	27	24	27	9	15
£10,000 – £15,000	73	68	52	58	17	27
£15,000 – £20,000	5	5	13	15	19	31
£20,000 – £25,000	–	–	–	–	11	18
£25,000 – £30,000	–	–	–	–	3	5
£30,000 – £40,000	–	–	–	–	3	5
£40,000 – £60,000	–	–	–	–	–	–
More than £60,000	–	–	–	–	–	–
Total	107	100%	89	100%	62	101%

For their consultation, the Law Commissions conducted a review of court files in parental order cases, indicating a median of £14,795 (mean of £13,535) received by surrogates. We identified in our 2018 report that there had been a small increase in payments in the range £15,000–£20,000 though overall the rate of compensation to surrogates remained relatively static. In the seven years since 2018, we can see the pattern shifting generally towards higher sums, though we should note that only 10% of surrogates reported compensation above £25,000 and also the large increase in the cost of living in that period which would be reflected in surrogates' expenses.

Key Findings:

- Some people act as surrogates more than once, sometimes for 'sibling journeys' but also for different IPs.
- Surrogates fall within expected age ranges.
- Just over a quarter of surrogates reported using their own eggs.
- The vast majority of UK surrogates report having had a good experience with surrogacy and would recommend surrogacy as an option for others.
- The vast majority of UK surrogates believe that the IPs should be the legal parents.
- Surrogates perceive that there is a high degree of openness among IPs with their children about how they were created.
- Most UK surrogates receive compensation for their expenses, but in most cases, this remains less than £20,000.

B. What the surrogates' partners said

We had seven responses from partners of surrogates, often a forgotten voice in research and debate in this area, but an important one given that the law will regard them (if married or in a civil partnership) as the second legal parent of a surrogacy-born child unless they did not consent to the treatment that resulted in the surrogacy.³⁸ Three of the partners of the six UK surrogates said that the arrangement was complete and the child was with the IPs, two said their partner was currently pregnant as a surrogate, while the other said their partner was at the trying to conceive stage. Among the UK surrogates, two were traditional surrogates and four were gestational surrogates.

All of the respondents in this section said that they thought the IPs should be the legal parents of a child born to a surrogate, whether or not they were genetically linked, though one caveated this saying that at least one IP should have a genetic link (as is the case under the current law). Four of the partners of UK surrogates thought that legal parenthood should be determined pre-birth, while one said it should be at-birth. The other said that it should be 'upfront' if at least one IP was genetically related and there was no genetic link to the surrogate.³⁹

Of the six partners to UK surrogates, all strongly agreed (4) or agreed (2) with the statement "I was happy with my partner/spouse being a surrogate". All strongly agreed (5) or agreed (1) with the statement "I would recommend surrogacy as an option to others".

C. What the IPs who pursued surrogacy in the UK said

Of the **187 IPs** who responded, **122** (65%) had worked with or were working with a surrogate in the UK, compared to **65** (35%) who had worked with/were working with a surrogate overseas.⁴⁰

In the **UK group**, 42 (34%) of respondents described themselves as in a heterosexual couple where the female was unable to carry a child, while a further 15 (12%) were in heterosexual couples where the female was unable to conceive or maintain pregnancy. Half (61) of the respondents identified as being in a gay male couple. One respondent was a single man and one other was in a same gender couple comprising one biological male and 'one trans male unable to conceive or donate'. These proportions reflect trends seen elsewhere, such as in a recent study of surrogacy procedures conducted over a 10-year period in one clinical centre.⁴¹

38 (31%) of these IPs used or were intending to use an embryo created from their own egg and sperm; 55 (45%) used or were intending to use an embryo created with a donor egg and the sperm of one of the IPs. 28 (23%) used or were intending to use the surrogate's egg and sperm from the intended father (only three of these in a clinical setting). 42 of the respondents (35%) had not yet had achieved pregnancy. 57 (47%) had not yet had a child. For those who had, 41 (34%) had one child, 19 (16%) had two, four (3%) had three children and just one (1%) had four children.⁴² The ages of these children ranged between two weeks and 18 years old.

³⁸ One of these respondents was a partner of someone who had been a surrogate outside of the UK. This was the only respondent to say the partner was carrying/had carried an embryo created using both donor sperm and egg ('double donation').

³⁹ The surrogate partner in this case was carrying an embryo created using a donor egg and IP's sperm.

⁴⁰ These proportions are significantly different from those we found 10 years ago, where only 9.2% of the IP respondents had entered overseas surrogacy arrangements. This might be because it is now more common and/or socially accepted to be open about international surrogacy arrangements. Note: IPs may be part of a couple, in which case the information provided could at times relate to the same surrogacy arrangement.

⁴¹ Horsey *et al*, (2022), n21 above.

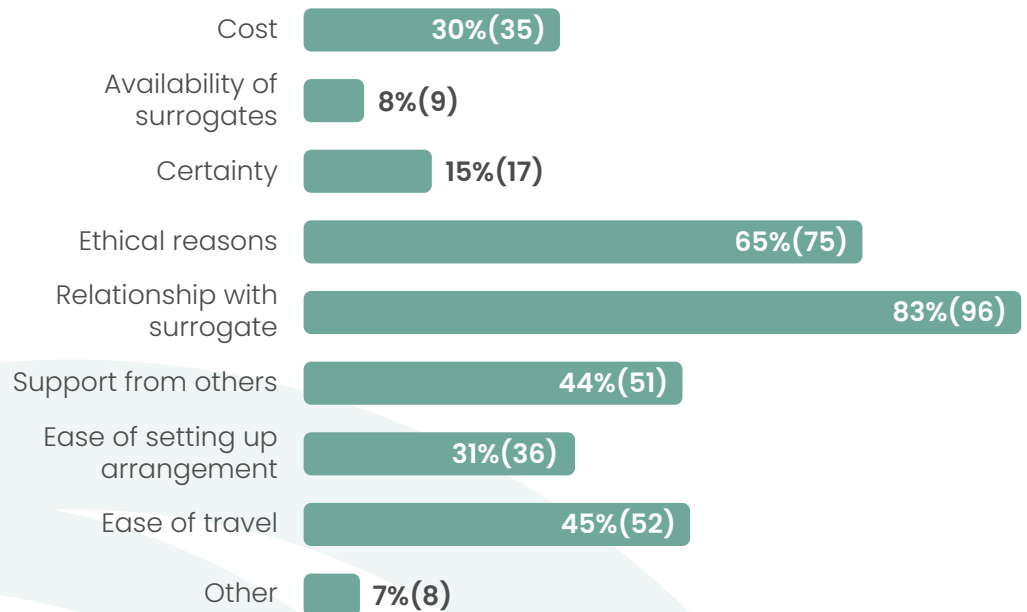
⁴² It is unknown what proportion of the '2+ children' respondents had multiples, i.e. twins or triplets.

i) Support for the journey

121 respondents answered a question about whether they had used/joined a surrogacy support organisation, with 85% (103) saying that they had. Some had joined more than one organisation/group. All five of the main non-profit organisations listed in the Department of Health and Social Care (DHSC) guidance on surrogacy and/or the HFEA's surrogacy information website were represented in the responses.⁴³ SurrogacyUK received the largest number of responses, perhaps unsurprising as it has both the largest membership and was behind this study.

115 respondents answered a question about why they had chosen to pursue surrogacy in the UK (multiple answers could be selected), with 'relationship with surrogate' being the most chosen option (n=96/83%). 51 (44%) chose to because of 'support from others'. Interestingly, 'availability of surrogates' received the fewest responses (n=9/8%) and the number choosing 'certainty' was also low (n=17/15%). These lowest responses mirror the findings of Jadva et al, noted above.⁴⁴

Figure 3.4: Intended parents' reasons for choosing to pursue surrogacy in the UK



120 respondents told us how easy or difficult they had found certain aspects of their journeys (see Appendix 2). 110 answered about the 'ease of finding a surrogate', with 65 (59%) describing this as 'quite hard' or 'very hard'. 94 answered this with respect to their relationship with the surrogate, with all but seven (i.e. 93%) saying this had been 'very easy' or 'quite easy'.

59% of IPs in the UK described their experience of "finding a surrogate" as being "quite hard" or "very hard".

⁴³ SurrogacyUK, COTS, Brilliant Beginnings, My Surrogacy Journey and Nappy Endings (see DHSC, 'Having a child through surrogacy' (published 2018, last update October 2025) <https://www.gov.uk/government/publications/having-a-child-through-surrogacy>; HFEA, 'Surrogacy' (review date 3 September 2027) <https://www.hfea.gov.uk/treatments/explore-all-treatments/surrogacy/>

⁴⁴ At note 18.

ii) Legal parenthood and origins information

121 answered a question asking whether they had applied/would apply for a parental order: 120 of these (99%) said they either had or would apply, while one (1%) said they were undecided. 58 respondents (48%) were already legal parents by parental order, while four (3%) had their child in their care but had not yet been granted an order. Nine respondents (7%) were in a team with a surrogate and actively trying to conceive, while for 12 (10%) the surrogate was pregnant. Six (5%) were at the 'initial meetings stage' with their potential surrogate, and 31 (25%) were trying to find a surrogate.⁴⁵

119 respondents answered that they already had (n=43/36%) or in future would (n=76/63%) tell their child(ren) that they were conceived using a surrogate (one had not yet decided). None said 'no'. Of the 43 who had already told their children, 42 (98%) had done so in pre-school years (0-4 years old) and one between the age of 5-7. None had told later than this. This corresponds with empirical studies showing that telling children of their origins, and telling early, is generally associated with good outcomes for the children and the family as a whole.⁴⁶ For those who intended to tell their children in the future, the answers were similar, with 64 (84%) saying they would do so in pre-school years, 10 (13%) selecting 5-7 years old and two (3%) selecting age 8-10.

99% of IPs who pursued surrogacy in the UK already had or intended to tell their children how they were conceived. The vast majority did/would do so at pre-school age.

iii) Compensation

In terms of **costs incurred** by this group (119 responses), 11 (9%) said they paid (in total) more than £60,000 for the surrogacy process (including travel, clinic fees, lawyer's fees, reimbursement of surrogate's expenses etc). Three (2.5%) paid less than £10,000 in total, nine (8%) £10,000-£15,000, 15 (13%) £15,000-£20,000, 31 (the modal average, as it was in 2015 - 26%) paid £20,000-£30,000, 20 (17%) £30,000-£40,000K and 30 (25%) between £40,000-£60,000.⁴⁷ Overall, we can see that the average total cost of a UK surrogacy journey has increased over the past 10 years.

Figure 3.5: Comparison of costs incurred by IPs in the UK to that in 2015

Amount	2015		2025	
	No.	%	No.	%
Less than £10,000	23	13	3	2.5
£10,000 - £15,000	45	25	9	8
£15,000 - £20,000	37	21	15	13
£20,000 - £30,000	54	31	31	26
£30,000 - £40,000	13	7	20	17
£40,000 - £60,000	5	3	30	25
More than £60,000	-	-	11	9

⁴⁵ The two remaining respondents (who selected 'other') gave free text responses which combined some of the options: both were already legal parent to one child, one was going through the parental order process for a second child and the other was trying to find a surrogate for a sibling journey.

⁴⁶ Golombok, S., *We are family: What really matters for parents and children* (Scribe, 2020); Gilman, L., & Nordqvist, P., *Donors: Curious Connections in Donor Conception* (Emerald Publishing, 2022).

⁴⁷ This was close to the modal average and is the cost value with the most significant difference in proportion of respondents selecting it compared to 2015 (when only five (3%) respondents said their journey cost this).

There were 93 responses to a question asking approximately how much of the total cost was for the surrogate's own compensation/expenses. The sum given (in free text) ranged between £0 and £40,000.⁴⁸ The mean average for expenses paid/to be paid to the surrogate among the respondents was **£15,535** (up from £10,859 in 2015 and £11,948 in 2018). By comparison, the mean sum paid for medical/clinical costs was **£16,015** (up from £6,774 in 2015),⁴⁹ for travel and accommodation **£2,279** (up from £1,939) and **£2,053** (up from £435) for legal advice/fees (for the 74 respondents who incurred this cost).

Key Findings:

- Around one third of all IPs who entered/were seeking surrogacy arrangements in the UK used or were intending to use embryos created from their own gametes.
- Just under half of all IPs who entered/were seeking surrogacy arrangements in the UK used or were intending to use an embryo created with a donor egg and the sperm of one of the IPs.
- Half of IPs who entered/were seeking surrogacy arrangements in the UK were in same sex male couples.
- Surrogacy journeys in the UK are well supported by several non-profit surrogacy organisations.
- UK surrogacy is chosen primarily to enable IPs to have a relationship with the surrogate, however finding a surrogate is experienced as difficult by many IPs.
- The vast majority of IPs who enter surrogacy arrangements in the UK have/will apply for a PO.
- Most IPs have or will tell their children about how they were created, with the majority of these doing so at pre-school age.
- There has been an overall increase in the total cost of UK-based surrogacy journeys in the past 10 years.
- The mean compensation paid to surrogates in the UK was £15,535.

⁴⁸ Some respondents (who had not yet entered or completed their journeys) used their 'budget' or estimate figure. The one who said 40,000 (which was by some margin the highest sum) had not yet completed a journey but had budgeted this amount.

⁴⁹ The highest clinical costs cited were £60,000. Several respondents incurred no or minimal clinical or medical costs with most of these explaining that this was because theirs was a traditional surrogacy journey. This somewhat skews the mean. Disaggregating any answers of between £0 and £2000 gave a mean of £19,538.

⁵⁰ From the three 'other' responses, one was legal parent to one child and was expecting a second child as a 'sibling journey' with the same surrogate. The other two were at the stage of embryo creation.

D. What the IPs who pursued surrogacy overseas said

In the group of 65 IPs who entered or intended to enter an **overseas surrogacy arrangement**, two (3%) were trying to find a surrogate, five (8%) were at the 'initial meetings stage' with their potential surrogate, four (6%) were trying to conceive, while for another six (9%), the surrogate was pregnant.

Nine (14%) had their child living with them but had not yet obtained a parental order, while 36 (55%) were already legal parents.⁵⁰

Fourteen (22%) of these respondents described themselves as in a heterosexual couple where the female was unable to carry a child, while a further 17 (26%) were in a heterosexual couple where the female was unable to conceive or maintain pregnancy. 27 (42%) respondents identified as being from a gay male couple, five (8%) were a single man and one (2%) a single woman.

The majority (n=53, 82%) of these respondents had joined or used a surrogacy support organisation, group or agency, sometimes more than one, and sometimes both a UK-based and destination-based one. Twelve (18%) used or intended to use an embryo created from their own egg and sperm, 51 (78%) used or intended to use an embryo created with a donor egg and one IP's sperm and two (3%) said they used or intended to use an embryo created using both donor egg and sperm ('double donation'). 19 respondents (29%) had not yet had a child via surrogacy. For those who had, 22 (34%) had one child, 22 (34%) had two children and two (3%) had three children. The ages of these children ranged between three weeks and 16 years old.

i) Locations

64 respondents answered a question about the location of their surrogate, though more than one answer could be selected, and selections represented 72 births as outlined in Figure 3.6.⁵¹

Figure 3.6: Locations of surrogates in overseas surrogacy arrangements

Location	No.
USA, not California	33
USA, California	7
Mexico	8
Georgia	5
Colombia	4
India	3
Argentina	3
Canada	3
Ukraine	2
Czech Republic/Czechia	1
Cyprus	1
New Zealand	1
Africa ⁵²	1

The most common reasons cited for choosing these destinations (more than one reason could be cited) were 'availability of surrogates' (49 responses), 'ease of setting up arrangement' (45), 'certainty' (39), 'ethical reasons' (36). Having a 'relationship with the surrogate' garnered 29 responses, and 'cost' was chosen by 22.

ii) Legal parenthood and origins information

25 (38%) of these respondents said that they had already told their children that they were born through surrogacy. 39 (60%) indicated that they will tell (some of these will not have yet had a child through surrogacy) and one (2%) indicated that they had not yet decided. Of those who had already told their

Most IPs who undertook surrogacy overseas also supported telling children they were born through surrogacy at a young age.

⁵¹ Interestingly, this showed that five of the respondents who used/intended to use overseas surrogacy had already had a child through UK surrogacy.

⁵² 'Africa' was chosen as a free-text answer when the choice was 'other'.

children, 96% did so when the children were age four or younger, with one saying they had told their child aged 8-10. For those who intended to tell in future, the majority also said this would be below age four (n=21, 55%) though answers were more spread over other age ranges, with eight (21%) saying they would do so between 5-7 years old, four (11%) saying it would be when the children were 8-10, two (5%) at age 11-13, one at 14-16. Two respondents indicated they would wait until after their child was 18 to tell.

64 respondents answered a question about whether they had applied or intended to apply in future for a parental order. The majority (n=60, 94%) said yes, one said no and three were undecided.⁵³ Of these latter four, two said that they thought a parental order was not necessary and the one who was undecided explained they were only at 'early stages.'

iii) Compensation

64 respondents told us about the **costs incurred** for their journey (including travel, clinic fees, lawyer's fees, reimbursement of surrogate's expenses etc). 47 (73%) said they paid (in total) more than £60,000. One (2%) paid £10,000-£15,000, four (6%) between £20,000-£30,000, and twelve (19%) between £40,000-£60,000.

Figure 3.5: Comparison of total costs incurred by IPs pursuing surrogacy overseas to that in 2015 and 2018

Amount	2015		2018		2025	
	No.	%	No.	%	No.	%
Less than £10,000	1	5	-	-	-	-
£10,000 - £15,000	-	-	-	-	1	2
£15,000 - £20,000	-	-	-	-	-	-
£20,000 - £25,000	1	5	-	-	4	6
£25,000 - £30,000	-	-	2	13	-	-
£30,000 - £40,000	1	5	4	27	12	19
£40,000 - £60,000	14	74	9	60	47	73
More than £60,000	-	-	-	-	-	-

There were 59 valid responses to a question asking approximately how much of the total cost was compensation paid to the surrogate. The sum given (in free text) ranged between £5,000 and £100,000, as outlined in Figure 3.6.

⁵³ Of the four who said no/undecided, two defined themselves as 'not eligible', one said 'I/we don't want to' and one said it was 'not required' as the parents both had dual citizenship and the child 'will be taking up citizenship other than British'.

Figure 3.6: Compensation paid to surrogates by IPs pursuing surrogacy overseas (in GBP)

Amount	No.	%
Below £10,000	5	8.5
£10,000 - £19,999	13	22
£20,000 - £29,999	12	20
£30,000 - £39,999	9	15
£40,000 - £49,999	8	13.5
£50,000 - £59,999	1	2
£60,000 - £69,999	4	7
£70,000 - £79,999	5	8.5
£80,000 - £89,999	1	2
£90,000 - £99,999	-	0
£100,000+	1	2
Total	59	

The mean average for compensation paid to the surrogate was **£32,992** (up from £17,375 in 2015 and £27,375 in 2018). By comparison, the mean sum paid for medical/clinical costs overseas was **£31,655** (compared to £26,281 in 2015 and £35,687 in 2018), for travel and accommodation **£14,628** (£8,781 in 2015 and £8,068 in 2018)⁵⁴ and **£15,220** for legal advice/fees (£14,000 in 2015 and £19,071 in 2018).⁵⁵

It is interesting to see that some of the costs associated with overseas surrogacy have increased while others have decreased since our 2018 report. An explanation for this may be that there is a wider range of responses about overseas surrogacy in this survey, representing more destinations. This is apparent in the variety of responses across the range in each payment area. For example, for medical/clinical costs the range was £4,000 to £100,000 and for legal costs/advice the range was zero to £50,000.

⁵⁴ Apart from the general rising cost of travel, some of the answers added an explanation that costs for travel/accommodation had been escalated by the impact of the Covid-19 pandemic.

⁵⁵ Mean sums were calculated using all valid answers. Where a respondent put e.g. 'unknown', their answer was excluded. Where the answer was expressed as a percentage of the total spend, this was calculated and then included. In relation to legal advice/fees one respondent said they had paid nothing – if this is excluded the mean would be £15,483.

Key Findings:

- Similar proportions of heterosexual and same sex couples pursue surrogacy overseas.
- The most common destinations travelled to for surrogacy were in the USA, with more than half of the IPs who pursued overseas surrogacy doing so there.
- The majority of IPs who had their children overseas have or will tell their children about how they were created, with the majority of these doing so at pre-school age.
- IPs choose to pursue surrogacy overseas primarily because of the ease of finding a surrogate, security of arrangements and certainty.
- The mean overall cost of surrogacy was, however, much higher than for surrogacy in the UK, with nearly three quarters of respondents paying more than £60,000.
- The mean compensation paid to surrogates overseas was £32,992.

E. Other respondents

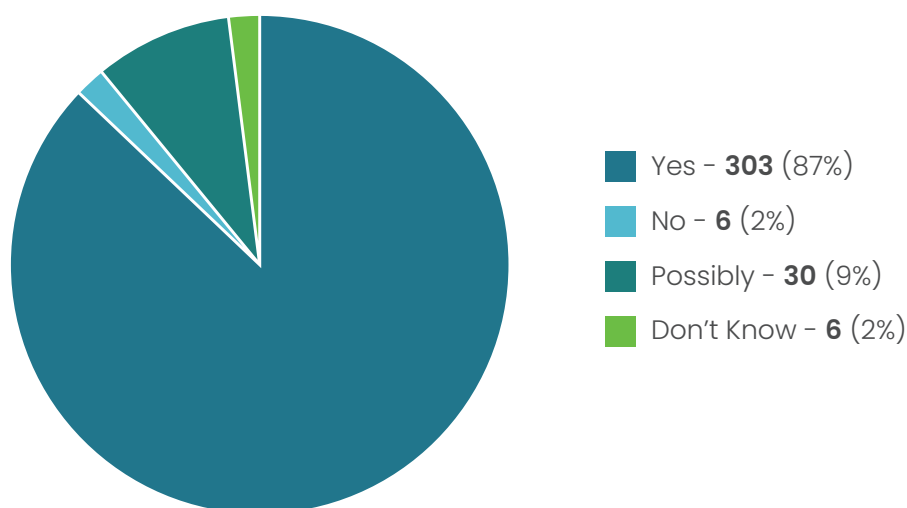
A further 94 people who were **neither surrogates nor IPs** responded to the survey (26.5% of the total respondents). Of these, ten were respondents from outside of the UK. Fourteen were clinicians or worked in the fertility sector, 18 were lawyers, four were social workers, three were counsellors and nine were academics/researchers with an interest in surrogacy.

The remaining 46 respondents were asked to specify their interest/ involvement in surrogacy in free text – many of these (25) were considering surrogacy as a potential option for the future or were in the early stages of seeking information about becoming IPs. Five had explored or taken steps towards becoming a surrogate. Several others were friends or family members of either surrogates or people who had already had or would need to have children via surrogacy. Five had become grandparents via surrogacy, two others defined themselves as ‘related to’ a child born through surrogacy. Others were involved with surrogacy in different ways (e.g. four working in non-profit surrogacy organisations, agencies or law firms, one was a doula, one a midwife).

F. Overall views on legal reform

There was an overwhelming view among the respondents (from 345 responses to this question) that surrogacy law needs to be reformed, as shown by the following chart:

Figure 3.7: Do you think surrogacy law in the UK needs to be reformed?



In 2015, just over 75% of respondents answered 'yes' and 3.3% answered 'no'. Support for legal reform has increased. Breaking down the 2025 responses by category of respondent gives the following figures, suggesting that high proportions of those directly involved in surrogacy support legal reform, as well as the majority in the 'other' group.

Figure 3.8: Breakdown of support for legal reform

	Surrogates (n=65)		Partners (n=7)		IPs (UK) (n=121)		IPs (overseas) (n=64)		Other (n=88)	
	No.	%	No.	%	No.	%	No.	%	No.	%
Yes	59	90	7	100	110	90	56	87	71	81
No	-	-	-	-	2	2	1	2	3	3
Possibly	5	8	-	-	8	7	6	9	11	13
Don't know	1	2	-	-	1	1	1	2	3	3

The subsequent questions asked for a variety of ranked responses about why surrogacy law needs to be reformed and what kinds of specific reform should be undertaken or which aspects of the existing law needed reform. Nine statements were put to respondents, who selected their level of agreement with each statement on a scale from 'strongly agree', 'agree', 'neutral', 'disagree' or 'strongly disagree'.⁵⁶

⁵⁶ Respondents could also choose not to answer or choose 'other' and provide a free text response. Detailed tables of results per category of respondent can be seen in Appendices 3 - 7.

The statements were:

1. Surrogates should be allowed to receive payments, not just expenses
2. Surrogacy contracts should be enforceable
3. There should be a regulatory body for UK surrogacy
4. Professional/commercial agencies should be able to exist in the UK
5. Surrogacy arrangements should be pre-authorised by e.g. a court
6. The intention of all the parties should be recognised by law
7. Legal parenthood should automatically rest with the intended parents
8. The current law is out of date
9. Better domestic regulation would lessen the temptation to go abroad.

Tabulating the responses (Figure 3.9) enables us to see where there is broad agreement between the respondents and which statements are the most and least supported. From the table it is evident that most respondents in all groups agree that 'the current law is out of date'. There is also consensus that better domestic regulation would lessen the temptation to go abroad, including among those IPs who did go overseas for surrogacy.

Figure 3.9: Percentage support for each statement by group

Surrogates:

Statement	1	2	3	4	5	6	7	8	9
	%	%	%	%	%	%	%	%	%
Strongly agree	23	28	69	14	25	58	75	66	56
Agree	9	13	13	3	6	13	6	5	8
Neutral	13	20	9	11	14	3	8	6	8
Disagree	13	9	0	19	9	2	0	0	2
Strongly disagree	30	11	2	23	9	2	2	0	0
Don't know	0	2	0	2	3	2	0	3	6

Partners:

Statement	1	2	3	4	5	6	7	8	9
	%	%	%	%	%	%	%	%	%
Strongly agree	14	14	57	14	71	86	71	86	71
Agree	0	0	14	0	0	0	0	0	14
Neutral	0	14	0	0	14	0	14	0	0
Disagree	14	0	0	14	0	0	0	0	0
Strongly disagree	57	43	0	29	0	0	0	0	0
Don't know	0	0	14	0	0	0	0	0	0

IPs UK:

Statement	1	2	3	4	5	6	7	8	9
	%	%	%	%	%	%	%	%	%
Strongly agree	14	41	61	17	29	75	79	79	55
Agree	5	19	22	7	15	14	10	12	19
Neutral	17	17	8	12	21	4	5	2	7
Disagree	29	10	2	18	9	0	0	0	2
Strongly disagree	25	2	0	30	5	1	0	0	0
Don't know	0	3	1	2	5	2	1	0	0

IPs Overseas:

Statement	1	2	3	4	5	6	7	8	9
	%	%	%	%	%	%	%	%	%
Strongly agree	68	62	69	65	58	82	71	71	68
Agree	17	11	20	14	8	8	8	8	8
Neutral	8	12	3	5	14	0	2	2	5
Disagree	3	3	3	2	2	0	2	0	2
Strongly disagree	2	0	2	2	5	0	0	0	0
Don't know	0	0	0	3	0	2	3	3	2

Other:

Statement	1	2	3	4	5	6	7	8	9
	%	%	%	%	%	%	%	%	%
Strongly agree	36	36	62	32	40	69	63	59	54
Agree	16	30	19	13	20	14	9	14	15
Neutral	11	7	5	16	13	2	1	3	8
Disagree	11	5	0	16	3	2	4	1	3
Strongly disagree	21	13	0	13	11	2	4	0	1
Don't know	2	0	2	2	4	3	2	5	1

Statement 1 received the lowest level of support, especially from surrogates, partners of surrogates and IPs undertaking surrogacy in the UK, suggesting that those with lived experience of UK surrogacy do not wish to see a move towards paid surrogacy from a compensatory/ expenses-based model. The fact that so few surrogates support receiving payments over and above reimbursement of their expenses remains striking and underscores the fact that altruism is still regarded as the guiding principle amongst UK surrogates. This is interesting, especially when surrogates are aware of the payments that may be demanded in other jurisdictions.

Similarly among these groups, especially surrogates and partners, there was little support for Statement 2 (that surrogacy contracts should be enforceable), with slightly higher levels of support for this from IPs. All groups showed support for the idea that there should be a regulatory body for surrogacy in the UK (statement 3), with very few in any group expressing disagreement. This would seem to lend support to the Law Commissions' recommendation to this effect. There was also considerable support for the idea that the parties' intentions should be recognised in law (Statement 6) and that IPs should be automatically recognised as legal parents (Statement 7), including among the 'others' group. This suggests support for the Law Commissions' proposal for a new pathway to parenthood that would, in the right conditions, allow IPs to be recognised as legal parents from birth.

Those with lived experience of UK surrogacy do not support a move towards payments for surrogacy.

Respondents in all groups support the idea of a regulatory body for surrogacy.

The biggest variation among answers, including the highest levels of disagreement, were seen in relation to Statement 4, that professional/commercial agencies should be allowed to operate in the UK. For those involved in UK surrogacy, this correlates with the idea that an expenses-only model is preferred and with the Law Commissions' choice not to recommend moving towards a commercial framework for surrogacy. The greatest support for this idea was seen among IPs who had undertaken surrogacy overseas, perhaps reflecting their experience dealing with commercial surrogacy entities. The overseas IPs were in fact most in agreement with all the statements, especially the idea that legal parenthood should rest with IPs and – interestingly – that reform of UK laws might help to decrease the number of IPs who go overseas.

We also asked for free text responses asking for any final comments on the practice or regulation of surrogacy in the UK. While these will take some considerable qualitative analysis, some preliminary observations can be made here. 18 surrogates commented, as did 40 IPs who undertook or were pursuing surrogacy in the UK, 28 IPs who accessed surrogacy overseas, and 22 'others'.⁵⁷

Among the surrogates' concerns was public perception of surrogacy and the need for wider education on the realities of the practice. One surrogate said "People's perception of surrogacy is so outdated ... I truly believe if they (sic) was more information and spoken about more, more people would come forward to become a surrogate". Several highlighted that any reforms should ensure that surrogates maintain body and decisional autonomy throughout the process leading up to birth (as is proposed) and two commented that the law requiring a surrogate's partner to consent to them being a surrogate was contrary to their autonomy rights.

Some surrogates expressed support for 'independent' surrogacy and the inclusion of such journeys in the proposed law reforms. Others added additional comment on the idea that legal parenthood should rest with IPs from birth, clarifying that their positive stance on this would be where e.g. "appropriate safeguarding steps have been taken and with the surrogate's continued consent". This clearly reflects the idea behind the Law Commissions' proposals for the new pathway, but the comments on independent surrogacy might indicate that there should be some reflection upon whether and how it may be possible to include independent journeys on the pathway (perhaps if documentation and evidence akin to what is suggested occurs on the proposed pathway can be collated and presented to a regulatory body in advance of conception/birth). Some surrogates elaborated on/reiterated the idea that they would not support commercial surrogacy organisations.

“
“People's perception of
surrogacy is so outdated”.
”

⁵⁷ None of the surrogates' partners added any additional comments on law reform.

Some surrogates identified a difficult climate surrounding surrogacy in the UK at the present time, suggesting an awareness of some of the calls for global prohibition and/or challenges to reproductive rights more generally. One said: “I am deeply concerned that revising the law in the current political climate could risk a total ban on UK surrogacy, which would be an enormous tragedy for so many families”. Another said that “the suggestion for surrogacy to be banned would be a backward step for the UK in relation to ethical family building and reproductive justice”. Two surrogates supported a ban on surrogacy:⁵⁸ one was from the USA, but the other evidently had a bad experience with her surrogacy journey in the UK and had concluded that “there is no safe good practice”.⁵⁹ The same surrogate also said that “there should be a legal process where informed decisions can be made with informed consent for the surrogacy to go ahead”. However, from her responses it was clear that there had been no support in place for the arrangement and that good practice had not been followed. In part this is what the Law Commissions’ proposals seek to address – to highlight there is a form of surrogacy endorsed and supported by the state (as is the case now in ‘soft’ form with the DHSC guidance) which builds in protections and safeguards prior to conception in the hope that arrangements such as that described by this respondent do not occur.

Among the IPs who pursued surrogacy in the UK, there was a lot of pride in the way arrangements had been successful, resulting in much-wanted children and long-term friendships with surrogates and their families. Some examples of this include:

“Revising the law in the current political climate could risk a total ban on UK surrogacy, which would be an enormous tragedy for so many families”.

“Our surrogacy journey was an amazing, deeply emotional shared experience that came after years of loss, uncertainty and isolation”.

“Surrogacy made me a mum. Surrogacy made our family ... Surrogacy hasn’t exploited anyone in our case it’s made a family from another, and we’re forever and irrevocably intertwined”.

⁵⁸ These were the same two respondents who ‘strongly disagreed’ that they ‘enjoyed being a surrogate’ or would ‘recommend surrogacy as an option to others’.

⁵⁹ This surrogate also said that she believed “parentage should lie with the biological parents” (she had been a gestational surrogate with an embryo created by both IPs’ gametes) but that where ongoing contact with the child was desired by the surrogate, this should be recognised. Some reported cases show contact granted to the surrogate post-birth, though research suggests that ongoing contact is in fact the norm in most modern domestic arrangements (e.g. Horsey, K. et al, (2022) ‘UK surrogates’ characteristics, experiences, and views on surrogacy law reform’ 36(1) *International Journal of Law, Policy and the Family*, <https://doi.org/10.1093/lawfam/ebac030>).

“

“Surrogacy has been a (sic) amazing part of our lives, it’s shown us the power of empathy, kindness and love and we are very proud of how our children came into the world. They have a great relationship with their surrogate and her family”.

”

However, there was also dissatisfaction about the situation at (or soon after) birth, where e.g. surrogates had needed or may potentially need to give consent to medical procedures. Similarly, several IPs commented that hospitals, health trusts and all medical professionals involved should have clear (and consistent) policies on surrogacy, as well as education. There was a lot of support for the proposed reforms, with particular emphasis on the protections that could/should be put in place for all parties. Some commented on the fact that surrogacy was “not anyone’s first choice” in the way they have children, and many described the existing law in terms such as “outdated”, “archaic”, “insulting” or “fundamentally illiberal”, especially when the option of starting a family through more conventional means is not possible. Several respondents said that they had had a good experience with surrogacy within the current legal framework, but recognised this was not always the case. One commented that “it is unsatisfactory that judicial oversight comes only after a child has been born.”

Some IPs said that they thought it would be right to compensate a surrogate for the “time, effort and risks they take”. However, others were wedded to the idea that surrogacy remain expenses only: one said that “it helps protect against people feeling coerced”. Another commented: “I think this [paid-for surrogacy] opens the door for desperate people to do something with their body they would not normally wish to do”. Some said that there should be greater regulation or even a ban of some forms of ‘independent’ surrogacy, such as via Facebook groups because of the risk of financial exploitation.

Among the 28 responses from the IPs who worked with surrogates overseas, there was acknowledgement of the fact that the current law in the UK makes surrogacy arrangements seem “uncertain” (and correspondingly of the certainty offered by some overseas arrangements, especially in the USA). Some commented on the difficulty of entering surrogacy arrangements in the UK, saying e.g. that it is “competitive and based on personality”, while others noted the “vulnerable” position of IPs. Some had tried and later rejected the approach(es) of UK based non-profit organisations. Several also commented on the difficulties of the parental order process, with calls for it to be streamlined, or asking that clearer guidance should be provided. Similar comments were made about obtaining passports/immigration procedures and the fact that delays were not in the best interests of children.

One thought that it did not have to be this way, saying that:

“

“Regulation and a competent regulator can provide adequate safeguards to prevent abuse and to facilitate more intended parents to have children they otherwise could not ... To the extent there are legitimate concerns about the welfare of surrogates these can be addressed through comprehensive regulation and legal safeguards. The current situation actually enhances risk by driving intended parents abroad”.

”

Another said that “organisations/agencies should be allowed to advertise for surrogates (in a regulated way) so that a culture of positive surrogacy information is nurtured” (allowing advertising is a recommendation of the Law Commissions, though made in the context of organisations remaining non-profit). Many commented on the “robust”, “ethical”, “clear” and “fair” nature of surrogacy in the USA (though one respondent commented on how this varies state by state, saying that uniformity would be preferable) and some said that the model should be followed in the UK (allowing commercial agencies and surrogates to receive payment), if regulated.

Responses from the ‘other’ group need to be divided and further analysed by the type of respondent. Many of the respondents in this group considered that all parties in and to a surrogacy arrangement deserve more protection than is offered by the current law and there was much support for “better” law/regulation. For example, one respondent said: “Current arrangements do not reflect the best interests of the child/ren involved and cause unnecessary stress to all parties.” There was support for recognition of the IPs as legal parents at birth (especially where safeguards such as early legal representation and counselling were in place), for the creation of a surrogacy regulator, and for advertising and awareness-raising, but varied opinions on enforceable contracts (in the sense of legal parenthood, subject to safeguards including informed consent, and/or recouping money promised). There was some support for surrogates being able to be paid over and above expenses.

“

“Current arrangements do not reflect the best interests of the child/ren involved and cause unnecessary stress to all parties”.

”

Some comments focused on the rights of children born through surrogacy and making sure any reforms reflect this as the paramount concern.⁶⁰ Some said this should include origins information, including making information about any donors accessible to surrogate-born people, as well as about surrogates. One respondent commented that there should be more attention paid to EDI issues including “race and racialised systemic inequalities within surrogacy practice”. Another commented on the risks of ‘independent’ surrogacy and poor or unscrupulous conduct (of both IPs and surrogates) in this context, adding that:

“

“The regulation of the sector and presumption of parentage would, however, incentivise IPs to follow proper processes and ensure everyone has the appropriate safeguards in place”.

”

Key Findings:

- Support for legal reform has increased since our previous reports, especially among those with direct ‘lived experience’ of surrogacy.
- Most surrogates, their partners and IPs undertaking surrogacy in the UK do not wish to see a move towards paid surrogacy from an expenses-based model.
- There was a good deal more support for reforms proposed by the Law Commissions than for allowing payment beyond expenses in surrogacy, or enforceable contracts.
- There was some support for the inclusion of ‘independent’ surrogacy arrangements within the scope of the proposed reforms.
- Many respondents support the idea of there being a regulatory body for surrogacy.
- IPs want hospitals, health trusts and medical professionals involved to have clear policies on surrogacy, as well as education.

⁶⁰ Some of these comments made reference to e.g. the UN Convention on the Rights of the Child. One referred to the International Social Service’s ‘Verona Principles’ (see https://iss-ssi.org/storage/2023/03/VeronaPrinciples_25February2021-1.pdf).

4. The view from the courts: important case law since 2018

In our last reports we highlighted cases that illustrated the limits and inadequacies of the existing law, especially those relating to the criteria laid out in s.54 Human Fertilisation and Embryology Act 2008 detailing the conditions that must be met for a parental order to be granted. We identified that the law as written did not always represent the best interests of the parties involved, especially children born from surrogacy. We also showed that because judges are bound by the paramountcy of the welfare principle, what is on the statute books is sometimes not a barrier to a parental order being granted, as judges have purposively interpreted or ‘read down’ some of the criteria to meet a child’s lifelong best interests.

At the time we published our report in 2018, we knew that there was little chance that a parental order would be refused if payments above ‘reasonable expenses’ had occurred (s.54(8)). Judges have the power to retrospectively authorise payments in a child’s best interests and it would be rare for it to be in the best interests of any child already settled with and being cared for by the IPs for a parental order not to be granted. As early as 2008 it was clear that it would be ‘almost impossible to imagine a set of circumstances in which by the time the child comes to court, the welfare of the child... would not be gravely compromised (at the very least) by a refusal to make an order’.⁶¹ Indeed, the indication from the judiciary is that it would be only in clear cases of abuse of public policy that this would not happen.⁶² There has never been a reported case where the court has refused to make a parental order on the basis that the amount paid to the surrogate was an affront to public policy, even where the payments are significant.

We also knew by 2018 that the six-month time limit (s.54(3)) within which IPs must apply for a parental order was routinely avoided, beginning with *Re X (A Child) (Surrogacy: Time Limit)* [2014],⁶³ where Sir James Munby P (as he was then) observed that it could not have been parliament’s intention to deny legal parenthood to a child whose IP(s) applied ‘even one day late’,⁶⁴ as this would clearly not be in their best interests. This principle has since been followed in numerous cases, for children of various ages, including teenagers.⁶⁵ In 2022 the idea that a six-month time limit exists was put firmly to rest when a parental order was granted in respect of a person born through surrogacy who was by then an adult.⁶⁶

By 2018, legislative change was in process to enable single IPs to apply for a parental order. The issue had been that, as written, s.54(1) HFEA specified that parental order applications were ‘an application made by two people (“the applicants”); thereby excluding single IPs, even where genetically related to the child and where the child was in their care. In *Re Z*, Munby P was unable to ‘read down’ s.54(1) but invited further submissions in relation to the single father applicant.⁶⁷ In a subsequent case hearing human rights arguments, Munby P issued a declaration of incompatibility, finding that s.54(1) was incompatible with the applicant’s human rights.⁶⁸ This led to the government changing the law via Remedial Order,⁶⁹ and the insertion of s.54A into the legislation, allowing parental order applications from solo parents from January 2019.

⁶¹ Hedley J in *Re X & Y (Foreign Surrogacy)* [2008] EWHC 3030 (Fam).

⁶² Hedley J in *Re L (A Minor) (Commercial Surrogacy)* [2010] EWHC 3146, [9]–[12].

⁶³ [2014] EWHC 3135 (Fam).

⁶⁴ At [55].

⁶⁵ See e.g. *A&B (No.2 – Parental Order)* [2015] EWHC 2080 (Fam), *A&B (Children) (Surrogacy: Parental orders: time limits)* [2015] EWHC 911 (Fam), *A & Anor v C & Anor* [2016] EWHC 42, *KB & RJ v RT (Rev 1)* [2016] EWHC 760 (Fam). See also re Scotland: *Petitions of AB & XY for orders under HFEA 2008 section 54* [2023] ScotCS CSOH 46.

⁶⁶ *X v Z (Parental Order: Adult)* [2022] EWHC 26.

⁶⁷ *Re Z (A Child: Human Fertilisation and Embryology Act: parental order)* [2015] EWHC 73.

⁶⁸ *Re Z (A Child) (No 2)* [2016] EWHC 1191.

⁶⁹ Human Fertilisation and Embryology Act 2008 (Remedial Order 2018).

Despite these changes, and judicial creativity in relation to other aspects of s.54, including the requirement that the child's home be with both applicants,⁷⁰ and domicile issues,⁷¹ cases continue to arise which demonstrate both the limits of the law and the power of the judiciary to ameliorate these. We know that most surrogacy arrangements, including parental order applications, do not result in there being a reported judgment. Although all IPs who have children through surrogacy overseas are required to file parental order applications in the High Court in London, most proceed without concern. It is only those cases – both international and domestic – which raise an issue of importance that are formally reported. Between 2023 and November 2025, 28 such cases were reported, reflecting a small proportion of the approximately 900–1000 surrogacy-born children in the same period. Many – but not all – of the cases involve international surrogacy or informal 'independent' domestic arrangements, and the issues that emerge from them lend continued support to the argument that reform of UK law on surrogacy which would encourage IPs to pursue surrogacy at home and with the support of surrogacy organisations (such as those mentioned in section 2 of this report) would be welcome. Some of these cases (and earlier ones where relevant) are discussed in the following sections.

A. Issues arising from overseas surrogacy cases

Complicated multi-jurisdictional or illegal arrangements

In *Re Z (Foreign Surrogacy)* [2024], relating to a one-year-old child born following a surrogacy arrangement organised by an agency in Cyprus, no issues ultimately arose in respect of meeting the parental order criteria. Nevertheless, given the facts that lay behind the application, Mrs Justice Theis DBE commented on the lack of due diligence undertaken by the IPs and listed 16 issues (at [4]) that all IPs should consider when undertaking an international surrogacy arrangement and issued a:

“[C]autious reminder of the need for those embarking on surrogacy arrangements, particularly those that cross a number of different jurisdictions, to carefully consider, in advance, the arrangements, consequences and implications of that arrangement. This is not only for the adults involved but, more importantly, for any child born as a result of such an arrangement. The lack of care in some arrangements and the real risks it exposes the intended parents, surrogate and any child to is very concerning.”⁷²

”

⁷⁰ See also re Scotland: *Petitions of AB & XY for orders under HFEA 2008 section 54* [2023] ScotCS CSOH 46 and *PM (Petitioner) in relation to A (HFEA 2008 s 54)* [2024] SC EDIN 29. In *Re XW (Parental Order: Death of an Applicant)* [2024] EWHC 2082 (Fam) Knowles J, in granting a parental order to the non-genetic intended mother following the death of the intended father, noted that ‘that there have been at least 16 reported cases where the court has taken a purposive approach to the meaning of the word “home”, at [14]. For interesting new factual matrices in such cases see e.g. *Mother v Father & Anor* [2024] EWFC 224, *Father & Anor v Z & Ors* [2024] EWFC 225, *YW & Anor v A & Anor* [2024] EWHC 3548 (Fam).

⁷¹ See e.g. *Re G and M* [2014] EWHC 1561 (Fam); *X & Anor v Z & Ors* [2023] EWFC 41.

⁷² *Re Z (Foreign Surrogacy)* [2024] EWFC 304, at [1].

Later in the judgment she called it ‘an abdication of the most basic responsibility of intended parents in such circumstances not to have clarity about the essential information’ and said that ‘the consequences of the applicants’ behaviour resulted in them all being in a precarious legal position at the start of Z’s life’.⁷³ Theis J intended to send a clear message to IPs considering overseas surrogacy that they should take all steps to ensure they understand – before the agreement commences – the legal framework(s) that apply and especially so (as in *Re Z*) where the embryo transfer and birth take place in different countries and where certain parties (as in this case, same sex couples) may not be allowed to access surrogacy in the jurisdiction of birth.

Similar issues arose in *X v W & Anor* [2025].⁷⁴ Again heard by Theis J, this involved a parental order application by a single man (X) who entered a surrogacy arrangement with a clinic based in Northern Cyprus (where surrogacy is illegal) facilitated by an agency based in Israel. To complicate matters further, the surrogate had travelled from Kyrgyzstan to Northern Cyprus for the embryo transfer, then returned to her home country while pregnant. The agreement initially stipulated that she would travel to give birth in the Czech Republic, but the clinic later unilaterally informed X that the birth would in fact take place in Moldova (where surrogacy is also not permitted). Referring to the applicant as ‘extremely naïve’,⁷⁵ Theis J said that the situation again highlighted the importance of critical steps that should be taken by IPs in *advance* of entering surrogacy arrangements.

“

“The circumstances of Z’s conception and birth highlight the complexities in this surrogacy arrangement which crossed a number of different jurisdictions. From what the court has seen it appears there was scant, if any, consideration given by X of the complexities of the arrangement he was entering into and neither were the potential difficulties and risks properly highlighted by the Clinic or the Agency in their dealings with X.”⁷⁶

”

Later, in *Z (Unlawful Foreign Surrogacy: Adoption)* [2025],⁷⁷ Sir Andrew MacFarlane, President of the Family Division, handed down judgment on a case he had resolved earlier, in which he had been unable to grant a parental order due to the lack of a genetic connection between either of the IPs and the children, who were full genetic siblings but carried by different surrogates who delivered by caesarean section on the same day. Eventually, an adoption order had been applied for and granted. In the judgment, which he wanted to use to draw attention ‘to the circumstances of the case which are likely to be a matter of public interest and concern’ he also offered ‘advice for those who may, in future, unwisely seek to follow the path taken by the two applicants in this case by engaging in an unlawful, commercial, foreign surrogacy arrangement’.⁷⁸

⁷³ At [44]. Theis J’s comments echoed those made by her in an earlier case, involving surrogacy in Georgia: *Y & Anor v V & Ors* [2022] EWFC 120 (see [4]).

⁷⁴ [2025] EWFC 25.

⁷⁵ At [39].

⁷⁶ At [4].

⁷⁷ [2025] EWHC 339 (Fam).

⁷⁸ At [1].

At the time of the hearing one of the two female applicants, Ms W and Ms X, was over 70 years old and the other in her mid-late 60s. They had entered a surrogacy arrangement with a foreign clinic, which they initially understood was in Southern Cyprus but later came to realise was in fact in Northern Cyprus. Around £120,000 was paid by the applicants. The babies were transferred to the applicants' care within a day of their birth, at a flat where they were living in Cyprus. They anticipated only staying in Cyprus for a short period, however, they faced hurdles in registering the births (Ms X ended up being registered, wrongly, as both children's natural mother) and with the children having neither North Cyprus nor Ukrainian nationality (the surrogates were Ukrainian), coupled with there being no legal connection between the children and the IPs which would be recognised in the UK. The clinic stopped cooperating with the IPs. The Home Office refused to allow the children to enter the UK with Ms W and Ms X – until the children were four years old and a claim under Article 8 of the European Convention on Human Rights had been made.

Although the adoption order had been granted,⁷⁹ MacFarlane P highlighted the fact that one of the applicants would be in her 80s and the other in her mid 70s when the children were teenagers. In a section of the judgment entitled 'Lessons to be learned', he summarised the intervention of His Majesty's Government (who were joined as a respondent to the adoption order because of the matters of state interest) which raised public policy concerns in relation to exploitation and commercialisation, and the conduct of the parties (not being congruent with government guidance nor having sought legal advice). Citing Theis J's 'checklist' of 16 points to be considered (from *Re Z* [2024]) with approval, MacFarlane P endorsed two further considerations to be added to the list which had been submitted by HMG, including early engagement with relevant government departments and the consideration of adding those departments as a party to cases in the Family Court.⁸⁰ He also issued a stern warning:

“

“The publication of this judgment, and the clear indication that the government may, in any future case, oppose the making of adoption orders, should put would-be parents (of any age) who are contemplating entering into a commercial foreign surrogacy arrangement on notice that the courts in England and Wales may refuse to grant an adoption order (or if HFEA 2008, s 54(1)(b) or s 54A(1)(b) is satisfied, a parental order), with the result that the child that they have caused to be born may be permanently State-less and legally parent-less. Put bluntly, anyone seeking to achieve the introduction of a child into their family by following in the footsteps of these applicants should think again.”⁸¹

”

⁷⁹ The two surrogates' consent to the adoption had been dispensed with on the grounds that they were only known by their first names, had presumably returned to Ukraine since the births, and could therefore not be found.

⁸⁰ At [31]–[32].

⁸¹ At [35].

Yet another ‘cautionary tale’ arose from surrogacy undertaken in *Re W (Foreign Surrogacy: Consent and Welfare)* [2025],⁸² where a single man entered a surrogacy arrangement with a clinic in Northern Cyprus and a surrogate who travelled there from Kyrgyzstan. The parental order application was eventually granted after 15 months, once issues with the applicant’s conduct revealed by Cafcass safeguarding checks and the timing of the surrogate’s provision of consent were resolved. As Theis J noted in her judgment, many aspects of the case were ‘troubling’, but could have been avoided if the steps she outlined in *Re Z* [2024] had been followed.

A further three additions were made to the list of steps outlined first in *Re Z* [2024] (and added to in *Z* [2025]) by Knowles J in *K & Anor v Z & Anor* [2025].⁸³ In this case, although the parental order criteria could be easily met, a welfare issue arose related to whether the IPs would be able to care long-term for the child, born through a surrogacy arrangement in California, given their advanced age (they were both 72 at the time of the hearing).⁸⁴ Knowles J concluded that the additional considerations that IPs should take into account before embarking on any surrogacy arrangement relate to estate planning and future care provisions for any child(ren) and what financial arrangements are made in the event of one or both of the IPs’ incapacity or death.⁸⁵

Dispensing with consent when the surrogate cannot be located

In *Re QR (Parental Order: Dispensing with Consent: Proportionality)* [2023],⁸⁶ the court was tasked with determining a parental order application made outside six months, questions of domicile and whether the consent of the surrogate and her husband (from whom she was allegedly estranged) could be dispensed with. The surrogacy took place in India, and the IPs had never met the surrogate, who it later transpired had come from Nepal. The doctor who made the arrangement failed several times to respond to requests for information, including from specialist surrogacy lawyers who the applicants engaged, and from the court. The court found that the IPs had taken all proportionate steps to attempt to gain consent to the parental order and dispensed with consent under s.54(7) on the basis that the surrogate and her husband were incapable of being found.⁸⁷ In doing so, Mrs Justice Knowles commented (echoing the sentiments of Theis J in *Re Z* [2024]) that the situation:

“illustrates, firstly, the problems which may arise for applicants in entering an arm’s length surrogacy arrangement where they are wholly dependent upon one information source about their surrogate and, secondly, the consequences of entering into a surrogacy arrangement overseas without an informed understanding of the requirements of English law pertaining to the grant of legal parentage of a child born via surrogacy”.⁸⁸

⁸² [2025] EWFC 85, at [4].

⁸³ [2025] EWHC 927 (Fam).

⁸⁴ A couple in their 30s and a niece of the IPs in her 50s had, after the birth but before the final hearing, agreed to be guardians for B in the event of Mr and Mrs K’s death or incapacity.

⁸⁵ The ‘full list’ of 21 considerations is now outlined in para [37] of the judgment.

⁸⁶ [2023] EWHC 3196 (Fam).

⁸⁷ See also *Y and Another v V and Others* [2022] EWFC 120; *Re D and L (Surrogacy)* [2012] EWHC 2631 (Fam). A case from later in the same month took a similar approach to proportionality and the taking of all reasonable steps to locate the surrogate, in the context of a surrogacy arrangement where the child was born in Ukraine three days before the Russian invasion (*Re RP* [2023] EWFC 306).

⁸⁸ At [15].

Anonymous surrogates

A slightly different but related issue has arisen regarding the court's ability to dispense with the consent of a surrogate to the making of a parental order in the context of *anonymous* surrogates. In *Re H (Anonymous Surrogacy)* [2025],⁸⁹ with respect to a surrogacy arrangement undertaken in Nigeria, the difficulty was that the surrogate was wholly anonymous to the IPs, and her marital status was unknown. The IPs had not even ever seen her face, despite attending appointments by video call and being present at the birth. It had been their choice to proceed with an anonymous surrogate, telling the court their wish had been to avoid 'the problems people face when they do surrogacy and the stigma that surround (sic) it'.⁹⁰ After a lengthy process involving retrieving documentation from the Nigerian clinic and other evidence of the agreement, a parental order was eventually granted. In doing so, MacFarlane P commented:

“

“While Mr and Mrs H have explained their motivation for opting for an anonymous surrogacy, their decision has, in fact, caused them a great deal of difficulty in presenting the present application. Those who follow in their footsteps in the future would be well advised to avoid engaging with an anonymous surrogate.”⁹¹

”

In *X (Foreign Surrogacy: Consent)* [2025],⁹² a similar situation arose, though with a clearer picture of the surrogate's marital status and provision of consent. The applicants, Mr and Mrs X, entered a surrogacy agreement in Nigeria in which they had no direct contact or involvement with the surrogate, and they 'were entirely reliant on the hospital'.⁹³ Theis J referred back to *Re H*, saying that the warning given there 'should be heeded', adding that:

“

“Every step should be taken by intended parents to avoid engaging with any surrogacy arrangement that proposes an anonymous surrogate, or even one that seeks to limit the intended parents contact with the surrogate. Any such lack of transparency is likely to impact on this court's ability to be able to assess any consent being relied upon, which could result in a parental order not being made”.⁹⁴

”

⁸⁹ [2025] EWHC 220 (Fam).

⁹⁰ At [14].

⁹¹ At [20].

⁹² [2025] EWFC 71.

⁹³ At [7].

⁹⁴ Ibid.

However, the court was again faced with a parental order application concerning anonymous surrogacy in Nigeria in *B & Anor v D & Anor* [2025] which took place in the same clinic as in *Re H* [2025].⁹⁵ The consequences of this – as well as evidence that more than one surrogate was involved – led to lengthy immigration issues and the case being considerably delayed (there needing to be four hearings), with resultant distress and anxiety for the IPs. Theis J pointed out that warnings about using anonymous surrogates, where the IPs have no means of contacting them, had been issued by the court in earlier cases but this was not to say that the outcome would be favourable for the IPs in all cases. In particular, she highlighted that if:

“

“there is evidence that the intended parents embarking on such a surrogacy arrangement were aware of these concerns but nevertheless continued with such an arrangement (where they did not meet or have means of contacting the surrogate) knowing of the risks, that may be grounds for the court to consider whether it can, in such circumstances, determine the surrogate cannot be found. The court may also need to consider whether there are wider public policy issues engaged in such a situation. The court in those circumstances may have to consider whether it can or should make a parental order”.⁹⁶

”

This appears to be a clear indication that judges are becoming impatient with IPs who fail to exercise due diligence and/or enter surrogacy arrangements that risk the child(ren)’s welfare or where statutory requirements cannot be met. In the context of such warnings, it may be that in a future case wider public policy issues come into play.

B. Issues arising from domestic surrogacy cases

Issues of consent

Consent is the bedrock underpinning the operation of the statutory framework, as confirmed by the Court of Appeal in *Re C (Surrogacy: Consent)* [2023].⁹⁷ While consent has tended to be considered in the context of overseas surrogacy, e.g. where a surrogate cannot be found, the issue has also emerged in some domestic surrogacy cases.⁹⁸ In *Re C* the context was an appeal by a surrogate against the parental order that had been granted. She contended that the court should not have made the parental order, as although she had given her consent, this had not been given unconditionally as required by s.54(6) HFE Act 2008 – it was contingent on ongoing contact between the surrogate and the child.

⁹⁵ [2025] EWFC 366. The hearing and judgment were in October 2025 though the application had initially been filed in June 2024.

⁹⁶ At [7].

⁹⁷ [2023] EWCA Civ 16. See also *Re AB (Surrogacy: Consent)* [2016] EWHC 2643 (Fam).

⁹⁸ Other than not being able to locate the surrogate to obtain consent, the legislation allows for the court to dispense with consent if the surrogate lacks the capacity to consent. In *R & Anor v A & Anor* [2024] EWFC 341 this became an issue when the surrogate sadly suffered hypoxic brain injury resulting from an anaphylactic reaction to anaesthetic. The parental order was granted based on evidence provided by the parties.

In 2018, the surrogate was introduced to the IPs, a same-sex male couple, by her sister, who was a good friend of theirs, and they entered a surrogacy arrangement in 2019. The arrangement was initially based on gestational surrogacy but after unsuccessful embryo transfer the appellant offered to use her own egg as a traditional surrogate. Pregnancy was achieved by insemination by December 2019, but by spring 2020 the parties' relationship deteriorated. The surrogate described feeling undervalued by the IPs and becoming emotionally attached to the baby she was carrying. The IPs felt that she kept them at arm's length and would not share information with them. C was born in September 2020 and he was in the care of the IPs from seven hours after birth. The difficult relationship continued and the surrogate initially refused to consent to the parental order, though later gave consent following assurances that she would have ongoing contact with C. In August 2021 the judge granted a parental order alongside a child arrangements ("lives with") order (CAO) in favour of the IPs, and a contact order in favour of the surrogate. Scheduled contact continued for a while but the relationship between the parties had broken down and the IPs applied to discharge the COA, and the surrogate applied to appeal the parental order. In the first such judgment of its kind, the Court of Appeal found that the surrogate's consent had not been given unconditionally and allowed the appeal, setting aside the parental order. This meant that the legal parents of the child were the surrogate and the genetically related IP, who was registered as the father on C's birth certificate.⁹⁹

Adoption in place of parental orders

In *Re H (Surrogacy: Step-parent adoption)* [2023],¹⁰⁰ following a gestational surrogacy arrangement in Argentina, the non-biological intended father opted for step-parent adoption (his partner already being legal parent by virtue of being the biological parent) instead of a parental order. This was because he had Italian citizenship and it was thought that an adoption order would be more readily recognised in Italy than a parental order, allowing H (the child) to claim Italian (and therefore EU) citizenship. In granting the adoption order, Theis J noted that '[a]lthough the more conventional order to reflect the joint intent and endeavour of creating and having a child via surrogacy is a parental order, there is no requirement for a parental order to be applied for'.¹⁰¹ In this case, H's (the child's) welfare and identity interests were better served by the alternative.

A different outcome occurred in *Re Z (Surrogacy: Step-parent Adoption)* [2024],¹⁰² where a step-parent adoption was applied for by the non-biologically related intended father in the context of a domestic 'independent' traditional surrogacy arrangement (following on from *Re C (Surrogacy: Consent)* [2023] discussed above, in which the surrogate had withdrawn her consent to the parental order so it had been set aside). Here, Theis J refused the adoption order but made several other orders in relation to contact and limiting the exercise of parental responsibility between the three adults involved. As she said in her judgment, this case demonstrates that all parties to a surrogacy arrangement require more than a 'superficial understanding of what lays ahead', and the case:

⁹⁹ Issues in this case were revisited in *Re Z (Surrogacy: Step-parent Adoption)* [2024] EWFC 20, discussed later.

¹⁰⁰ [2023] EWFC 214.

¹⁰¹ At [33].

¹⁰² [2024] EWFC 20.

“

“[P]rovides a graphic illustration of the difficulties that can be encountered if the arrangement breaks down. The need for caution, proper preparation, support and understanding before entering into a surrogacy arrangement is clearly advisable for very good reasons”.¹⁰³

”

Another adoption case arose in the context of surrogacy early in 2024. In *Re N (Adoption – Surrogacy)*,¹⁰⁴ an adoption order was granted in respect of N, an 18-year-old born through domestic traditional surrogacy (who was party to the application and supported it), despite objection by the surrogate and her husband, the child’s legal father. The court had to consider prior litigation relating to N where there had been ‘deliberate, prolonged and premeditated deceit by Mr and Mrs P in entering into the surrogacy arrangement in 2005 when they never intended to hand over the child to Mr and Mrs J’s care’.¹⁰⁵ On the basis of the facts before the court, the surrogate and her husband’s consent to the adoption application was dispensed with, as it can be in adoption cases where the welfare of the child requires this.¹⁰⁶ The case serves to highlight the contradiction in the position regarding adoption and surrogacy, where no such welfare requirement can ‘outweigh’ the need for consent. The consent issue in surrogacy/parental order applications appears to be an aspect of the law where the lifelong welfare interests of the child are not, in fact, paramount.

A later case explored the issue of whether a parental order could be granted even though an adoption order had already been granted in another country (in this case the USA). Sir Andrew MacFarlane, President of the Family Division of the High Court, concluded that this was possible. Here, the applicants had been through a gestational surrogacy arrangement in the USA and clearly met the criteria for a parental order, to which there was no opposition from the surrogate. MacFarlane P also found that both orders can be in force at the same time, saying that ‘the act of making of a parental order does not discharge the extant US adoption order, which remains recognised as a full adoption in England and Wales’.¹⁰⁷ A question remains as to whether, should consent ever be granted in *Re N*, a parental order could be granted alongside the adoption order. Though unlikely to be sought, it remains an interesting legal question in principle.

Another surrogacy arrangement which ended with the granting of an adoption order rather than a parental order involved a complicated independent traditional surrogacy arrangement that raised serious life-long welfare considerations.¹⁰⁸ The issues in the case arose because neither IP was genetically related to the child, J, (despite this being the original intention of the parties) and there was evidence that a fertility clinic had been deceived, DNA evidence had been falsified and lies had been told. Though the adoption order was granted as being in J’s lifelong best interests, Henke J stressed that this should not be seen as her condoning or excusing the behaviour of any of the parties involved.¹⁰⁹ She also warned that there should be no presumption that a similar set of facts presented to a future court would result in the same

¹⁰³ At [205].

¹⁰⁴ *Re N (Adoption – Surrogacy)* [2024] EWFC 41.

¹⁰⁵ *Re P (Surrogacy: residence)* [2008] 1 FLR 177 and *Re N* [2007] EWCA Civ 1053.

¹⁰⁶ Under s.52(1)(b) Adoption and Children Act 2002.

¹⁰⁷ *Re AB (a child)* [2024] EWHC 586 (Fam), at [31].

¹⁰⁸ *J (A Child) (Surrogacy: Adoption Order)* [2025] EWHC 2960 (Fam).

¹⁰⁹ At [126].

outcome, commenting that the judgment is:

“

“a cautionary tale of what can go wrong when strangers who meet through social media to bring a child into this world through surrogacy and when one or more of the parties take risks around the circumstances of conception... It (sic) about how lies and trying to deceive the court solves nothing. Indeed, it about how lies and deceitful acts prolong the legal process and cause, distress, anxiety and uncertainty for all concerned”.¹¹⁰

”

Other issues arising from private/independent surrogacy arrangements

In *AY and another v ZX* [2023],¹¹¹ for the first time the court confirmed that home insemination in the context of a private surrogacy arrangement falls under s.54(1)(a) HFE Act 2008, and thus that a parental order could be made. *H & Anor v S & Anor* [2024] followed nine years on from an earlier case, which was discussed in our 2018 report.¹¹² There, the applicants contended that there had been an independent domestic traditional surrogacy and wished to apply for a parental order. However, the legal mother (S) had denied entering a surrogacy arrangement, arguing that she had become pregnant as a result of known sperm donation, not with the view of handing over the child to the same-sex male couple, H and B.¹¹³ The outcome of that case was that the court ‘found that the mother had deliberately misled the applicants so as to conceive an additional child for herself and rejected her case that H had agreed to act as a ‘sperm donor’,¹¹⁴ and directed that the child should live with the intended fathers, who were granted parental responsibility. The mother was granted supervised contact with the child and the fathers had to update the mother about her life. The case returned to court when it transpired the fathers had notified the mother of their wish to relocate the family, and she had responded by seeking transfer of the child’s residence to her. As it was the case in 2015 that ‘the mother was unable to put Sophia’s interests first and was unable to meet her emotional needs either at the time of that judgment or in the long term’,¹¹⁵ this was an unlikely outcome, and the relocation was allowed, with directions as to contact and the exercise of parental responsibility. This case is another example of how when private, unsupported ‘surrogacy agreements’ (which the applicants initially understood this to be) go wrong, they can cause great distress and disruption, including for the child.

¹¹⁰ At [129].

¹¹¹ [2023] EWFC 39.

¹¹² *H v S (Surrogacy Agreement)* [2015] EWFC 29.

¹¹³ [2024] EWHC 730 (Fam).

¹¹⁴ *ibid*, at [5].

¹¹⁵ *ibid*.

C. Commentary

The cases reported in the last few years indicate that expenses in surrogacy arrangements are generally uncontentious. As detailed in Section 3 of this report, though expenses payments have increased since our last surveys were conducted, this is in part due to be expected due to rising costs of living and in any case the data are not showing an exponential rise. A survey of UK-based surrogates does not suggest any appetite for a move towards a commercial model of surrogacy or for payment of surrogates over and above expenses, suggesting that the Law Commissions have made sensible recommendations in this area. However, there have been some comments made by the courts where expenses have been very high (e.g. in *Z (Unlawful Foreign Surrogacy: Adoption)* [2025]), indicating the courts are alive to the dangers of potential exploitation of IPs, not only of surrogates.

The Law Commissions propose to retain the six-month time limit in relation to parental order applications, though this would be able to be dispensed with by the court if the child's lifelong welfare needs required it. This reflects the position the court has been adopting since *Re X* [2014], suggesting the retained time limit is to be kept largely as a 'symbolic' measure indicating 'good practice'. Similarly, it is proposed that the requirement that the child's 'home' be 'with the applicants', though case law already suggests this can be flexibly interpreted.

Some of the cases discussed in this section do suggest issues of public policy are arising in some surrogacy arrangements, though nothing has yet come close to 'the clearest abuse of public policy' envisaged by Hedley J in *Re L (A Minor) (Commercial Surrogacy)* [2010]. Given the disapproving comments of the courts in recent cases, especially involving complex arrangements with elements of the agreement occurring in multiple jurisdictions (including where aspects of the arrangement might be illegal), it leaves a question as to what 'clear abuse of public policy' would look like, especially given the fact that in some of these arrangements the surrogates themselves have crossed borders, raising questions about exploitation and even trafficking. Perhaps, given the judicial warnings now issued, including in the context of 'anonymous' surrogates, we are moving closer towards finding this out. The notion of public policy in this context is closely linked to the courts' stressing of the importance of IPs undertaking due diligence before entering any arrangement, including by seeking legal advice, so as to minimise the risks of exploitation of any party and the risks to the child(ren)'s best interests by being born into a precarious legal situation. The now 21-point judicial 'checklist' may go some way to helping IPs entering future arrangements.

In the domestic surrogacy context, some cases continue to highlight the potential dangers involved in entering informal arrangements (especially conducted online or via social media). The courts have indicated that their patience is being tested in this area, too, and have warned that outcomes of future cases may not be the same. All cases will be assessed on a case-by-case basis.

The surrogate's ongoing and unconditional consent to the arrangement remains a cornerstone of judicial decisions and one aspect of the s.54 HFE Act requirements that the courts will not dispense with, other than under the limited terms specified in the legislation. Refusal (or later withdrawal) of consent is rare, but when it happens, as in *Re C* [2023]

has major consequences (though a court must still decide a child's future living and contact arrangements according to their best interests and so this does not preclude the child remaining in the care of IPs). The particular circumstances that led to *Re C* (and the later related step-parent adoption application in *Re Z* [2024]) illustrate the importance of early support and advice – as well as of taking advice if the nature of the agreement changes part way through. In this respect the Law Commissions' recommendations for the new 'pathway to parenthood', which seek to frontload required checks and advice before conception occurring in the context of a regulated support process are welcome, designed as they are in part to prevent such problems arising. Further related recommendations that a withdrawal of the surrogate's consent when on the pathway will have different effect depending on when it occurs (but not amount to an ultimate veto) or could be dispensed with in the context of a parental order application where the child's lifelong welfare demands it are also welcome.¹¹⁶

Key Findings:

- Cases highlight numerous issues that may arise in domestic or overseas contexts, but reported cases make up only a fraction of the total number of babies born through surrogacy each year, most of which are unproblematic.
- Cases show that multi-jurisdictional or illegal arrangements overseas pose IPs particular problems in meeting the parental order requirements.
- Due diligence by IPs is important in the context of any surrogacy arrangement, but particularly those entered overseas, in unregulated environments or where surrogacy may not be (wholly) legal.
- The courts have given very clear guidance on what they expect IPs to know or discover before they enter surrogacy arrangements.
- Consent remains a key part of the legal framework but can be dispensed with when a surrogate cannot be found or is incapable of giving it. Anonymous surrogacy arrangements pose a slightly different problem and should be avoided.
- Consent cannot be overridden even when unreasonably withheld or where it would be in the best interests of the child to do so. The ultimate veto over legal parenthood this currently provides surrogates is therefore contrary to children's best interests.
- Adoption orders are not the most appropriate order to secure the legal connection between IPs and surrogate-born children but can sometimes operate in place of a parental order where necessary.

¹¹⁶ The latter example would have helped in *Re AB (Surrogacy: Consent)* [2016] EWHC 2643 (Fam) where consent of the surrogate and her husband was not given, meaning no parental order could be granted. Thankfully the IPs' application was stayed, as the parties changed their minds some nine years later and gave consent to the order being made (as yet unreported).

5. Why the case for reform is stronger than ever

Surrogacy cases coming before our courts – as well as reports on surrogacy scandals overseas, some of which involve concerns about trafficking or exploitation – make it imperative that we review our domestic surrogacy laws. Unfortunately, ‘surrogacy myths’ continue to emerge and need to be dispelled; anti-reform voices need to be debated, with evidence-based opinion. Importantly, questionable surrogacy practices elsewhere should not be conflated with good surrogacy practice in the UK. Not all surrogacy is the same.

Now more than ever, it is important that we come back to evidence and the lived reality of those who have experienced surrogacy when considering reform. Since the work of the Law Commissions began in the UK, there has been an increase in anti-surrogacy rhetoric from groups and individuals who wish to see surrogacy prohibited. However, prohibition would more likely drive the practice underground, to the detriment of all involved. Anti-surrogacy groups and individuals are ideologically motivated; for example they do not believe that anyone can consent to being a surrogate, or they argue that a ‘primal wound’ is caused by removing a child from the person who gave birth.¹¹⁷ Some highlight studies that point to increased medical or mental health risks correlating with gestational surrogacy,¹¹⁸ but do so uncritically and treat risk as if it must be avoided, rather than as an aspect of the information surrogates (and IPs) should have as part of being able to exercise their autonomy and give informed consent. Of course, where there is known high risk of obstetric or other harm to the surrogate, clinics should exercise caution in deciding whether to offer treatment.

There has also been an increase in unevidenced claims about the (potential) harms of surrogacy generally and, while we acknowledge that some surrogacy arrangements have been less than optimal in the way they have been effected (as seen in examples in section 4 of this report),¹¹⁹ we think it invidious and wrong to conflate individual cases (or reports of bad surrogacy practice and exploitation in other jurisdictions which are not regulated in the way the UK is) with *all* surrogacy, particularly the good practice that already exists in the UK. Prohibition of surrogacy is not the answer to the problems that can arise,¹²⁰ but good regulation and support for those entering arrangements, coupled with more general education about surrogacy as a means of family building, could help to reduce the number of problematic surrogacy arrangements. The proposal to conduct surrogacy within a regulated framework, with RSOs overseeing and supporting arrangements – with the ability to become legal parents from birth – will hopefully further incentivise good practice in domestic surrogacy arrangements. Having a regulator for surrogacy, or a new ‘arm’ of the HFEA, will further legitimise the domestic surrogacy route as a clear expression of the state’s support for surrogacy as one of the routes for founding a family.

Surrogacy has never been illegal in the UK, and in fact, models of good practice have grown within a relatively tolerant legal framework. However, though that framework served us well for some time, as we showed in our earlier 2015 and 2018 reports the law has become increasingly outdated. By 2015 it was already failing to keep pace with some of the issues and complexities generated by international

¹¹⁷ This is a controversial theory that initially arose in the adoption context (in the USA) and posits that all (adopted) children are permanently and irrevocably damaged by the separation from their birth mother, regardless of the support from or relationship with their adoptive parents (Verrier, N., *The Primal Wound: Understanding the Adopted Child* (1993)).

¹¹⁸ For example, Velez et al., ‘Severe Maternal and Neonatal Morbidity Among Gestational Carriers: A Cohort Study’ (2024) *Annals of Internal Medicine* 177: 1482–1488.

¹¹⁹ See also the four case studies (‘Words from a Surrogate Mother’ Parts 1–4) on the Blog page of Stop Surrogacy Now UK at <https://stopsurrogacynowuk.org/>. Though these do not all feature surrogacy arrangements in the UK, they are all examples of how surrogacy should not work.

¹²⁰ Fischer et al, note 12 above.

surrogacy arrangements and changes in understandings of how modern families can be formed. Our 2025 survey results show increased support for law reform among those who have participated in or are connected to surrogacy in some way. The DHSC and parliamentarians should feel able to proceed with implementing the Law Commissions' proposals as, despite a small minority of anti-surrogacy voices, we have shown that law reforms would be welcomed by the vast majority of surrogates, IPs and professionals.

Data on surrogacy show that while increasing numbers of families are created in this way, surrogacy represents only a very small fraction of the number of children born to parents in the UK each year. Nevertheless, despite these small numbers, it is important that families created this way are treated with respect and the law represents their best interests, especially the children born this way. The Law Commissions' five-year project and its resulting recommendations and draft Surrogacy Bill aim to do exactly this. Their proposals would continue to prohibit third-party commercial practices in surrogacy, though our latest data indicate that there should be more discussion on what IPs are able to reimburse surrogates for (and how this should be enabled).

Crucially, the proposals recommend that IPs may achieve legal parenthood from birth – reflecting the best interests of children born through surrogacy – when the surrogacy arrangement is conducted in a particular way. Following a proposed new 'pathway to parenthood' which builds in screening and safeguarding practices before conception is attempted, supported by state regulated non-profit organisations, and bolstered by the surrogate's ongoing consent, is in the interest of all parties and will save court and other administrative time and costs. Such a change is supported by most surrogates and IPs surveyed in this and our previous reports, as well as in other studies. The fact that the parental order route would remain an option for those arrangements that do not meet the criteria for the pathway, and therefore 'automatic' administrative recognition of legal parenthood for IPs, means that judicial scrutiny will remain for those agreements, subject to some sensible revisions to the parental order criteria.

Separating the question of what payments have changed hands from the assessment of legal parenthood following surrogacy is sensible. It is a strong critique of the existing law that making the ability to achieve legal parenthood contingent (on paper at least) on an assessment of the financial transactions that have occurred, while at the same time requiring a court to determine parenthood according to a child's lifelong best interests, is contradictory and unworkable. It also results in a great deal of anxiety among both IPs and surrogates, who are fearful of making mistakes and this frustrating the intentions of the agreement.

While the Law Commissions do not propose to make surrogacy arrangements enforceable, they do propose some mandatory payments that IPs must accede to. This includes the costs of screening and safeguarding checks when on the 'pathway to parenthood' and life/health insurance for the surrogate for up to two years post-birth. Additionally, surrogates will be able to enforce payments agreed but not paid (other than modest gifts or the promise of a recuperative holiday for the surrogate), meaning they should not be able to be left out of pocket. Potential recovery of some payments by IPs (where unspent) is also proposed, as well as some civil penalties for non-compliance.

It is proposed that payments for 'gestational services', the normal pain and inconvenience of pregnancy or general living expenses will be prohibited.

Inclusion of information about surrogacy arrangements on a new Surrogacy Register, held by the regulator, further legitimises surrogacy and provides another incentive to use the pathway. Those born from surrogacy arrangements will be able to access information about their origins, including the identity of who gave birth to them, at an appropriate time. Responses to our surveys and other studies have showed there is a high degree of openness about the means of conception in surrogacy families, and the register would further support this. It would also lead to improved data collection and retention regarding surrogacy arrangements.

6. Recommendations

The recommendations of the Law Commissions should be put before parliament and debated, with a view to implementing a **new Surrogacy Act** and establishing a **regulatory body for surrogacy**. We envisage that this Act, following the Law Commissions' recommendations, would continue to reflect the **altruistic, reimbursement model** of surrogacy in the UK, while **removing unnecessary barriers** standing in the way of those seeking to use surrogacy or become surrogates and **better representing how domestic surrogacy arrangements work** in practice.

We consider that the current law remains wedded to notions of motherhood and family that are entirely debatable in the 21st century, particularly in a society in which other aspects of law and policy have recognised and continue to recognise changed and changing family structures. Through the proposed 'pathway to parenthood' allowing IPs to become parents from birth in some circumstances, the Act would better reflect all parties' intentions, in the best interests of the children and families created through surrogacy.

We believe that better laws would simplify domestic surrogacy, thus making it more attractive for some IPs who might otherwise go overseas. While we do not believe that travelling internationally to access surrogacy should be prohibited (nor do we think this could be properly enforced), we would like to see the numbers of people who do so decrease. It is impossible to effectively regulate surrogacy arrangements that happen outside the UK, thus raising serious ethical concerns that surrogates (and IPs) might be liable to exploitation.

The UK is widely recognised as having good surrogacy laws, and the recommendations of the Law Commissions align with (though differ slightly from, largely representing cultural and other national differences) regulation in similar common law jurisdictions, including Canada, and law recently passed in Ireland (establishing a new Assisted Human Reproduction Regulatory Authority),¹²¹ recommendations under consideration in New Zealand,¹²² and proposals currently under consultation for a federal surrogacy law in Australia.¹²³

The recommendations of the Law Commissions – far from being a 'liberalisation' of surrogacy law, as some critics claim, would secure the principles that have worked well in the UK's regulation of surrogacy for 40 years, while improving those that work less well, by modernising aspects of the law that have been shown to be outdated and contrary to the best interests of children or families created through surrogacy. It is time for those proposals to be debated, so the UK can remain a leader in the ethical practice of surrogacy under an up-to-date law.

This group recommends that the Surrogacy Bill as drafted by the Law Commission of England and Wales and the Scottish Law Commission should be put before Parliament without further delay.

¹²¹ Ireland Department of Health, 'Minister for Health establishes Assisted Human Reproduction Regulatory Authority' 13 October 2025 (<https://www.gov.ie/en/department-of-health/press-releases/minister-for-health-establishes-assisted-human-reproduction-regulatory-authority/>).

¹²² Te Aka Matua o te Ture | Law Commission Aotearoa New Zealand, Te kōpū whāngai: He arotake | Review of surrogacy at <https://www.lawcom.govt.nz/our-work/review-of-surrogacy>. See also the Improving Arrangements for Surrogacy Bill (No. 72-1) currently under consideration in the New Zealand parliament.

¹²³ Australian Law Reform Commission, Review of Surrogacy Laws at <https://www.alrc.gov.au/inquiry/review-of-surrogacy-laws/> – a discussion paper was published on 12 November 2025. Also see the recent Assisted Reproductive Technology and Surrogacy Act 2025 passed in Western Australia on 4 December 2025.

- **The Bill is backed by a comprehensive Report and recommendations of the Law Commissions, following a five-year research and consultation project.**
 - It is only by putting the Bill before Parliament that comprehensive and democratic debate on surrogacy regulation can occur.
- **The proposed new 'pathway to parenthood' allowing intended parents to become legal parents at birth, when certain conditions are met, should be supported.**
 - The pathway is in the best interests of surrogacy-born children as it would remove the precarity of their legal position from birth, where they are cared for people who are not recognised as their parents, while those who are so recognised are not the carers.
 - The pathway reflects the intention of the parties and is supported by both surrogates and intended parents.
 - The pathway would be entered in a regulated context, supported by non-profit Regulated Surrogacy Organisations, which would give further legitimacy to surrogacy arrangements.
 - The pathway and its legal consequences reflect surrogates' continuing consent, where the right to withdraw this is not exercised, and thus respects their decisional autonomy.
 - An administrative rather than judicial process to determine legal parenthood would save court and other bodies' (e.g. Cafcass) time and money.
- **The revised parental order route for those unable or unwilling to follow the pathway (or where arrangements exit the pathway as they progress, e.g. if a surrogate withdraws consent) remains a sensible 'back up' option.**
 - The proposed revisions to the parental order process represent a move towards increased consideration of children's lifelong welfare needs rather than bright line rules.
 - Maintaining the parental order route allows for judicial scrutiny of international and 'independent' arrangements, as well as those where the surrogate withdraws consent.
 - The revisions to the parental order process, including allowing some of the requirements able to be dispensed with by the court where the child's lifelong welfare needs demands this, are generally sensible and should be supported.
 - Detaching the question of what expenses or other money has been paid from the assessment of the requirements for legal parenthood is welcome.

- **The proposed Surrogacy Register is welcome and would allow those born from surrogacy to access information about their origins at an appropriate time.**
 - Origins information is an important component of an individual's identity.
 - The Register would mirror the donor conceived register already held by the HFEA in relation to those conceived by gamete donation.
 - Consideration should be given to linking between the two registers, for example where a surrogacy arrangement also uses egg donation.
- **The requirement on both the 'pathway to parenthood' and parental order routes that at least one intended parent be genetically related to the child should be reconsidered in the context of medical need.**
 - An exception is already proposed to be built into the parental order route where a non-genetically related intended parent makes an application alone after a relationship breakdown with a genetically related intended parent.
 - A further exception should be considered for both routes in circumstances where medical need means that both donated sperm and eggs (or a donated embryo) must be used, for example when intended parents begin the surrogacy journey using their own gametes, but due to failed implantations or later circumstances (such as cancer) are later unable to continue to do so.

We also recommend the following actions for government:

- **The Department of Health and Social Care should continue to consult with the surrogacy community and related professionals to keep its world-leading guidance on surrogacy up to date.**
- **The Department of Health and Social Care's guidance for professionals should inform hospital and other maternity service provision and other related NHS policies, so all parties undertaking surrogacy arrangements are treated similarly.**
- **Increased funding should be provided to the Human Fertilisation and Embryology Authority when the law is updated, to enable it to establish a new arm to effectively regulate surrogacy and Regulated Surrogacy Organisations.**
- **Surrogacy should be included in the Department for Education's relationships, sex and health education (RSHE) guidance for schools and linked to awareness of (in)fertility, family options for same sex partners etc.**

Appendices

Appendix 1: Survey welcome page and consent form.

Welcome and thank you for considering taking part in this online survey.

This survey is conducted by Professor Kirsty Horsey, from [Loughborough Law](#), in the School of Social Science and Humanities, Loughborough University, UK, on behalf of and in conjunction with non-profit surrogacy support organisation [SurrogacyUK](#).

We are aiming to gain insight into people's real-life experiences of and views on surrogacy in the UK, with a view to informing debate and potentially policy and law, following up on a similar study we conducted 10 years ago.

You must be over the age of 18 and have the capacity to fully understand and consent to this research. The survey should take around 10–15 minutes to complete. You do not need to do anything before completing the survey. Some non-identifying demographic information will be collected, e.g. age. Identifying information will only be collected if participants opt-in to further research. Survey responses will be used only to collate generalised data on opinions of people involved in various ways with surrogacy. The survey will be open until **23:59 on Friday 31 October 2025**.

Participation in the study may require reflection on difficult times and experiences in the journey towards parenthood, or negative or distressing experiences with surrogacy for all involved.¹²⁴ Participation is voluntary, and respondents can choose what they disclose, can opt out of questions they might find distressing and can withdraw from the study by closing the browser at any time. Relevant support services participants can contact if they experience distress or want to talk through any of the issues raised in the survey include the following:

- Fertility Network UK (<https://fertilitynetworkuk.org/>)
- Donor Conception Network (<https://dcnetwork.org/>)
- British Infertility Counselling Association (<https://www.bica.net/>)
- Fertility Action (<https://fertilityaction.org/>)¹²⁵

If you would like further information about the project before you proceed, please contact: k.horsey@lboro.ac.uk.

Please note: Loughborough University will be using information/data from you to undertake this study and will act as the data controller for this study. This means that the University is responsible for looking after your information and using it properly. No individual will be identifiable in any report, presentation, or publication. All information will be securely stored on the University computer systems.

After you have read this information and asked any questions you may have, if you are happy to participate, please read the consent section below and confirm your consent by checking the tick box at the bottom of the page. You can withdraw from the survey at any time by closing the browser.

¹²⁴ The phrase 'for all involved' was added to this sentence after the survey was opened, following correspondence received by the Ethics Review Sub-Committee suggesting that the sentence originally only included IPs.

¹²⁵ The fourth source of support was added after the survey was opened following correspondence about dissemination and an offer to be a source of support from Fertility Action.

Ethics approval for this research was obtained from Loughborough University Ethics Review Sub-Committee on 15 September 2025 (Project ID: 23356).

What if I am not happy with how the research was conducted?

If you are not happy with how the research was conducted, please contact the Secretary of the Ethics Review Sub-Committee, Research & Innovation Office, Hazlerigg Building, Loughborough University, Epinal Way, Loughborough, LE11 3TU. Tel: 01509 222423.

Email: researchpolicy@lboro.ac.uk

The University also has policies relating to Research Misconduct and Whistle Blowing which are available online at <https://www.lboro.ac.uk/internal/research-ethics-integrity/research-integrity/>.

If you require any further information regarding the General Data Protection Regulations, please see: <https://www.lboro.ac.uk/privacy/research-privacy/>

Q1. Informed Consent

The purpose and details of this study have been explained to me.

I understand that this study is designed to further knowledge and that it has received a favourable decision from the Loughborough University Ethics Review Sub-Committee.

I have read and understood this consent form and had an opportunity to ask questions.

I understand that non-identifying demographic information about me will be collected, e.g. age, and identifying information will only be collected by opting in to further research.

I understand that I am under no obligation to take part and can withdraw from the survey by closing the browser at any time.

I understand that anonymised information I provide may be used in policy reports and academic work by the researcher.

I give permission for the data I provide to be deposited in Loughborough University's data repository so that it can be made publicly available for future research at the end of the project.

Consent to Participate

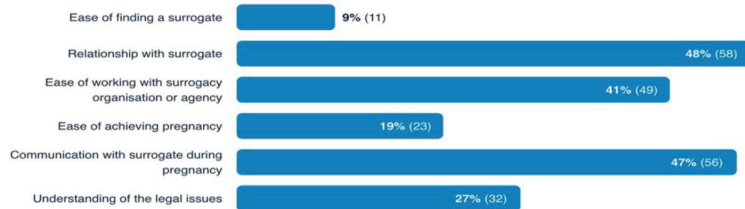
I voluntarily agree to take part in this study. Yes/No

Appendix 2: Ease of aspects of surrogacy journey for IPs in UK.

60. How easy did you find the following things in your experience with surrogacy?

Responses: 120

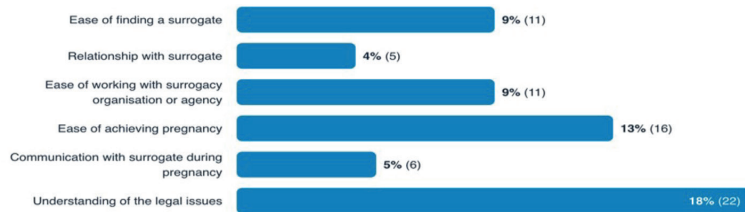
Very easy



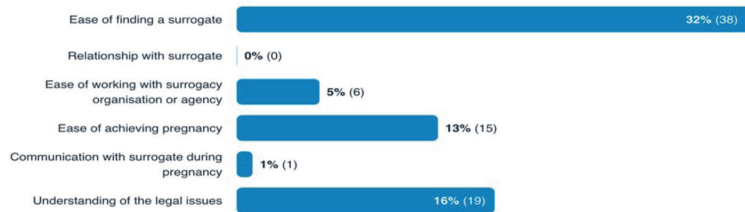
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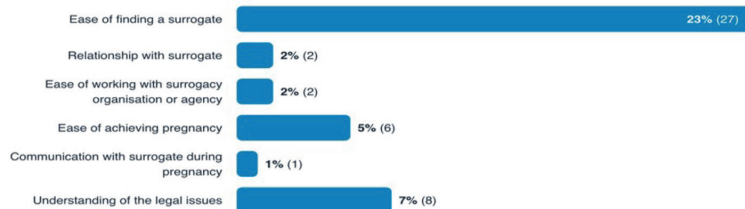
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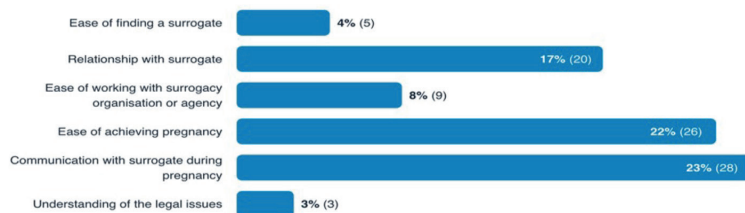
Quite hard



Very hard

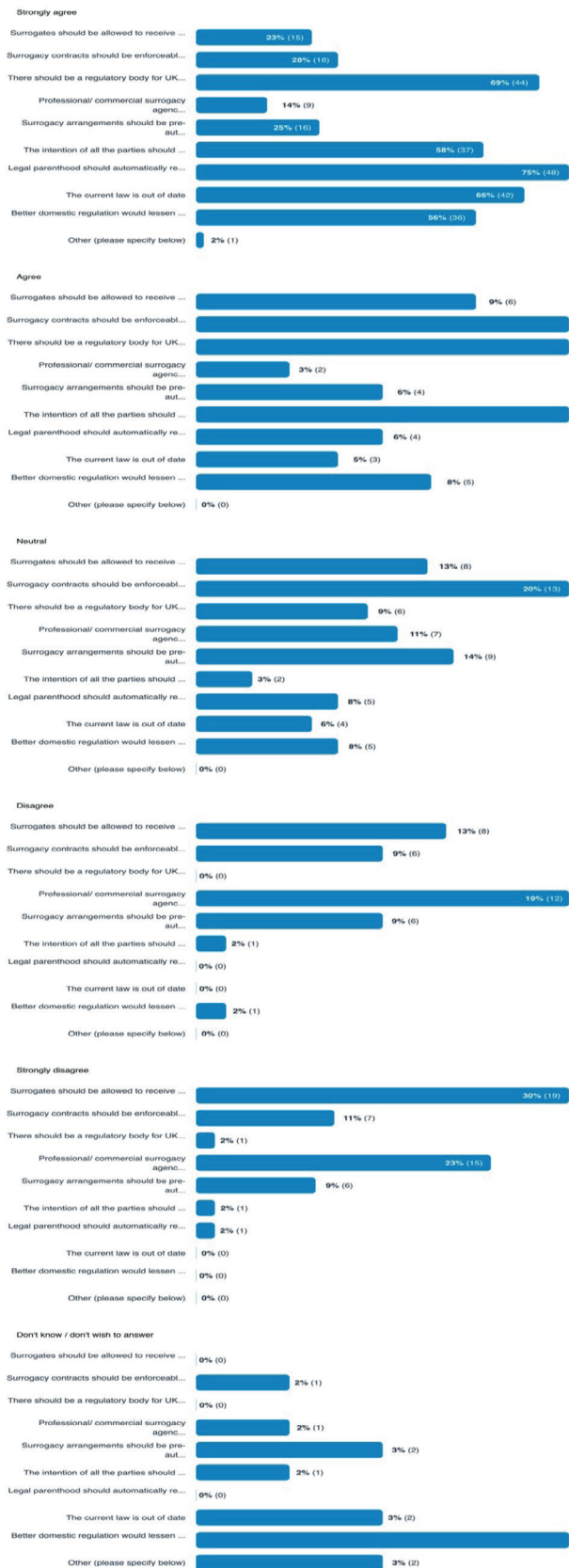


Not applicable



Appendix 3: Surrogates' reasons for supporting legal reform.

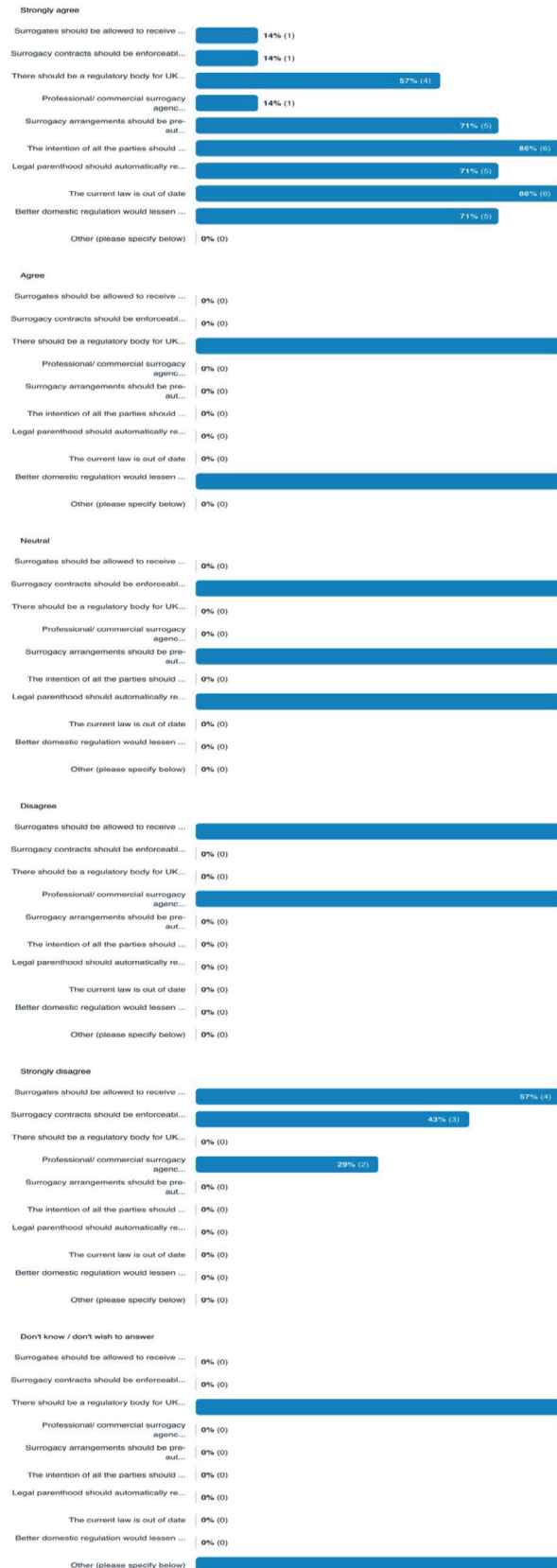
74. If you answered that surrogacy law in the UK should be reformed, please indicate the strength to which you agree with the following statements (scroll right for all options): Responses: 64



Appendix 4: Surrogates' partners' reasons for supporting legal reform.

74. If you answered that surrogacy law in the UK should be reformed, please indicate the strength to which you agree with the following statements (scroll right for all options):

Responses: 7

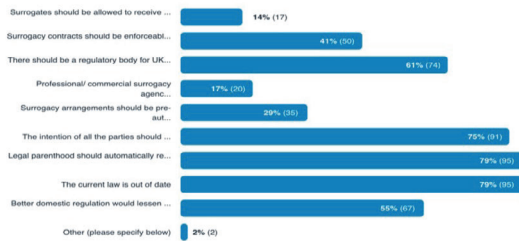


Appendix 5: IPs' (UK surrogacy) reasons for supporting legal reform.

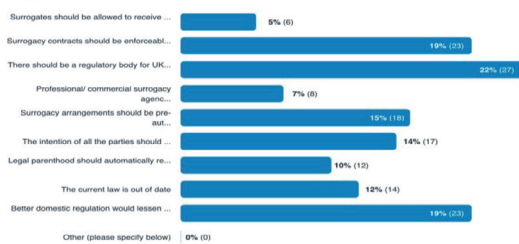
74. If you answered that surrogacy law in the UK should be reformed, please indicate the strength to which you agree with the following statements (scroll right for all options):

Responses: 121

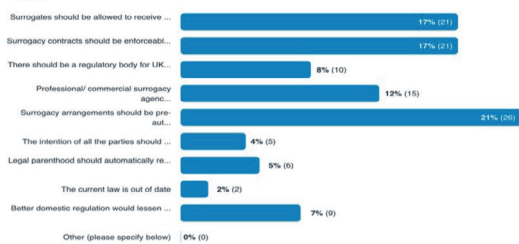
Strongly agree



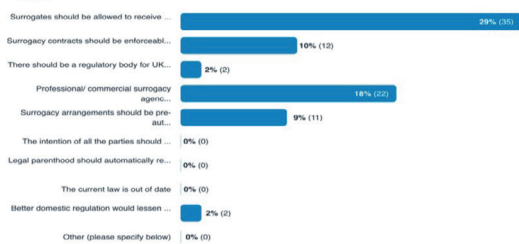
Agree



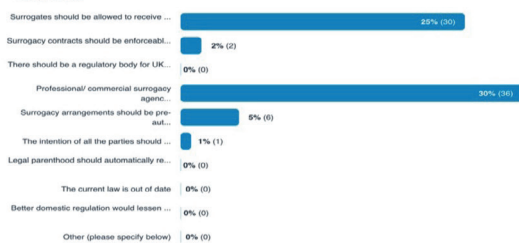
Neutral



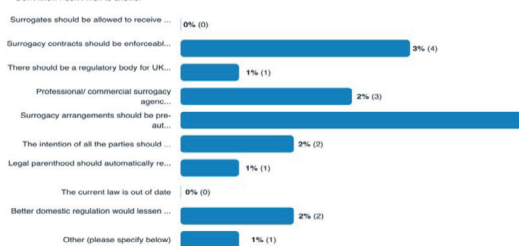
Disagree



Strongly disagree

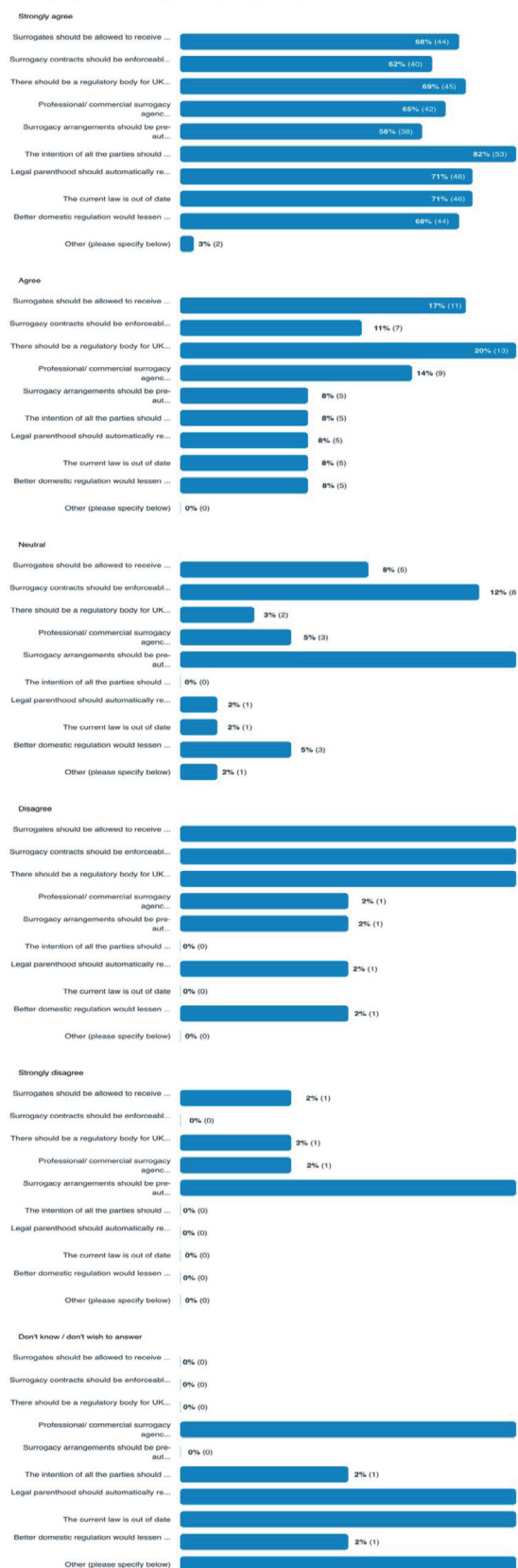


Don't know / don't wish to answer



Appendix 6: IPs' (overseas surrogacy) reasons for supporting legal reform.

74. If you answered that surrogacy law in the UK should be reformed, please indicate the strength to which you agree with the following statements (scroll right for all options): Responses: 65



Appendix 7: Other respondents' reasons for supporting legal reform.

74. If you answered that surrogacy law in the UK should be reformed, please indicate the strength to which you agree with the following statements (scroll right for all options). Responses: 91



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