

SurrogacyUK believes that the law on surrogacy in the UK should be reformed

The existing laws governing surrogacy arrangements in the UK are widely recognised by legal practitioners, the judiciary, academics, policymakers and those in the non-profit surrogacy sector as being out of date and in need of reform. The current situation makes it harder to serve the best interests of children, families and surrogates. We are seeking the support of parliamentarians to influence the government to urgently enact the law reforms proposed by the Law Commissions in 2023.

What is surrogacy?

Surrogacy is the practice whereby a person (the **surrogate**) carries a baby for another person or couple (the **intended parent/s**), with the shared intention that the child will be raised by the intended parents. There are two types of surrogacy:

- In **gestational surrogacy** (also known as full/host/IVF/high-tech surrogacy), an embryo created through *in vitro* fertilisation (**IVF**) is transferred to the surrogate's uterus; the surrogate typically has no genetic connection to the child.
- In **traditional surrogacy** (also known as genetic/partial/straight/low-tech surrogacy), the surrogate uses her own egg and is genetically related to the resulting child.

The intended parents may be a heterosexual couple who cannot carry a pregnancy (often following cancer, repeated miscarriages, unexplained infertility or the mother having been born without a womb), a same-sex couple or, more rarely, a single person.

Surrogacy is an accepted form of family building in the UK, as the [world-leading guidance for parents, surrogates and health professionals](#) published by the Department for Health and Social Care (DHSC) shows. The UK's non-commercial approach to surrogacy is also aligned with the [recommendations on ethical considerations of surrogacy recently published by the European Society of Human Reproduction and Embryology \(ESHRE\)](#). Surrogacy remains rare, but its use is rising, with around 500 parental orders granted each year in recent years.

Surrogacy in the UK

Recently, there have been rising voices in the public sphere opposing surrogacy and calling for an outright ban on surrogacy. While the more sensible arguments such voices may bring to the table - most notably that there is a risk of exploitation - reflect serious concerns that must always be kept in mind, it is important to note that **they are not reflective of the overall picture of surrogacy in the UK**, which fundamentally reflects a **healthy, consensual** and **altruistic** model. An outright ban on surrogacy in the UK would be **disproportionate** and **counterproductive**, and most likely lead to reducing the current legal protections, thus exposing all those involved to higher risks of harm.

SurrogacyUK and similar organisations are organised by surrogates with the protection of surrogates and the children first and foremost in mind. Surrogates see this pathway as an expression of their rights over their own bodies and a means of helping people create the family units which would otherwise be denied to them. Many initially join to help a couple they know, and find it so rewarding that they end up participating in multiple journeys. Accordingly, the argument that surrogacy is inherently exploitative - and a ban would somehow protect women's rights - does not hold water when one looks at the system in place today and as it is proposed to be reformed. In practice the UK model is built around safeguards that meet this concern directly. Surrogates are carefully screened and supported, they are reimbursed for budgeted expenses rather than paid a fee, and because surrogacy agreements are unenforceable a surrogate remains free to change her mind. These are not the features of an exploitative system.

Accordingly, it is crucial that surrogacy be given the full protection and support of politicians and the law as a means of protecting women's rights, and promoting an alternative path to fertility and family-building across society. Such support would enable the altruistic model of surrogacy to be preserved and reduce the risk of parents being unwittingly party to exploitative practices by being driven to investigate commercial surrogacy overseas, or creating space for informal and unethical practices at home.

That being said, it is unquestionably true that surrogacy law in the United Kingdom is outdated and in urgent need of reform so as to better protect the children, surrogates and parents, and deliver certainty for all parties involved.

What does the current law say?

Surrogacy has been regulated since the **Surrogacy Arrangements Act 1985**. This Act:

- Criminalises for-profit surrogacy agencies or brokers (so prohibits commercial surrogacy while allowing 'altruistic' surrogacy arrangements).
- Makes advertising for or as a surrogate illegal.
- Renders all surrogacy arrangements unenforceable.

In addition, the **Human Fertilisation and Embryology (HFE) Act 1990/2008**:

- Says the woman who gives birth 'and no other woman' is the legal mother.
- Determines that if the surrogate is married/in a civil partnership her spouse/partner is the legal father/second legal parent.
- Created '**parental orders**' which, when certain conditions are met post-birth, enables the court to transfer legal parenthood from the birth parents to the intended parents.

It should be noted that UK law does not make it illegal to pay a surrogate (only for profit-making third parties to charge for their services), although any payments must be considered by family court after the birth in the context of making a parental order. UK surrogates are typically reimbursed for carefully budgeted expenses reflecting the additional costs associated with the pregnancy and ensuring that the surrogate is not left out of pocket as a result of their helping the intended parents to create a family.

Under this system, the majority of surrogacy arrangements undertaken in the UK proceed smoothly, especially when supported by one of the DHSC-named non-profit support organisations, such as SurrogacyUK. However, the legal framework has not kept up with social changes, leaving surrogates, intended parents and those who seek to support them frustrated by laws that do not appear to serve their best interests or those of children born through surrogacy. **It is time to reform the law.**

Problems with the law

"Regardless of the range of views surrogacy attracts, it is clear that the current law does not work in the best interests of any of the people involved: children born through surrogacy, women who become surrogates, or intended parents."

- Law Commission & Scottish Law Commission: [Building Families Through Surrogacy: A New Law \(2023\)](#)

The existing law is widely recognised by legal practitioners, the judiciary, academics, policymakers and those in the non-profit surrogacy sector as being out of date and in need of reform. It does not serve the best interests of children, families or surrogates. In part this is because there is perceived to be many legal and practical obstacles deterring both potential surrogates and intended parents from the pursuit of surrogacy in the UK, including a lack of certainty that the agreement will succeed, complications as to the legal relationships as between the affected parties, or fear that the courts will not grant a parental order if the parties get something 'wrong'.

By way of example:

- until a parental order is granted, medical responsibility for the child rests with the surrogate and, if the surrogate is married, their partner, despite the fact that the child will be living with the intended parents. Accordingly, vital medical decisions may be delayed, thus placing the child at risk;
- if a surrogate is separated from their partner - but still married - their partner retains a say over both the child and the surrogate's participation in the process, which conceivably could give a potentially abusive spouse leverage and stands directly in contrast with the principle that women's rights be protected;
- there is no legal definition of 'reasonable expenses' and no set figure, so intended parents and surrogates have no clear guide to what can properly be agreed. Any payment beyond reasonable expenses must then be authorised by the court after the birth before a parental order can be made, which leaves uncertainty hanging over the arrangement even though the child's welfare is the court's paramount concern. In addition, because the courts almost always authorise these payments where the child's welfare requires, the current rule offers neither clarity to parents in advance nor real control after the fact, which is why the Law Commission has proposed reforming it.

These concerns can deter potential surrogates who would otherwise come forward. They can also push intended parents abroad, often to countries where commercial surrogacy operates, which undermines the safe, altruistic model that the UK practises. The effect is already visible. In 2024/25 there were more cross-border surrogacy applications, which are often commercial, than domestic UK ones, according to the parliamentary POSTnote on surrogacy.

While there are some overseas surrogacy destinations that do so ethically (such as much of the US), this comes at considerable expense and is not without complications. Practice in some other destinations – often unregulated – can raise questions about ethics, including about exploitation of women as surrogates and exploitation of intended parents' desire for a family.

Many of the parental order requirements have been interpreted by the Family Court to allow decisions to conform with Human Rights legislation. As one example, the provision that says applications must be made within six months of a child's birth has become completely untenable. Because the lifelong welfare of the child is the court's paramount duty, judges have repeatedly had to stretch the statutory requirements to avoid outcomes that would harm the child. The six-month deadline for applications is the clearest example. Since 2014 the courts have repeatedly granted orders well outside it, rather than bar a child from legal security over a missed deadline, yet the limit remains on the statute book and parents cannot safely rely on the courts extending it. Having to work around the statute case by case creates uncertainty and cost, and is itself evidence that the law needs rewriting.

Potential law reform

Following campaigns to change the law led by SurrogacyUK and others, a [comprehensive review and public consultation](#) was undertaken by the Law Commission of England and Wales and the Scottish Law Commission. The **Law Commissions' joint final report 'Building Families Through Surrogacy: A New Law'** was published alongside a [draft new Surrogacy Bill](#) in 2023. The Bill is therefore already drafted and ready. In April 2025, however, the government confirmed it was unable to prioritise surrogacy reform and did not intend to bring the proposals forward. More than three years on from a finished Bill, what is missing is the political will to enact it, not the legislation itself.

The key reform proposals include:

- A new **pathway to legal parenthood** for domestic surrogacy arrangements that will allow intended parents to be legal parents from birth, where at least one of them is the genetic parent and the arrangement is overseen by a **regulated surrogacy organisation**.
- Requirements and **safeguards** for the new pathway to ensure that surrogacy is the right decision for the surrogate and intended parents, and that the welfare of the child born is protected.
- Reforms of payments that intended parents can make to surrogates, to provide clarity, transparency and effective means of enforcing limitations, and to guard against exploitation.
- A **regulator** for surrogacy and regulated non-profit surrogacy organisations.
- Reforms to the parental order process, which will still be required for surrogacy agreements that do not meet the pathway requirements (including international arrangements).
- The creation of a new Surrogacy Register to allow those born of surrogacy agreements to access information about their origins.
- Improved employment rights for intended parents.

Lived experiences of surrogates and parents

"Surrogacy has enhanced both my and my family's lives. As a surrogate, I've been able to help a couple become a family which has been so amazing. My whole family has gained so much from our relationship and experienced so much joy!" - Surrogate

"In February we celebrated our son's second birthday. We can't believe how fast he's grown! He was born to us after a decade-long struggle with infertility - several surgeries, failed IVF and miscarriages - thanks to our amazing friend, the support of Surrogacy UK, and the UK's unique altruistic model for surrogacy. Our experience has been grounded in true friendship - our surrogate will be our lifelong friend and always a special Auntie to our son, and her husband and children are so important to us. They were all at our son's birthday celebrations and they have met our families and other friends several times." - Parent through surrogacy

"It is absolutely ridiculous that my husband had to be named on the birth certificate. I would like this to be entirely reviewed and changed." – Surrogate.

"The whole parental order process is a huge waste of the precious time of family courts. The court officers were delighted to grant our PO and to see us all happily together on our court day with our surrogate, her husband and their children alongside us, but the court system is over-stretched and they have serious problems to deal with in terms of family breakdowns, custody battles etc. It is a no-brainer that intended parents should be the legal parents from birth, since this is the whole point and the agreed outcome that all parties want." - Parent through surrogacy

Your Support Is Needed

We are asking parliamentarians to press the government to commit to a clear timetable for bringing forward the Law Commission's Bill. You can help by raising surrogacy reform with the relevant minister, tabling a parliamentary question, and supporting this work in Parliament. If you would like to discuss how to get involved, please get in touch with us.