

OBJECT

Women Not
Sex Objects

SURROGACY CONSULTATION for Women's Groups

OBJECT campaigns on all issues of objectification of women. We responded to the 2019 UK Law Commission's Surrogacy Consultation and had reservations about its quality and fitness for purpose, particularly its fundamental failure to identify women (a disadvantaged group worldwide) as key stakeholders in surrogacy law reform. This led to a failure both to consider the needs and rights of women and children in surrogacy, and to provide a space to discuss these rights and needs.

In surrogacy a woman gets pregnant with and births a child, who is passed to the surrogacy commissioners (called 'intended parents' in the trade) based on a contract. So a woman ('gestational mother') and her child are the heart and centre of every surrogacy contract, although they are often erased, e.g. by the media.

There is no evidence of a surplus of women wishing to be 'gestational mothers' in the UK. So facilitating access to surrogacy as the Law Commission proposes will mean active recruitment of women, taking us into new territory e.g. advertising for 'surrogates'.

This consultation aims to examine the Law Commission's proposals (the 'New Pathway') for reform of UK surrogacy law from the perspective of women. We also want to find out how women's groups experienced the LC's public consultation, what they think about their proposals and key issues for women and children in surrogacy.

Some questions give hyperlinks to important information you may be unaware of.

You may be surprised to see comparisons with conditions laid down for the health and welfare of dogs. This is because some of the Law Commission proposals feature worse conditions for women in surrogacy than are laid down by the UK Kennel Club for breeding animals. You may or may not consider this relevant.

This consultation should take around an hour to complete. There are 4 main sections:

- 1) The UK Law Commission Consultation
- 2) Impact of Surrogacy on Women in the UK
- 3) Impact of Surrogacy on Children in the UK
- 4) Additional topics you wish to raise, or further comments you wish to make

Most questions are either yes/no or ask you to answer using a 1-10 scale. This will allow us to produce simple statistics on the level of concern (if any) about each issue. At the end of each section there is space for your comments.

The data gathered via this consultation will be anonymised, publicised, shared with participants, shared with the Law Commission and may be used to lobby MPs.

Please submit your response by November 18th 2020

YOUR DETAILS

Email address (required):

Your name (optional):

Organisation/group name:

Type of organisation:

- Grassroots group
- Charity
- Campaign group
- Business
- I am answering as an individual
- Other

If you are a membership organisation, how many members do you have?

SECTION 1: LAW COMMISSION CONSULTATION 2019

In 2019 the Law Commission of England & Wales and the Law Commission of Scotland, as part of a joint project examining surrogacy law, published a consultation document and ran a public consultation ending on 11th October 2019.

An overview of the surrogacy reform project can be found [here](#)

The full consultation document can be found [here](#)

A summary is also [available](#):

The Law Commission project is ongoing. It aims to produce a draft bill on surrogacy in 2022

1. Were you specifically invited to respond to the UK Law Commission consultation
YES/NO

2. Did you respond to the UK Law Commission consultation?
YES/NO
(If NO please go to Q2a at the end of this section)

3. How user-friendly did you find the UK Law Commission consultation?

1 2 3 4 5 6 7 8 9 10

User friendly

Not user friendly

4. How much time did you find the Law Commission consultation took to complete?

1 2 3 4 5 6 7 8 9 10

Reasonable Amount

Excessive Amount

5. How adequately did you think the Law Commission consultation considered the specific needs of women?

1 2 3 4 5 6 7 8 9 10

Adequately

Somewhat

inadequately

6. How adequately did you think the Law Commission consultation considered the Rights of the Child?

1 2 3 4 5 6 7 8 9 10

Adequately

Somewhat

Inadequately

7. Overall, did you find the Law Commission consultation 'fit for purpose' - did it identify ALL the key issues of surrogacy and gather your views on them?

1	2	3	4	5	6	7	8	9	10
Yes				Somewhat					No

8. Do you have any other comments on the LC consultation? Please write below.

Reasons for not responding to Law Commissions Consultation (if answered NO to Q2)

2a. Were there any barriers that prevented you from responding to the Law Commission consultation?

SECTION 2: IMPACT OF SURROGACY ON WOMEN IN THE UK

This section aims to understand your views and concerns about the impact of surrogacy on women in the UK. Each question asks you to rate your level of concern. This will help us understand what the major concerns are. The final question gives you the opportunity to comment or raise issues that have not been covered.

Glossary:

Surrogacy: A practice where a woman agrees to become pregnant, give birth and immediately relinquish the baby to a third party who intends to parent.

Gestational/Full Surrogacy: The woman who gives birth is not genetically related to the child.

Traditional/Part Surrogacy: The woman who gives birth is the child's genetic mother.

'Altruistic' Surrogacy: Surrogacy arrangements where the woman does not profit financially from the agreement, which is not legally binding.

Commercial/For-profit Surrogacy: Surrogacy arrangements where the woman profits financially from the agreement, which is often legally enforceable.

Gestational/'Surrogate' Mother: The woman who carries and births a baby for another person. 'Surrogate' is the preferred term in the industry; opponents of surrogacy object to this term because it obscures the mother-child relationship.

Surrogacy Commissioners/'Intended Parents': Person(s) who commission a surrogacy agreement with the intention of parenting the resulting child. 'Intended Parents' is the industry-preferred term; opponents of surrogacy use 'surrogacy commissioners' instead.

Political and Social Impact

9. Are you concerned about the **underlying principle** of surrogacy, i.e. that a woman's reproductive capacity may be used for the benefit of others?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

10. Are you concerned that relaxing regulation around surrogacy will make things **worse for women** in general, rather than better?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

11. Surrogacy is currently permitted in the UK as long as the gestational mother does not profit. Are you concerned that **stereotypes** (eg female altruism/self-sacrifice) or myths (eg that women gain a unique sense of purpose through pregnancy), are prevalent in surrogacy **and** are harmful to women?

27. Egg donation was not included in the Law Commissions' review of surrogacy, despite the growing popularity of surrogacy with male couples, often using donor eggs. How concerned are you about the physical, emotional and psychological welfare of egg donors?

1 2 3 4 5 6 7 8 9 10

Not concerned

Very Concerned

28. **Risks of egg collection:** taking eggs from a woman involves medical hormone treatment to make her ovulate multiple eggs, followed by an invasive collection procedure which can lead to complications (eg Ovarian-Hyperstimulation Syndrome). There is no evidence on how safe it is to do this multiple times. Are you concerned about recruiting women to donate eggs without such evidence?

1 2 3 4 5 6 7 8 9 10

Not concerned

Very Concerned

29. **Payment for eggs:** in the UK, egg donors are paid a flat fee of £750. In so-called 'egg-sharing' schemes women getting fertility treatment have its cost reduced in return for 'donating' some of their eggs. Are you concerned that such financial incentives constitute bartering or selling of eggs and may persuade women to provide eggs against their best interests?

1 2 3 4 5 6 7 8 9 10

Not Concerned

Very Concerned

30. **Involvement in prenatal care:** are you concerned that the involvement of surrogacy commissioners/'intended parents' in prenatal care (eg scans and the birth) may compromise the gestational mother's ability to make autonomous decisions and/or may create conflicts of interest for medical staff?

1 2 3 4 5 6 7 8 9 10

Not Concerned

Very Concerned

31. **Termination:** During any pregnancy, unforeseen circumstances (eg diagnosis of fetal abnormality) may raise the question of termination. When this happens in surrogacy, gestational mothers either consent to abortion if the surrogacy commissioners/'intended parents' so choose, or defy them and face giving birth to (and keeping) a child with a disability. Are you concerned about abortion issues in surrogacy arrangements?

1 2 3 4 5 6 7 8 9 10

Not concerned

Very concerned

32. **Information sessions:** It is proposed that there should be mandatory information sessions for everyone involved in a surrogacy contract, but there has been very little research on the risks of surrogacy (eg multiple pregnancy, pre-eclampsia, gestational diabetes, placenta praevia, caesarean birth). Are you concerned that there is not enough evidence to properly inform a woman's consent to surrogacy?

1 2 3 4 5 6 7 8 9 10

Not concerned

Very concerned

33. **Number of pregnancies:** the UK Kennel Club recently reduced its recommended number of [pregnancies per breeding bitch to 4 for health reasons](#). How concerned are you that the Law Commissioners suggest **no recommended maximum** number of pregnancies for a woman participating in surrogacy?

1 2 3 4 5 6 7 8 9 10

Not concerned

Very concerned

34. **Caesarean sections:** the UK Kennel Club recommends a maximum of 2 caesarean sections per breeding bitch. Are you concerned that a lower standard is being proposed for women in surrogacy?

1 2 3 4 5 6 7 8 9 10

Not Concerned

Very Concerned

Psychological Impact

35. The **minimum age** suggested by UKLC for women to act as gestational mothers is 18. Are you concerned about an 18 year old's ability to understand the emotional impact and potential long term consequences of surrogate pregnancy ?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

36. It is proposed that there be no requirement for women to have had a child before a 'surrogate' pregnancy. Are you concerned that women with **no personal experience of**

pregnancy and childbirth may underestimate what is involved, and may later regret the pregnancy?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

37. Are you concerned that research and established good practice on the importance of the physical and emotional **mother-baby bond** (eg Attachment Theory) which are considered axiomatic in most western contexts are set aside in surrogacy as irrelevant and are ignored ?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

38. There is some evidence that during pregnancy gestational mothers use **dissociation** as a coping strategy to prevent maternal bonding. Repeated gestational surrogacy might intensify these effects. Are you concerned that dissociation may have a long-term adverse effect on their mental health?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

39. Are you concerned that gestational mothers may **regret** the surrogacy and that this may have a long-term adverse effect on their mental health?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

40. Are you concerned that women who are already **emotionally vulnerable** may be harmed by involvement in surrogacy?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

41. Are you concerned that women may sign up to surrogacy **without realising its full implications** because they have, for example, language issues, literacy issues, learning difficulties or disability, and/or mental health problems?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

General

42. Are you concerned that the proposed legal reforms **don't adequately protect** women who may become involved in surrogacy?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

43. Are you concerned that surrogacy proposals represent a **step back for women's rights**?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

44. Are there any other ways women may be impacted through surrogacy that you feel are important?



SECTION 3: IMPACT OF SURROGACY ON CHILDREN IN THE UK

Many of the questions within this section cover the impact of surrogacy on the child's human rights and refer to the United Nations Convention on the Rights of the Child (UNCRC), which the UK has ratified. This is available [here](#).

Glossary:

Surrogacy: A practice where a woman agrees to become pregnant, give birth and immediately relinquish the baby to a third party who intends to parent.

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Surrogacy Commissioners/'Intended Parents': Person(s) who commission a surrogacy agreement with the intention of parenting the resulting child. 'Intended Parents' is the industry-preferred term; opponents of surrogacy use 'surrogacy commissioners' instead.

45. ['Genealogical Bewilderment'](#) can arise from surrogacy: the child has lost the connection to its biological origins and parent(s) and may struggle with her/his identity, not knowing who s/he really is, causing lasting emotional difficulties. Are you concerned that in surrogacy we may deliberately and knowingly be subjecting children to this mental and emotional pain?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

46. [The UN Convention on the Rights of the Child](#) (UNCRC) which the UK has ratified, says in Article 3 that signatories undertake to ensure the child such **protection and care as is necessary for her/his well-being**. Are you concerned that in surrogacy we are failing children in this regard?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

47. UNCRC says that every child shall have, from birth, as far as possible, the **right to know and be cared for by his or her parents**. Are you concerned that the proposals infringe these rights?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

48. **Mother not to be named on birth certificate**: are you concerned at the proposal that the woman who births a child in a surrogacy contract will not be named on the child's birth certificate, and that this may later contribute to the child's genealogical bewilderment?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

49. No limit on the number of surrogacy contracts that a person can commission is proposed. Some couples/individuals have commissioned multiple children by surrogacy: in Japan one man [commissioned 16 surrogate babies](#) via different clinics. Are you concerned about the welfare of children born from **multiple surrogacy contracts**?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

50. Signatories to Article 8 of UNCRC undertake to respect **the child's right to preserve his or her identity, including nationality, name and family relations** as recognized by law without unlawful interference. Article 8 also says that where a child is illegally deprived of some or all of the elements of his or her identity, states shall provide appropriate assistance and protection, with a view to speedily re-establishing his/her identity.

Are you concerned that the proposed reforms give children born through surrogacy **no right to identifying information on egg/sperm donors or their gestational mother** until they reach adulthood?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

51. Article 9 says 'states shall ensure that **a child shall not be separated from his/her parents** against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child.'

It also says that states shall respect **the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis**, except if it is contrary to the child's best interests.

Are you concerned that in surrogacy the child is **deliberately separated from his/her birth mother immediately after birth** according to the wish of surrogacy commissioners for exclusive parental rights, and that this goes against Article 9?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

52. Article 19 says that states shall take all appropriate legislative, administrative, social and educational measures to **protect the child** from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. Sadly there have been cases when children born via surrogacy have been [sexually abused](#) or even [killed](#) by surrogacy commissioners/ 'intended parents'. The Law Commissioners propose that a preconception criminal record check is sufficient to safeguard children born through surrogacy. How concerned are you that this may leave children vulnerable to abuse?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

53. UKLC propose that 'double donation' (both egg donor and sperm donor) be allowed where medically 'necessary', producing (as in adoption) a child with no genetic link to the surrogacy commissioners/ 'intended parents'. Are you concerned about the risk that such **children may be abused and/or trafficked** in surrogacy?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

54. Surrogacy is riskier than ordinary child-bearing: children born via surrogacy have an increased risk of preterm birth and low birth weight. Yet UNCRC says states must take appropriate measures to diminish infant and child mortality. Are you concerned that liberalising surrogacy law may inadvertently lead to **a rise in infant mortality and act against UNCRC?**

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

55. Article 35 of UNCRC says that states shall take all appropriate measures to **prevent the abduction of, sale of or traffic in children** for any purpose or in any form. Yet the UN Special Rapporteur on the Sale and Sexual Exploitation of Children stated in 2018 that the essence of a surrogacy agreement is transfer of the child, and cases where payment is above out-of-pocket expenses amounts to the sale of a child.

Are you concerned that UKLC's proposals contain no sanctions for excess payments and so are tacitly permitting the sale of children?

1 2 3 4 5 6 7 8 9 10

Unconcerned

Very Concerned

56. **Effect on siblings and other family members:** women acting as gestational surrogates often already have children. Some reports say that existing children may worry lest their parents 'give them away too', and may mourn the deliberate loss of a sibling. Are you concerned that the impact of surrogacy on the families of women involved in surrogacy has not been adequately considered and researched?

1 2 3 4 5 6 7 8 9 10

Not concerned

Very concerned

57. **Time with mother:** the UK Kennel Club recommends that puppies stay with their mother for at least 8 weeks. In surrogacy, babies are taken from their mother immediately after the birth. Are you concerned that under current proposals, human babies will be treated worse than puppies?

1 2 3 4 5 6 7 8 9 10

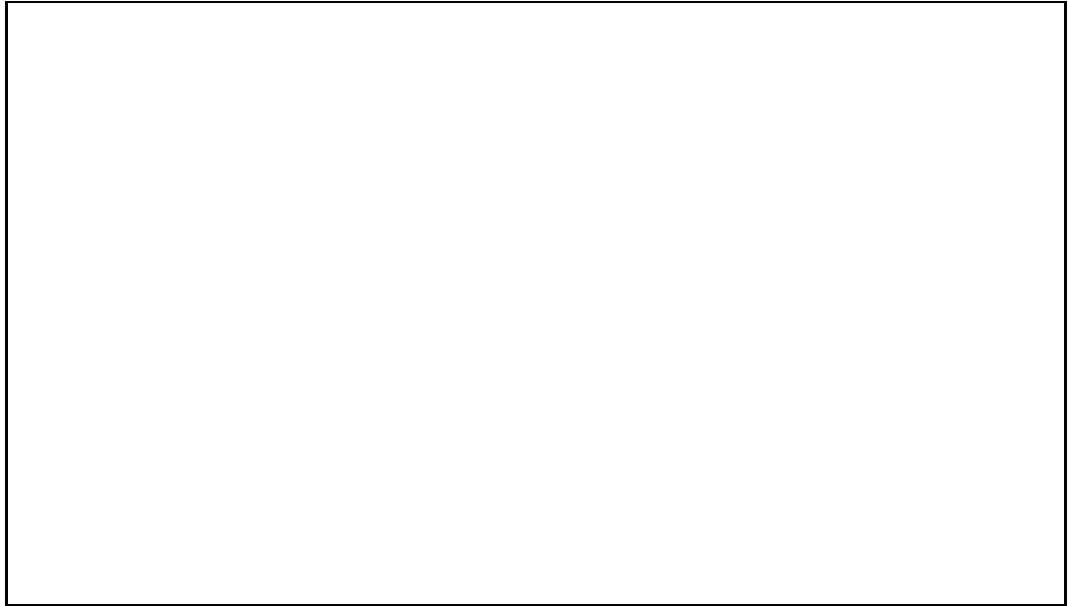
Unconcerned

Very Concerned

58. Are there any other ways in which children may be impacted by surrogacy that you feel are important?

SECTION 4: ANY OTHER COMMENTS

59. Are there any other comments you wish to make?

A large, empty rectangular box with a thin black border, intended for the user to provide any other comments they wish to make.