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9 July 2025

The Commissioner
Australian Law Reform Commission

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Dear Commissioner,

**ALRC SUBMISSION – REVIEW OF AUSTRALIA'S SURROGACY LAWS**

I am making this submission to contribute to the Australian Law Reform Commission's review of Australia's surrogacy laws.

**I have recently given birth to identical twins as a surrogate, in June 2024 for a same-sex couple (two Dads). Their family lives in Hobart, Tasmania.**

I have read the Issues Paper and have responded to the questions posed in the paper below.

1. **If you or someone close to you has had personal experience of surrogacy, please describe:**

   - **What parts of your experience were positive?**
     Being a surrogate and helping my friends start their family was lifechanging and one of the most rewarding experiences of my life**.**

   - **What parts of your experience were negative?**
     The process in Tasmania was overly complex and extremely under resourced. TasIVF were the only clinic available to use (based in Hobart, which I'm 2.5hrs away from) and they did not have the capacity to undertake the admin process, instead outsourcing it to Melbourne IVF. This meant we were constantly handballed between the two (over the course of years, not months) with what

could only be described as messy management of the process (before even being approved to attempt IVF).

The parentage order was also a negative experience, again a lack of clarity around what needed to be provided in Court and the new parents were made to feel "examined" by the judge, which was an unfair and unnecessary experience.

- **What could be improved and how?**
  Pre-birth parentage orders would eliminate the uncertainty for both parties. Personally, I felt uncomfortable still being legally responsible for two babies who were not mine, nor in my care. It would ensure parents as primary caregivers are acknowledged immediately, without having to struggle through the process for months, as new parents.

  This would also eliminate issues with Medicare, Centrelink and any early medical care needed (including immunisations). With the parents legally recognised at birth, it will ensure medical decisions are made for the baby without any risk of delay or confusion from medical providers.

**2. What reform principles should guide this Inquiry?**

Law reform should focus on consistency of processes nationally, welfare and protection of the parents, surrogates and children involved and improved understanding throughout the community of surrogacy as a viable option to have a family, based upon inability to carry a pregnancy otherwise.

**3. What do you think are the key human rights issues raised by domestic and/or international surrogacy arrangements and how should these be addressed?**

Intended Parents pursuing international surrogacy have a vastly different experience than domestic IPs. They can be highly influenced by agencies and can be taken advantage of, due to their strong desire to have children. They can be led to believe that surrogates are being paid and treated better than they are in reality, or convinced that logistical plans such as travelling across borders are legitimate to ensure their child is born, when it's ultimately human trafficking.

If surrogacy was more accessible domestically, Australians would not be responsible for women and children's rights being compromised on these occasions.

**4. What information about the circumstances of their birth do you think children born through surrogacy should have access to? How should this be provided / facilitated?**

Surrogates in Australia do not consider doing so with the intention of being anonymous. It is understood that both surrogates and IPs are choosing to form a team relationship and that the child, once old enough will know how they were created.

The child should have access to this information through current and previous birth records. Whether this relationship involves regular or more sporadic communication and catching up is up to the team to discuss and manage over time.

**5. What do you think are the main barriers that prevent people from entering into surrogacy arrangements in Australia, and how could these be overcome?**

- The biggest barrier in Australia is demand vs availability. There's more IPs (thousands more) than there are surrogates
- Finding the right connection is also difficult. 79% of Australian surrogacy arrangements are between friends and family, while 21% find each other on social media
- Many states prohibit advertising for a surrogate/IPs
- Compensated/commercial surrogacy is illegal
- Lack of awareness and understanding about surrogacy
- IVF clinics lack understanding about surrogacy
- Surrogacy is expensive and many IPs are extremely stretched by having to use IVF, let alone being able to support unknown costs associated with surrogacy on top of that

**6. Should there be eligibility criteria for surrogacy? If so, what should those requirements be?**

There should be no state or territory-based restrictions on eligibility, access should be standardised nationally.

If you don't have a uterus, have a medical issue or history that makes it unsafe to you or a baby to carry a pregnancy or have an established history of unsuccessful pregnancies, you should be cleared for surrogacy. We cannot continue to be in a situation where it is up to differing opinions of medical professionals whether someone is eligible or not.

**7. Are there any current requirements which should be changed or removed?**

Remove the law that in Tasmania, your surrogate needs to be also living in the state.

There should also not be a requirement that you must have delivered a child before to be a surrogate; this is up to the individual (bodily autonomy). Some women may not

wish to have their own children but would like to experience pregnancy and help others.

**8. Are there any requirements for a valid surrogacy agreement you think should be added, removed or changed?**

The surrogacy agreement I entered was sufficient for the purposes of the Patient Review Panel and the Parentage Order, but they are not necessarily legally binding. It covered everything we felt was required, including the understanding of what both parties agreed to do (birth, hand over, accept) and covering surrogacy-related expenses.

**9. Should surrogacy agreements be enforceable?**

Yes, it would provide more certainty to IPs and possibly less chance of them wanting to undertake overseas surrogacy for this reason.

**10. What process requirements should be in place for surrogacy arrangements?**

Counselling and legal agreements should be part of the process, also review/signoff of these by an independent panel before commencing any pregnancy.

**11. What are the gaps in professional services for surrogacy in Australia?**

There are no national surrogacy matching services in Australia and clinics have a very limited ability to support surrogacy. Hospitals also have inconsistent (or non-existent) policies around birthing and postnatal support for surrogacy teams.

**12. What is the best way for professional services for surrogacy to operate?**

There could be a not-for-profit matching service supported by the Government, this could work alongside a service providing consistent information and resources with the aim of improving awareness and understanding of the process in Australia.

**13. How should surrogacy advertising be regulated?**

Removing restrictions on advertising may improve awareness and reduce stigma around surrogacy in Australia from a community perspective and encourage more open conversations. There should, however, still be restrictions/guidelines for agencies, clinics and matching services if they were to commence.

**14. What entitlements, if any, should be available to surrogates and intended parents?**

Medicare should be made available for all assisted reproductive services, including surrogacy. Centrelink needs clearer policies which are understood by all staff to manage services supporting surrogates and parents.

Companies and businesses need to improve their understanding and ability to support parental leave in surrogacy cases. I was fortunate that my employer, University of Tasmania had recently included in the staff agreement to provide 6 weeks full paid leave following birth as a surrogate (although this was very minimal time to include pre-birth and sufficient recovery, it was appreciated).

**15. How could the process for reimbursing surrogates for reasonable expenses be improved?**

Currently, surrogates are not motivated financially, and the ability and interpretation of surrogacy-related expenses can be variable between teams and individuals. Some agree to cover the bare-minimum medical and legal expenses, others are generous in their support to provide meals, help at home, massages or other self-care type services.

I was never questioned for any expenses and kept mine to a minimum, purchasing only what I needed, but in some situations, this isn't the case and it's where relationships can break down. Perhaps if there was a monthly amount provided during the pregnancy and for some time thereafter, women would feel more empowered to manage their own expenses without "having to ask" or in some current cases, having to be reimbursed (which should not really be an acceptable form of support).

**16. Do you support a) *compensated* surrogacy and/or b) '*commercial*' surrogacy? You might want to consider whether you agree with how we have described compensated and 'commercial' surrogacy?**

I agree with compensating surrogates in a way that allows them to manage their expenses independently and considers the time and risks the surrogate is undertaking.

**17. If Australia was to allow for compensated or 'commercial' surrogacy, how could this be implemented?**

I do not believe we should have commercial surrogacy in Australia.

**18. What are the main problems with the requirements and processes for obtaining legal parentage for a child born through domestic and/or international surrogacy?**

Refer to answer in Q1 (part 3)

**19. How could the process for intended parents to become the legal parents of children born through surrogacy be improved?**

Refer to answer in Q1 (part 3)

**20. What, if any, are the main problems with obtaining the following documents for a child born through international surrogacy:**

**a. Australian citizenship;**

**b. an Australian passport; or**

**c. an Australian visa.**

**21. How could the process for obtaining these documents be improved?**

**22. What is the best way to approach differences in surrogacy regulation between or within jurisdictions?**

If this is referring to state and territory-based laws, there needs to be consistency nationally around eligibility and process.

**23. Is it appropriate for surrogacy arrangements to be subject to oversight? If so, what is the best approach?**

**24. Should the law have a role in discouraging or prohibiting certain forms of surrogacy?**

**25. Do you think there is a need to improve awareness and understanding of surrogacy laws, policies, and practices?**

Yes, there is a complete lack of understanding in Australia about surrogacy works here.

**26. Do you have any views about the issues we consider to be in or out of scope?**

**27. Are there any important issues with regulating surrogacy that we have not identified in the Issues Paper? Do you have any other ideas for reforming how surrogacy is regulated?**

No, thank you for considering my submission.

Kind Regards,

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