Submission to the Australian Law Reform Commission: Review of Surrogacy Laws

By Jigsaw Queensland Inc.

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Introduction

Jigsaw Queensland Inc. is a non-profit, member-based organisation that has supported people affected by adoption since 1976. We are Queensland's largest post-adoption support and advocacy service, providing peer and professional support, intermediary services, education, and public engagement, including through our Adopt Perspective podcast and the Commonwealth-funded Forced Adoption Support Service.

While Jigsaw Queensland does not actively support people impacted by surrogacy, we recognise the significant similarities between the experiences of individuals affected by surrogacy and those affected by adoption and donor conception—particularly in relation to loss of connection to biological family, lack of access to origin information, and the long-term effects of early separation on identity and psychological wellbeing.

Our submission is therefore made on principled grounds, informed by decades of experience walking alongside adopted people and their families. We believe these insights are essential in guiding ethical, evidence-based surrogacy law reform.

Principles

The Lifelong Best Interests of the Child Must Be Paramount

Any surrogacy legislation must begin with the child—not as a theoretical future person but as a real human being who will grow, question, grieve, seek meaning, and require truth. The legal framework must protect their lifelong best interests, which include the right to identity, continuity of relationships, and access to the truth of their conception and birth.

Lived Experience Must Be Central to Reform

In the absence of a large cohort of adults born via surrogacy, it is essential that law reform is guided by the extensive body of knowledge from those affected by adoption and donor conception.

Every Person Has a Right to Know Their Origins

The right to know one's genetic and gestational origins is foundational to identity and self-understanding.

There Is No Right to Secrecy

Our experience with adoption demonstrates that secrecy causes harm. Secrecy is not privacy, and should not be protected by law.

Surrogacy Should Not Be Commercialised

Jigsaw Queensland supports the continuation of the prohibition on commercial surrogacy in Australia.

Support Must Be Lifelong and Independent

Independent, trauma-informed support services must be available to all parties to a surrogacy arrangement—before, during, and after.

Selected Responses to Issues Paper Questions

Q1: What principles should guide reform of surrogacy laws in Australia?

We believe surrogacy reform should be guided by:

- The lifelong best interests of the child
- The right to identity and origin information
- The principle of informed, voluntary, and revocable consent
- The prevention of harm, coercion, or exploitation
- Recognition of the long-term psychological and relational impacts of early separation from gestational or genetic parents
- The centrality of lived experience in policymaking

In applying these principles, it is essential to acknowledge a recurring ethical tension: too often, when faced with the pain of infertility and the increasing regulation of adoption and donor conception, society's impulse is to look for alternatives and ask 'Could we?'—when the better question is 'Should we?'

The capacity to create a family through surrogacy must not override the imperative to carefully consider its ethical implications for the child born, the surrogate, and future generations.

Q5: What are the key harms and benefits associated with surrogacy?

Our insights relate particularly to the harms associated with secrecy, loss of identity, and disconnection from biological kin. In adoption and donor conception, the psychological impact of being denied access to one's origins is well-documented.

Q7: How should a child's right to know their origins be protected in law?

We support:
- The establishment of a national surrogacy register
- Mandatory provision of non-identifying and identifying information
- Retrospective application of origin information rights
- No enforceable vetoes on access to information
- Access to funded intermediary and support services

Conclusion

Surrogacy law reform is an opportunity to learn from the mistakes of past adoption and donor conception practices and to uphold the dignity, rights, and humanity of all parties involved—particularly children.

Jigsaw Queensland strongly urges the ALRC to place the lived experience of adopted and donor-conceived people at the heart of this review. Their insights reveal the profound, lifelong effects of decisions made without their consent, and the critical importance of truth, identity, and ethical care in all reproductive arrangements.

As with adoption and donor conception, we must take care not to let the pain of infertility or the promise of technological advancement steer us toward expediency. Too often, in the face of increasingly regulated systems, we respond by seeking alternatives and asking 'Could we?' when the more principled question is 'Should we?'

Law reform must be courageous enough to slow the conversation down—to prioritise the child, uphold the truth, and ask not only what is possible, but what is right.

We thank the Commission for the opportunity to contribute to this important work.

Dr Jo-Ann D Sparrow

President

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