Insights from people with personal experience of surrogacy

If you or someone close to you has had personal experience of surrogacy,

Question 1 please describe:

- What parts of your experience were positive? **The connection we've formed not just with our surrogate and her wife but her extended family - our surrogate's parents opened up their home to us for 4 weeks (twice - one of each of our childrens births)**
- What parts of your experience were negative? **Not returning to Melbourne until Sep so I can't comment on how Australia has treated our family yet**

Same sex intend dads, domiciled in Ireland while undertaking surrogacy (twice) in Canada. Canada was a clear choice for us as they have a robust legal system that protects and respects the child, surrogate, Donor and intended parents rights and importantly for us treats same sex couples no different

Reform principles

Question 2 What reform principles should guide this Inquiry?

Child centric policies at all times, where the child's best interests take priority.

Surrogates desire to viewed and treated as such without any parental responsibility or rights being imposed onto her because she gave birth.

Human rights

Question 3 What do you think are the key human rights issues raised by domestic and/or

international surrogacy arrangements? How should these be addressed?

Question 4 What information about the circumstances of their birth do you think children
born through surrogacy should have access to? **All of it**
How should this be provided or facilitated? **In an age appropriate manner hopefully facilitated by the parents, however some safeguards should exist to inform the child if information has been withheld**

Question 5 What do you think are the main barriers that prevent people from entering
surrogacy arrangements in Australia? **Don't know as we never looked into domestic while in Australia**
How could these be overcome?
You might want to consider the experiences of any groups who may face greater barriers to
accessing domestic surrogacy than others, such as LGBTIQA+ people, people who are
financially disadvantaged, or people from culturally and linguistically diverse backgrounds.

Eligibility requirements for surrogacy

Question 6 those requirements be?
Should there be eligibility requirements for surrogacy? **No more or no less than there is on any other women choosing to carry her own child**
Question 7 removed?
Are there any eligibility requirements which should be introduced, changed, or

Surrogacy agreements — validity and enforceability

Question 8 be introduced, removed, or changed?
Are there any requirements for a valid surrogacy agreement you think should

Question 9 Should surrogacy agreements be enforceable? You might want to consider: **I believe every surrogate should have choice over her own body and make her own informed decisions. However once the child is born the agreement should be respected in full and the intended parents rights as parents to be respected immediately**

a. if all parts of the agreement should be enforceable;
b. who should be able to enforce the agreement; and
c. how agreements could be enforced.

Process requirements for surrogacy

Question 10 You might want to consider:
What process requirements should be in place for surrogacy arrangements?

a. if counselling should also be available after the child's birth;
b. what should happen if legal advice and counselling are not provided before entering a
surrogacy agreement; and
c. if parentage applications should require proof of legal advice and/or counselling.

Professional services, including legal and counselling services

Question 11 might want to consider:
What are the gaps in professional services for surrogacy in Australia? You

a. if surrogacy agencies should operate in Australia; and

b. the availability, accessibility, and subject matter to be covered in legal advice and counselling sessions.

Question 12 consider:
How should professional services operate in Australia? You might want to

a. what their role should be; **guiding and matching**
b. if they should be for-profit or not-for-profit, or how they should be funded; **not for profit**
c. if different types of services should operate together or separately, for example, whether
counselling services should be independent or integrated within agencies or fertility clinics;
and
d. how they could best meet the diverse needs and experiences of people involved in a
surrogacy arrangement.

Limits on advertising

Question 13 How should surrogacy advertising be regulated? You might want to consider:
a. if advertising should be allowed; **yes**
b. who should be allowed to advertise; **Intended parents and surrogates**
c. what advertising content should be allowed; and
d. where advertising should be allowed, for example via newspapers, social media, or by
establishing a surrogacy register. **social media and surrogacy register**

Access to Medicare and parental leave

Question 14 parents? You might want to consider:
What entitlements, if any, should be available to surrogates and intended
Surrogate: **Same entitlements every pregnant woman has plus 6-12 weeks recovery**
Intended Parents: same entitlement every adoptive parent is entitled to
a. Medicare rebates for fertility treatments;
b. access by surrogates to paid or unpaid parental leave, including through enterprise
agreement terms; and

c. if it is desirable to make surrogacy arrangements generally more affordable, and how this could be achieved.

The full Issues Paper is available at the ALRC website: https://www.alrc.gov.au/publication/review-of-surrogacy-laws-issues-paper-2025 3**Reimbursing and compensating surrogates**

Question 15 How could the process for reimbursing surrogates for reasonable expenses be improved? You might want to consider:

a. what expenses should be reimbursable;
b. how payment should be calculated;
c. if there should be limits on any amounts;
d. the process for reimbursement (for example, whether money should be kept in trust, whether there should be a requirement to produce receipts, etc); and
e. any jurisdictions (either within Australia or overseas) that have processes for reimbursement worth learning from.

Question 16 Do you support a) *compensated* surrogacy and/or b) '*commercial* 'surrogacy? **Yes**

You might want to consider whether you agree with how we have described compensated and 'commercial 'surrogacy.

Question 17 If Australia was to allow for compensated or 'commercial 'surrogacy, how could this be implemented? You might want to consider:

a. how compensation should be calculated;
b. if there should be a limit on the amount of compensation;
c. who should set the amount of compensation;
d. the process for compensation (for example, whether it should be paid in monthly instalments, whether the money should be kept in trust etc); and

e. any jurisdictions (either within Australia or overseas) that have processes for
compensation worth learning from.

Legal parentage of children born through surrogacy

Question 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?

Question 19 How could the process for intended parents to become the legal parents of
children born through surrogacy be improved? You might want to consider:

a. timing **at birth**
b. b. who makes the decision (for example, if it is an administrative or judicial decision); **both administrative and judicial - just like in Canada**

c. if recognition should be automatic; **yes automatic**
d. if the process should be different depending on the circumstances (for example, based on
whether the surrogate has a genetic link to the child, the type of payment they received, and
whether the surrogacy arrangement was in Australia or overseas);

e. whether intended mothers are or should be treated differently to intended fathers in legal parentage determinations;
f. whether the granting of legal parentage should depend on compliance with process
requirements;
g. the importance of prioritising the best interests of the child; and
h. whether we can learn from the processes of any other countries.

Citizenship, passports and visas

Question 20 What, if any, are the main problems with obtaining the following documents
for a child born through international surrogacy: **as a gay Australian citizen domiciled in Ireland while availing of surrogacy in Canada and later applying for citizenship by decent and passports, I found the whole process very simple and inclusive**
a. Australian citizenship; **experienced no problem**
b. an Australian passport; **experienced no problem**
c. an Australian visa. **Wasn't needed**
Question 21 How could the process for obtaining these documents be improved?

Oversight and harmonisation – Inconsistent laws

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

Oversight and harmonisation – Oversight

Question 23 Is it appropriate for surrogacy arrangements to be subject to oversight? **No**
The role of the criminal law
Question 24 surrogacy? You may wish to consider:
Should the law have a role in discouraging or prohibiting certain forms of
a. if engaging in or facilitating certain forms of surrogacy, whether in Australia or overseas,
should be sanctioned or criminalised; **not if its ethical and everyone has give informed consent to the agreement**

awareness and education

Question 25 Do you think there is a need to improve awareness and understanding of
surrogacy laws, policies, and practices?**yes**
Question 26 Do you have any views about the issues we consider to be in or out of scope?

Other insights

Question 27

As a a same sex couple with two kids born via ethical surrogacy in the reputable country like Canada. I believe our children's overseas birth certs listing us as parents should be accepted like any other citizen listed on a foreign birth cert. As proof of citizenship by desent and parental rights