Submission to the Australian Law Reform Commission Review of Surrogacy Laws

Submitted by: Tereasa Trevor
Date: 10th July, 2025
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About This Submission

I am submitting this response based on my multi-faceted experience with surrogacy in Australia:

- **Intended parent**: My daughter was born through surrogacy on the Gold Coast in 2015 after a 3-year journey
- **Medicareless founder and advocate**: I led the campaign that brought 10,000 signatures to parliament calling for surrogacy law review, speaking with hundreds of families and gathering their case studies
- **Community advocate**: I am active in donor conception communities supporting others through their journey and serve on the Board of Egg Donation Australia
- **Professional**: I became a sexologist and psychotherapist at least partly in response to the inadequate professional services I encountered during my surrogacy journey
- **Information resource creator**: I developed comprehensive information packs shared through surrogacy support groups due to the lack of independent resources available

This submission addresses Questions 1, 5, 10, 16, and 17 from the Issues Paper, representing both my personal experience and insights from hundreds of families I've supported through advocacy work.

Question 1: Personal Experience of Surrogacy

My Role and Context

I am responding with multiple perspectives on surrogacy in Australia:

- **Intended parent**: My daughter was born through surrogacy on the Gold Coast in 2015 after a 3-year journey
- **Medicareless founder**: I led the campaign that brought 10,000 signatures to parliament calling for surrogacy law review, interviewing and assisting multiple stakeholders to generate case studies
- **Community advocate**: I am active in donor conception communities supporting others through their journey and serve on the Board of Egg Donation Australia
- **Professional**: I became a sexologist and psychotherapist in response to the inadequate professional services I encountered during my surrogacy journey
- **Information resource creator**: I developed comprehensive information packs shared through surrogacy support groups due to the lack of independent resources available

Location: [redacted]

Medical necessity: I have a rare and undiagnosable blood clotting disorder, and my haematologist advised against me continuing to attempt pregnancy due to significant health risks (death).

Positive Experiences

Powerful Relationships

The relationship with my surrogate remains one of the most powerful relationships of my life. The process of doing surrogacy together galvanised our friendship and generated an intense love and trust. I feel forever grateful for her, and our relationship remains strong to this day.

Successful Medical Advocacy

My obstetrician was an incredible advocate. When the hospital initially refused to allow me to breastfeed as it was “against policy”, he told them he would leave the hospital if they didn't accommodate this request. His support was pivotal in ensuring I could breastfeed my daughter. Having that level of support was incredibly encouraging and supportive. It was unforgettable.

Successful Outcome

Despite significant challenges, my daughter was born strong and healthy. I successfully induced lactation and was able to breastfeed her (after finding expert advice from a specialist in the USA, as no local information was available). Being able to breastfeed my child was a dream come true.

Community Building

My difficult experience led me to create information resources that have helped many others navigate the system more smoothly, ultimately contributing to systemic advocacy through Medicareless and my network in Egg Donation Australia.

Negative Experiences

Information Vacuum and Conflicts of Interest

The most significant barrier was the complete lack of independent, accessible information about:

- What constituted "medical necessity" for surrogacy (I had constant fear I might not "qualify" or would "fail" which contributed to a raised level of stress)
- Step-by-step process requirements and their associated costs
- Legal requirements and procedures
- Counselling requirements and costs
- Ethics approval processes at IVF clinics

It was difficult to know how to begin. I contacted lawyers, as that seemed to be the most logical step. Every professional I consulted appeared to have a vested interest, making it impossible to get objective guidance. Some lawyers even shared extremely frightening and convoluted stories that appeared to be embedding fearful thoughts - and I later reflected that these may be designed to substantiate fees double those of competitors. Clinics provided no clear answers and also provided lack of clear local information and what information they did provide used scare tactics about how difficult surrogacy might be in Australia. I was told repeated information based on stereotypical and stigmatised fears, worst case scenarios and outright failures. When coping with personal loss of fertility and the grief associated with pregnancy loss - this added negatively biased information was extremely disheartening.

Hospital System Failures

Despite extensive advocacy work to establish hospital policies for our birth:

- The hospital still had no official surrogacy policy, requiring us to advocate from scratch
- Even after developing agreed procedures, the nursing staff on duty ignored the plans and made arbitrary decisions in opposition to our negotiated needs
- I was initially placed in a room with bedpans and equipment rather than the birthing room we had arranged and paid for
- Nearly 10 years later, most hospitals still operate on an ad-hoc basis, requiring each couple to advocate independently at the time of the pregnancy

Critical example: Many hospitals only allow one person in caesarean sections, meaning one intended parent may be excluded from their child's birth due to lack of clear policies.

Legal Vulnerabilities

A major gap exists regarding relationship breakdown between intended parents before parenting orders are complete:

- As the non-biological parent, I was legally vulnerable for approximately 6 months while waiting for parenting orders
- When my relationship with my husband declined after birth, I was terrified I might not become my daughter's legal parent
- Neither legal professionals nor counsellors had discussed this risk or provided guidance about this scenario
- This represents a significant unaddressed vulnerability that could affect many families

Support System Failures During Crisis

When my surrogate experienced multiple miscarriages (three total), our support systems completely failed:

- After the third miscarriage, the social support system found it hard to cope
- The rarity of multiple miscarriages meant we were excluded from support systems that would typically be available for pregnancy loss

This experience was emotionally devastating and highlighted how surrogacy arrangements lack adequate support systems for complex scenarios. Miscarriages happen within the process of IVF procedures, yet these have additional social and psychological burdens when in the context of surrogacy. These are unique relationships - as an intended parent I was supporting my surrogate while also within the grips of grief myself.

Financial Burden

The costs were substantial and ongoing, with no clear guidelines available about anticipated expenses for IVF cycles, legal fees, counselling, and other requirements. The lack of Medicare benefits added approximately $50,000 to our overall costs due to multiple failed IVF cycles and unexpected costs associated with miscarriages.

What Could Be Improved

Clear Legal Framework and Information

1. **Transparent eligibility criteria**: Publish clear definitions of "medical necessity" and other qualification requirements with scope to allow more
2. **Standardised information resources**: Create comprehensive, independent guides covering step-by-step processes, costs, and timelines
3. **Legal fee regulation**: Address inflated legal charges and fear-based marketing practices

Hospital System Reform

4. **Mandatory surrogacy policies**: Require all hospitals to have clear, written policies for surrogacy births that are developed in conjunction with community groups to ensure they are effective
5. **Staff training**: Ensure all relevant hospital staff understand and follow surrogacy protocols
6. **Policy consistency**: Develop standardised approaches across hospitals to prevent ad-hoc decision-making

Legal Process Improvements

7. **Expedited parenting orders**: Streamline the legal parentage process to reduce the vulnerable period for non-biological parents
8. **Relationship breakdown protections**: Develop clear protections and procedures for when intended parent relationships deteriorate before parenting orders are complete
9. **Mandatory counselling**: Include discussion of relationship risks and legal vulnerabilities in required counselling

Enhanced Support Systems

10. **Comprehensive pregnancy loss support**: Develop specific support pathways for pregnancy loss in surrogacy arrangements
11. **Crisis intervention resources**: Create specialised support for complex scenarios like multiple miscarriages
12. **Peer support networks**: Facilitate ongoing community support that doesn't withdraw during difficulties

Information and Lactation Support

13. **Lactation resources**: Provide accessible information and expert support for intended parents wishing to breastfeed
14. **Medical coordination**: Ensure better communication between specialists to support intended parent health needs

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Barriers Due to Personal Characteristics

I did not experience barriers due to personal characteristics such as sexual orientation or cultural background. However, through my community work, I have observed that these barriers do exist for others in the LGBTIQA+ community and for people from culturally diverse backgrounds, particularly around:

- Access to information in languages other than English
- Cultural sensitivity in medical and legal settings
- State-specific eligibility restrictions that discriminate against same-sex couples

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Question 2: What reform principles should guide this Inquiry?

Care Ethics as the Foundational Principle for Australian Surrogacy Reform

Australia should ground its surrogacy law reform in **feminist care ethics** principles, not because this represents a theoretical ideal, but because this approach has already proven successful through 14 years of community practice at Egg Donation Australia and similar organisations.

Care Ethics: Theory and Practice

Care ethics, as developed by scholars like Nel Noddings, Joan Tronto, and Virginia Held, emphasises:

- **Contextual responsiveness** over universal rules
- **Relationship preservation** over efficiency
- **Interdependence** rather than individual autonomy
- **Responsibility and attentiveness** to ongoing needs
- **Prevention of commodification** of human relationships

These principles offer clear benefits as a policy foundation:

- They prioritise long-term wellbeing over short-term efficiency
- They prevent the commodification of reproductive relationships
- They centre the needs of all parties, particularly children
- They build sustainable support systems rather than transactional exchanges

Evidence: Care Ethics Already Underpins Australia's Most Successful Model

Egg Donation Australia has been implementing feminist care ethics principles for 14 years, caring for people in a person-centred, highly relational, deeply communal manner that builds communities and places families within strong and interconnected support structures. These supports, in many cases, have become lifelong and ongoing.

From my personal experience: The relationship with my surrogate became one of the most powerful relationships of my life. The process of doing surrogacy together galvanised our friendship and generated an intense love and trust. I feel forever grateful for her, and our relationship remains strong to this day. My child proudly shares her surrogacy conception story, and this relationship with her surrogate is normalised within her life, benefiting her identity development.

This extends beyond individual relationships. I am part of a cohort that experienced infertility journeys together. We now connect on parenting journeys, talk about the needs of our children, and share solidarity in how we help our children speak of their own conception stories. The children within our cohort of 17 "diblings" (donor siblings) or "cousins" - other surrogate children born from our interconnected network of parents and children - all connect

with one another in a matrix of support from the framework we provide. This is indeed care ethics operating with responsive capacity for ongoing needs.

Contrast with Commercial/Transactional Models

This care ethics approach stands in stark contrast to the stories we have heard from some children in the donor conception community who have not been told their conception history, or whose parents were still unsupported in their experience of shame or stigma and did not adequately provide their children with their conception story. An ongoing care structure benefits the children as well as the parents, as the parents do not impart shame or stigma onto the story of the child born from surrogacy.

Commercial models actively work against care ethics. We have observed the fertility industry's attempt to mirror our community name through commercially focused websites (e.g. EggDonorSAustralia as compared to ours, EggDonationAustralia), and their creation of egg banks that remove the relational component of peer-to-peer donation. This removal of the "messy" relational part of egg donation and surrogacy is a response to the hardest but perhaps most important aspect of surrogacy dynamics - the relationship.

Commercial models aim to reduce relational challenges by creating motivating factors with money, allowing commercial interests to remove the relational aspects of conception and commodify an entire humanistic and relational process. While we understand the drive toward that efficiency, we believe it is driven by concerns that have not received enough research or attention, such as what relationships require to succeed in a non-commercial setting.

Additional Reform Principles

Building on care ethics as the foundation, the following principles should guide reform:

1. Community Expertise Recognition

Recognise that relationships have successfully underpinned more than half of donor conception and surrogacy births in Australia due to the unpaid labour of passionate volunteers. Policy should support and protect these community-based models rather than allowing their co-optation by commercial interests.

2. Child-Centred Lifelong Perspective

Reform should prioritise what serves children's long-term identity development and wellbeing over what serves adult convenience or commercial efficiency. The story that commercial surrogacy generates for children is completely different from the lifelong, normalised relationships possible through care ethics approaches.

3. Relational Success Metrics

Success should be measured not by efficiency or pure cost-effectiveness, but by how well the arrangements support whatever relationship goals the parties devise for themselves. This includes those who wish to maintain lifelong connections as well as those who prefer more limited ongoing contact. The focus should be on the quality of support provided to

achieve their chosen relationship dynamic, the wellbeing of all parties over time, and the positive identity formation of children born through surrogacy.

4. Evidence-Based Humanistic Approach

At Egg Donation Australia, we have embedded human-centric, humanistic and deeply relational models of peer-based counselling and care, and as a result have supported year-on-year surrogacy journeys. Policy should be informed by this evidence of what we have seen work, in addition to theoretical models and in conjunction with the needs represented in commercial imperatives.

5. Prevention of Commodification

Laws should actively prevent the commodification of reproductive relationships while allowing appropriate recognition of surrogates' contributions. This requires careful attention to how potential *compensation models* can maintain care ethics principles.

6. Accessibility Through Community

True accessibility comes not just from reducing financial barriers, but from creating supportive communities that provide ongoing care throughout the journey and beyond. This includes recognising and funding the essential work of peer support organisations.

Implementation Framework

Consultation with Lived Experience: Any reform must involve extensive consultation with community organisations that have demonstrated success, using "nothing about us, without us" principles.

Protection of Volunteer Infrastructure: Policy should protect and support the volunteer infrastructure that has made Australia's altruistic model successful, rather than allowing its displacement by commercial alternatives.

Research Support: There is urgent need for research into what relationships require to succeed in non-commercial settings, and development of biopsychosocial success metrics for surrogacy outcomes across all parties.

Care Ethics Training: Professional education should incorporate care ethics principles, ensuring that lawyers, counsellors, and medical professionals understand their role in supporting relationships rather than simply facilitating transactions.

Conclusion

Australia has the opportunity to be a global leader in ethical reproductive medicine by formally adopting care ethics as the foundation for surrogacy reform. This is not a theoretical proposition - it is recognition and protection of what has already been proven to work through 14 years of community practice. The evidence exists in the powerful relationships formed, the children who proudly share their conception stories, and the ongoing support networks that continue long after birth.

Reform should build on this foundation rather than abandon it for commercially driven alternatives that prioritise efficiency over relationships and transactions over care.

Question 5: Main Barriers That Prevent People from Entering Surrogacy Arrangements in Australia

Based on my personal experience as an intended parent and my work with Medicareless (gathering case studies from hundreds of families) and ongoing community support through donor conception communities and Egg Donation Australia, I identify the following key barriers:

1. Financial Barriers - The Most Significant Obstacle

Medicare Exclusion: The lack of Medicare benefits for surrogacy represents the single largest financial barrier. In my own case, this added approximately $50,000 to our overall costs due to multiple failed IVF cycles and unexpected costs associated with miscarriages. I reached a point where I stopped counting the money, telling myself "I won't give up on something I think about every single day."

Unpredictable and Substantial Costs: Beyond the Medicare gap, families face:

- Unpredictable legal fees (often inflated through fear-based marketing)
- Multiple IVF cycle costs when attempts fail
- Unexpected medical costs during pregnancy complications
- Counselling fees for services that often lack surrogacy expertise

The financial burden is particularly devastating for families already dealing with the emotional trauma of infertility or medical conditions that prevent pregnancy.

2. Professional Service Gaps

Inadequate Counselling Support: There is a critical shortage of counsellors with genuine expertise in surrogacy. During our journey, I found that counsellors lacked understanding of surrogacy processes, essentially requiring me to educate them while I was seeking support. This led me to become a sexologist and psychotherapist myself to address this gap.

Lack of Independent Information: As detailed in my response to Question 1, there are virtually no independent resources explaining the process, costs, legal requirements, or what constitutes medical necessity.

3. The Emotional and Social Burden

The surrogacy journey becomes what I can only describe as "obsessive, strange, and secret":

- **Obsessive** because the level of intensity required to navigate the system and ensure success demands complete focus
- **Strange** because the experience is so far from average that it's impossible for others in your everyday life to understand what you're doing
- **Secret** because it requires enormous emotional labor to constantly educate everyone around you when you're already going through profound trauma yourself

This isolation compounds the already significant emotional challenges of infertility and medical complications.

4. Barriers for Specific Medical Groups

People with legitimate medical need for surrogacy face particular challenges:

- Those born without wombs
- MTHFR gene carriers
- Cancer survivors who cannot safely carry pregnancies
- People who have experienced recurrent miscarriage and pregnancy loss

These groups often struggle with unclear "medical necessity" criteria and lack of specialized support for their specific circumstances.

5. Structural Barriers for LGBTIQA+ People

Same-sex men face compounded barriers:

- Eligibility restrictions in some states (e.g., Western Australia)
- Lack of targeted support services that understand their specific journey
- Additional legal complexities around parentage
- Social and cultural barriers within some medical and legal settings

6. Legal Uncertainty and Fear of Investigation

The undefined boundaries around what constitutes "commercial" surrogacy create constant anxiety during the pregnancy. At the very time when intended parents most want to ensure the comfort and wellbeing of their surrogate, they face stress about whether simple acts of care - buying maternity bras, arranging massage therapy, or booking a weekend getaway for relaxation - might trigger an investigation for commercial surrogacy.

This legal uncertainty prevents intended parents from doing things they would naturally do if they were pregnant themselves, creating artificial barriers to supporting the person carrying their child and potentially harming the very relationships that should be nurtured during surrogacy.

7. Shortage of Available Surrogates

I was incredibly fortunate to find my surrogate, but many others face extended waiting periods to find a suitable match. This shortage is exacerbated by restrictive eligibility requirements and the overall complexity of the system.

8. Support System Failures

There is a critical gap in formal support systems, which is being filled by volunteer organisations like Egg Donation Australia through:

- Hundreds of hours of unpaid peer counselling
- Support for bereaved families whose "bodies fail" in pregnancy
- Safe spaces to share experiences that are incomprehensible to most people

The burden of this "unseen labour" falls on volunteers and those who have lived experience, rather than being supported by adequate professional services or government systems.

How These Barriers Could Be Overcome

1. Financial Accessibility

- **Medicare Coverage**: Extend Medicare benefits to cover IVF cycles in surrogacy arrangements, particularly for medically necessary cases
- **Clear Cost Guidelines**: Publish standardized fee schedules for legal services, counselling, and medical procedures
- **Regulated Legal Fees**: Address inflated legal charges and fear-based marketing practices in the legal profession

2. Professional Service Development

- **Specialist Training**: Mandate specialised training for counsellors, lawyers, and medical professionals working in surrogacy
- **Independent Information Resources**: Create comprehensive, government-funded information guides covering all aspects of the process
- **Quality Standards**: Establish professional standards and accreditation for surrogacy service providers

3. Structural Support for Community Organizations

- **Funding for Peer Support**: Provide government funding to organizations like Egg Donation Australia that provide crucial peer support and counselling
- **Recognition of Community Expertise**: Formally recognize and support the expertise developed within these communities
- **Specialised Services**: Develop targeted support services for different groups (LGBTIQA+ families, specific medical conditions, etc.)

4. Legal and System Reform

- **Clear Commercial Surrogacy Guidelines**: Publish specific guidance on what constitutes commercial surrogacy vs. appropriate support and care
- **Expedited Legal Processes**: Streamline parentage applications to reduce the vulnerable period for families
- **National Harmonisation**: Create consistent laws across all Australian jurisdictions

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Question 10: Process Requirements for Surrogacy Arrangements

Based on my personal experience navigating surrogacy in 2015 and subsequent work becoming a sexologist and psychotherapist due to the inadequate professional services I encountered, I believe significant reform is needed in process requirements.

a) Post-Birth Counselling Should Be Available

Yes, post-birth counselling should be available, but it must be genuinely therapeutic rather than administrative. My experience highlighted several critical gaps:

Duration and Accessibility

Post-birth counselling should be available for at least the first 12 months after birth, covering:

- The legal vulnerability period (in my case, 6 months as the non-biological parent waiting for parentage orders)
- Relationship transitions between intended parents and surrogates
- Integration challenges for new families
- Support for surrogates in their post-birth recovery and transition

Professional Diversity and Expertise

The current system's reliance on generic counsellors is inadequate. Available professionals should include:

- **Psychologists** with surrogacy specialisation
- **Psychotherapists** who understand the complex relationship dynamics
- **Sexologists** who can address all aspects of human relationships including societal expectations, intimacy and reproductive health issues
- **Peer support coordinators** with lived experience

This diversity is essential because different families have different needs, and surrogacy involves complex medical, legal, emotional, and relational factors that no single professional type can fully address.

b) Consequences of Inadequate Pre-Arrangement Counselling

The current system allows superficial compliance that fails families. In my experience, the IVF clinic counsellor provided what was essentially an administrative exercise - ticking boxes rather than genuine psychological preparation. In contrast, the psychologist I worked with provided valuable support, demonstrating that professional quality varies dramatically.

What Should Happen When Counselling is Inadequate:

- **Arrangements should not be invalidated** retrospectively, as this could harm children and families
- **Additional counselling requirements** should be available for those who received inadequate initial support
- **Right to additional support** during legal processes if initial counselling was insufficient
- **No penalties for families** who received poor professional services through no fault of their own

Prevention Through Professional Standards:

Rather than punishing families for inadequate services, the system should prevent poor counselling through proper professional standards.

c) Proof Requirements for Parentage Applications

Yes, parentage applications should require proof of quality counselling and legal advice, but the emphasis must be on quality, not mere attendance.

Evidence of Quality, Not Just Compliance:

- Documentation that counselling addressed specific surrogacy issues, not generic fertility counselling
- Evidence that legal advice covered vulnerabilities (such as the legal gap period I experienced)
- Confirmation that professionals had appropriate surrogacy expertise
- Assessment that parties understood key risks and processes

Essential Professional Standards for All Surrogacy Counselling

1. Mandatory Specialisation Requirements

All professionals providing surrogacy counselling should have:

- Specific training in surrogacy law, psychology, and relationship dynamics
- Understanding of the unique challenges faced by different family types (LGBTIQA+, single parents, etc.)
- Knowledge of medical aspects of surrogacy and fertility treatment
- Ongoing professional development in surrogacy practice

2. Preference for Lived Experience

Where possible, counselling should be provided by professionals who have personal experience with surrogacy, either as intended parents, surrogates, or children born through surrogacy. This lived experience provides insight that cannot be gained through theoretical training alone.

3. Structured Curriculum Requirements

All surrogacy counselling should address:

- Legal vulnerabilities and the parentage process
- Relationship dynamics and ongoing connection planning
- Crisis management (pregnancy loss, relationship breakdown)
- Financial planning and commercial surrogacy boundaries
- Support systems and community resources

The current administrative approach to counselling fails families during one of the most vulnerable periods of their lives. Reform should focus on creating genuine therapeutic support that prepares families for the realities of surrogacy rather than simply fulfilling legal requirements.

Questions 16 & 17: Compensated Surrogacy

Question 16: Do you support compensated surrogacy?

Yes, I strongly support compensated surrogacy based on both my personal experience and community work speaking with hundreds of families through my Medicareless advocacy work (which brought 10,000 signatures to parliament) and donor conception communities.

Reasons for Supporting Compensated Surrogacy

Cost Certainty and Predictability: The current system's lack of clear financial frameworks created enormous stress during my journey. The unpredictable costs - including the $50,000 in additional expenses due to Medicare exclusions and multiple failed cycles - make surrogacy financially inaccessible for many families. A compensated model would provide certainty for both intended parents and surrogates about financial expectations.

Legal Clarity and Relationship Protection: Under the current system, I experienced constant anxiety about whether simple acts of care for my surrogate - buying maternity bras, arranging massage therapy, or booking relaxation weekends - might trigger investigations for "commercial" surrogacy. This legal uncertainty prevents intended parents from naturally supporting the person carrying their child, potentially harming the very relationships that should be nurtured during surrogacy.

Recognition of Surrogates' Contribution: The current "reasonable expenses" model inadequately recognises the enormous physical, emotional, and time commitment surrogates make. Compensation would better acknowledge their unique contribution while maintaining the altruistic foundation of surrogacy relationships.

Increased Domestic Availability: From my community work speaking with hundreds of families, it's clear that the limited number of available surrogates is a major barrier to domestic surrogacy. Fair compensation could increase the pool of available surrogates while maintaining ethical standards, reducing the number of Australians seeking commercial surrogacy overseas where protections may be inadequate.

Ethical Framework: A regulated compensated model would be more ethical than the current system, which either forces families overseas to less regulated markets or creates underground arrangements that lack proper oversight.

Question 17: How could compensated surrogacy be implemented?

Based on my experience navigating the current system's uncertainties and gathering insights from hundreds of families through my Medicareless advocacy work (which brought 10,000 signatures to parliament), I propose the following implementation framework:

Payment Structure and Process

Trust-Based Monthly Payments: Compensation should be held in trust and released on a monthly basis throughout the pregnancy. This approach would:

- Provide security for surrogates with regular, predictable income
- Protect intended parents from financial risk if arrangements don't proceed as planned
- Allow for proper financial planning by both parties
- Enable insurance coverage against complications or unforeseen circumstances

Setting Compensation Amounts

Research-Informed Government Framework: Compensation amounts should be set by government bodies, informed by:

- **Professional associations** (medical, legal, counseling professionals)
- **Independent community organisations** such as Egg Donation Australia and similar groups with direct experience
- **Comprehensive research** including focus groups with surrogates, intended parents, and children born through surrogacy
- **Regular review processes** to ensure amounts remain fair and current

This approach ensures that compensation levels represent the genuine needs and perspectives of all those involved, rather than being arbitrary or market-driven.

Compensation Calculation

Base Compensation Plus Variables: The framework should include:

- A base compensation amount acknowledging the time, physical commitment, and risk involved
- Additional compensation for complications or extended medical care
- Clear guidelines about what expenses remain separately reimbursable
- Consideration of regional cost-of-living differences across Australia

Benefits of This Approach

Attracting Surrogates Without Exploitation: This model would:

- Attract more surrogates by providing fair recognition of their contribution

- Maintain the altruistic spirit of surrogacy relationships
- Prevent exploitation through regulated, research-based compensation levels
- Ensure surrogates are not financially disadvantaged by their generosity

Fairness to All Parties: The approach balances the needs of:

- **Intended parents**: Providing cost certainty and legal clarity
- **Surrogates**: Ensuring fair compensation and financial security
- **Children**: Maintaining ethical frameworks that prioritize their interests
- **Society**: Creating transparent, regulated arrangements that reduce reliance on overseas commercial surrogacy

Safeguards and Oversight

Insurance and Protection: The trust-based system should include:

- Insurance options to protect against pregnancy complications
- Clear dispute resolution mechanisms
- Oversight to ensure compensation doesn't become exploitative
- Regular review of compensation levels based on outcomes and community feedback

Research and Continuous Improvement

Evidence-Based Development: Implementation should include:

- Pilot programs to test different compensation models
- Ongoing research with all stakeholders including children born through surrogacy
- Regular community consultation to ensure the system meets evolving needs
- International comparative analysis to learn from other jurisdictions

This compensated model would address the major barriers I identified in Question 5, particularly around cost unpredictability, legal uncertainty, and the shortage of available surrogates, while maintaining strong ethical standards and protecting all parties involved in surrogacy arrangements.

Conclusion

The current surrogacy system in Australia creates unnecessary barriers, trauma, and discrimination for families seeking to build their families through this legitimate reproductive pathway. My personal experience and advocacy work with hundreds of families demonstrates that systemic reform is urgently needed.

The key reforms I advocate for are:

1. **Financial accessibility** through Medicare coverage and clear cost frameworks
2. **Professional service standards** with mandatory specialization and lived experience preferences

3. **Legal clarity** around commercial surrogacy boundaries and expedited parentage processes
4. **Compensated surrogacy model** providing certainty and fair recognition for all parties
5. **Care ethics foundation** recognizing and supporting the successful community-based models that already exist

Australia has the opportunity to become a global leader in ethical reproductive medicine by building on the successful care ethics approaches already demonstrated through organisations like Egg Donation Australia, rather than abandoning these proven models for commercially driven alternatives.

The evidence is clear: relationships work. Community support works. Care ethics approaches work. What's needed is not replacement of these successful models, but their recognition, protection, and scaling through appropriate government support and policy frameworks.

The children born through surrogacy in Australia deserve systems that prioritize their long-term wellbeing through strong, ongoing relationships and community support. The intended parents and surrogates who make these families possible deserve clear, supportive legal frameworks that protect their contributions and relationships rather than creating unnecessary stress and uncertainty.

Most importantly, the hundreds of families who continue to navigate this system each year deserve better than the current ad-hoc, barrier-filled approach that forces them to become advocates for systemic change during the most vulnerable periods of their lives.

Reform is not just desirable - it is urgent and essential for creating the equitable, ethical, and effective surrogacy system that Australian families deserve.

Positive Experiences

Powerful Relationships

The relationship with my surrogate became one of the most powerful relationships of my life. The process of doing surrogacy together galvanised our friendship and generated an intense love and trust. I feel forever grateful for her, and our relationship remains strong to this day.

Successful Medical Advocacy

My obstetrician was an incredible advocate. When the hospital initially refused to allow me to breastfeed (against policy), he told them he would leave the hospital if they didn't accommodate this request. His support was pivotal in ensuring I could breastfeed my daughter.

Successful Outcome

Despite significant challenges, my daughter was born strong and healthy. I successfully induced lactation and was able to breastfeed her (after finding expert advice from a specialist in the USA, as no local information was available).

Community Building

My difficult experience led me to create information resources that have helped thousands of others navigate the system more smoothly, ultimately contributing to systemic advocacy through Medicareless.

Negative Experiences

Information Vacuum and Conflicts of Interest

The most significant barrier was the complete lack of independent, accessible information about:

- What constituted "medical necessity" for surrogacy (I had constant fear I might not "qualify" or would "fail")
- Step-by-step process requirements and their associated costs
- Legal requirements and procedures
- Counselling requirements and costs
- Ethics approval processes at IVF clinics

Every professional I consulted had a vested interest, making it impossible to get objective guidance. Lawyers told convoluted stories that seemed designed to justify inflated charges - some used fear tactics to substantiate fees double those of competitors. Clinics provided no clear answers and used scare tactics about how difficult surrogacy might be in Australia.

Hospital System Failures

Despite extensive advocacy work to establish hospital policies for our birth:

- The hospital still had no official surrogacy policy, requiring us to advocate from scratch
- Even after developing agreed procedures, the nursing staff on duty ignored the plans and made arbitrary decisions
- I was initially placed in a room with bedpans and equipment rather than the birthing room we had arranged
- Nearly 10 years later, most hospitals still operate on an ad-hoc basis, requiring each couple to advocate independently

Critical example: Many hospitals only allow one person in caesarean sections, meaning one intended parent may be excluded from their child's birth due to lack of clear policies.

Legal Vulnerabilities

A major gap exists regarding relationship breakdown between intended parents before parenting orders are complete:

- As the non-biological parent, I was legally vulnerable for approximately 6 months while waiting for parenting orders
- When my relationship with my husband declined after birth, I was terrified I might not become my daughter's legal parent
- Neither legal professionals nor counsellors had discussed this risk or provided guidance about this scenario
- This represents a significant unaddressed vulnerability that could affect many families

Support System Failures During Crisis

When my surrogate experienced multiple miscarriages (three total), support systems completely failed:

- After the third miscarriage, all support from social networks dried up
- People began questioning both me and my surrogate, suggesting we should stop
- We withdrew from social networks due to the judgment
- The rarity of multiple miscarriages meant we were excluded from support systems that would typically be available for pregnancy loss

This experience was emotionally devastating and highlighted how surrogacy arrangements lack adequate support systems for complex scenarios.

Financial Burden

The costs were substantial and ongoing, with no clear guidelines available about anticipated expenses for IVF cycles, legal fees, counselling, and other requirements. The lack of Medicare benefits added approximately $50,000 to our overall costs due to multiple failed IVF cycles and unexpected costs associated with miscarriages.

What Could Be Improved

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2. **Standardised information resources**: Create comprehensive, independent guides covering step-by-step processes, costs, and timelines
3. **Legal fee regulation**: Address inflated legal charges and fear-based marketing practices

Hospital System Reform

4. **Mandatory surrogacy policies**: Require all hospitals to have clear, written policies for surrogacy births

5. **Staff training**: Ensure all relevant hospital staff understand and follow surrogacy protocols
6. **Policy consistency**: Develop standardised approaches across hospitals to prevent ad-hoc decision-making

Legal Process Improvements

7. **Expedited parenting orders**: Streamline the legal parentage process to reduce the vulnerable period for non-biological parents
8. **Relationship breakdown protections**: Develop clear protections and procedures for when intended parent relationships deteriorate before parenting orders are complete
9. **Mandatory counselling**: Include discussion of relationship risks and legal vulnerabilities in required counselling

Enhanced Support Systems

10. **Comprehensive pregnancy loss support**: Develop specific support pathways for pregnancy loss in surrogacy arrangements
11. **Crisis intervention resources**: Create specialised support for complex scenarios like multiple miscarriages
12. **Peer support networks**: Facilitate ongoing community support that doesn't withdraw during difficulties

Information and Lactation Support

13. **Lactation resources**: Provide accessible information and expert support for intended parents wishing to breastfeed
14. **Medical coordination**: Ensure better communication between specialists to support intended parent health needs

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Barriers Due to Personal Characteristics

I did not experience barriers due to personal characteristics such as sexual orientation or cultural background. However, through my community work, I have observed that these barriers do exist for others in the LGBTIQA+ community and for people from culturally diverse backgrounds, particularly around:

- Access to information in languages other than English
- Cultural sensitivity in medical and legal settings
- State-specific eligibility restrictions that discriminate against same-sex couples