

Surrogacy reform submission – [REDACTED]

Thank you for initiating this long-overdue reform inquiry. It is both much needed and deeply appreciated, as it has the potential to profoundly impact the lives of many people. I hope this process leads to positive changes in terms of equality and accessibility, and that it establishes a not-for-profit governing body dedicated to protecting the rights and wellbeing of all parties involved in surrogacy.

Question 1:

I have been a domestic surrogate on two occasions. My first journey was with known heterosexual intended parents (IPs), and the second was with a previously unknown same-sex male couple who I now regard as family. These experiences have provided me with deep insight into the surrogacy process, as well as the broader legal and ethical landscape surrounding it.

I am both saddened and shocked by the current legal restrictions in Western Australia, which prohibit male same-sex couples from accessing surrogacy. This exclusion is deeply concerning and runs counter to principles of equality and family diversity.

Positive Aspects of My Surrogacy Experience:

- The strong and lasting bonds I formed with both sets of IPs.
- The opportunity to contribute meaningfully to the lives of others by helping them build a family.
- The sense of community and connection that emerged through the process.
- The ability to demonstrate altruism and compassion to my children through a selfless act.

Negative Aspects of My Experience:

- Concerns regarding the conduct of certain legal professionals, namely [REDACTED] and [REDACTED], who appear to exert undue influence within vulnerable segments of the surrogacy community.
- The creation of exclusive support networks—both online and in-person—that limit the accessibility of diverse legal advice for those seeking surrogacy services due to dictatorship style used by those creating the network (named above).

Recommendations for Improvement:

- **National Consistency in Surrogacy Legislation:** The surrogacy process should be unified and consistent across Australia. The current state-by-state legislative differences create confusion, inequity, and barriers for intended parents and surrogates. A national framework would ensure equal access, streamline the process, and uphold uniform standards of care and legal protection.
- **Implementation of stricter regulations and oversight** concerning how legal professionals engage with vulnerable communities outside of formal legal settings.
- **Greater transparency and choice in legal representation** to ensure intended parents and surrogates are not subjected to monopolized or biased legal guidance.

Question 2 -

Reform of surrogacy laws in Australia must be guided by principles grounded in human rights, equality, and national consistency, in alignment with Australia's international legal obligations.

1. Human Rights as a Foundational Principle

The rights of all parties involved in surrogacy—children, surrogates, and intended parents—must be safeguarded. This includes:

- Children's rights, particularly their right to identity, to be raised in a safe and loving family, and to be free from discrimination. Legal frameworks must ensure that children born through surrogacy are not treated differently or unfairly due to the method of their conception.
- Surrogates' rights, including autonomy, bodily integrity, informed consent, and freedom from exploitation. Surrogates must be empowered with full agency over their decisions, and supported with clear legal protections and ethical oversight.
- Intended parents' rights, especially the right to form a family free from discrimination. Excluding individuals or couples—such as same-sex male couples—from surrogacy solely on the basis of sexual orientation is a clear violation of these rights.

2. National Consistency Across Australia

Currently, surrogacy laws vary significantly by state and territory, leading to unequal access and legal confusion. A national, unified surrogacy framework is critical to ensure that:

- All individuals, regardless of location, have equitable access to domestic surrogacy.
- The rights of children and families are uniformly protected across jurisdictions.
- Intended parents are not driven to pursue international surrogacy arrangements, which may lack transparency, pose legal risks, and limit children's access to identity and medical history.

3. Stronger Regulation and Oversight of Legal Professionals

It is imperative that legal professionals involved in surrogacy act with transparency, impartiality, and without exploiting vulnerable members of the community. Stricter regulations on professional conduct outside formal legal work—particularly in online and informal community settings—should be introduced to prevent conflicts of interest and ensure that surrogates and intended parents can access diverse, independent legal advice.

4. Protection from Discrimination and Exploitation

The Inquiry must ensure that surrogacy law reform protects against all forms of discrimination—whether based on gender, sexuality, disability, or socioeconomic status. Likewise, safeguards must be implemented to prevent the exploitation of surrogates, particularly in situations where power imbalances exist or where financial or emotional vulnerability may influence decision-making.

In summary, surrogacy law reform must be rights-based, nationally harmonised, inclusive, and ethically regulated to ensure the protection and dignity of everyone involved in the process—especially the children whose lives are shaped by these laws.

Question 3 –

Surrogacy arrangements, both domestic and international, engage a range of fundamental human rights. Ensuring these rights are upheld equally for children, surrogates, and intended parents is essential to creating an ethical, inclusive, and legally sound surrogacy framework in Australia.

1. Discrimination and Inequality of Access

Issue:

One of the most pressing human rights concerns is the discrimination embedded in current domestic surrogacy laws. For example, in Western Australia, male same-sex couples and single men are prohibited from accessing surrogacy arrangements. This denies individuals the right to found a family on equal terms and is inconsistent with Australia's obligations under the International Covenant on Civil and Political Rights and other anti-discrimination treaties.

Recommendation:

Surrogacy law must be reformed to eliminate discriminatory eligibility criteria across all states and territories. A nationally consistent framework that allows equal access to all, regardless of sexual orientation, gender identity, relationship status, or disability, is critical.

2. Children's Rights and Legal Parentage

Issue:

Children born through surrogacy have the right to identity, nationality, legal recognition of their family, and protection from discrimination. In some jurisdictions, there are delays or barriers to establishing legal parentage for intended parents, especially when the surrogacy occurs overseas. This risks violating the child's right to be recognised and cared for by their social and intended family from birth.

Recommendation:

Legal parentage processes should be simplified, timely, and consistent across Australia. Clear laws recognising intended parents at or shortly after birth—without requiring unnecessary court involvement—would better reflect the child's lived reality and uphold their rights.

3. Surrogates' Autonomy and Protection from Exploitation

Issue:

Surrogates must be free to make fully informed, autonomous decisions about their participation in a surrogacy arrangement. However, in some informal or under-regulated contexts—especially internationally—there are risks of coercion, misinformation, or financial exploitation, particularly when women are from lower socio-economic backgrounds.

Recommendation:

- Strong, transparent regulation must be in place for all surrogacy arrangements, with particular safeguards against coercion or pressure.
- Surrogates should have the right to independent legal advice, psychological support, and informed consent at every stage.
- Greater oversight should be applied to ensure surrogates are never treated as a means to an end, but as individuals whose health, choices, and dignity must be prioritised.

4. Lack of National Oversight and Inconsistent Protections

Issue:

The current state-based system results in confusion, legal uncertainty, and inequality in how rights are protected. This creates barriers for all parties, but particularly for vulnerable or marginalised individuals.

Recommendation:

- Australia must adopt a harmonised national approach to surrogacy regulation, guided by human rights principles.
- An independent oversight body could be established to ensure best practices, accountability, and access to support services.

To ensure surrogacy is ethical and rights-respecting in both domestic and international contexts, reform must focus on eliminating discrimination, ensuring the rights and wellbeing of children, protecting surrogates' autonomy and dignity, and harmonising laws across jurisdictions. A national framework rooted in Australia's human rights obligations will provide clarity, fairness, and protection for everyone involved in the surrogacy journey.

Question 4 -

Children born through surrogacy have a fundamental right to understand the circumstances of their birth, consistent with their right to identity, privacy, and family as recognised under international human rights instruments such as the Convention on the Rights of the Child.

Information to Which Children Should Have Access

- **Accurate and Age-Appropriate Information:** Children should have access to truthful, clear, and developmentally appropriate information about their birth circumstances, including the identity of the surrogate and intended parents, the nature of the surrogacy arrangement, and relevant medical or genetic information.
- **Legal Status and Parentage:** Children should be informed about their legal parentage and any relevant legal processes that established their family relationships.
- **Birth Records and Registries:** Surrogacy arrangements should be transparently recorded in birth certificates or official registries, reflecting both the child's intended and genetic origins where appropriate, to preserve their right to identity.

How This Information Should Be Provided or Facilitated

- **Legislative Recognition:** Laws should require that birth certificates or associated documents include information about the surrogacy arrangement, with sensitivity to privacy and the child's best interests.
- **Access to Records:** Children should have the right to access birth records and relevant information through births, deaths, and marriages registries or designated agencies, ideally once they reach an appropriate age.
- **Support Services:** Counselling and support should be made available to help children understand and process information about their birth, ensuring their emotional wellbeing is prioritised.

- **Consistent National Framework:** A nationally harmonised approach should ensure that information rights are consistent regardless of where in Australia a child is born through surrogacy, or whether the surrogacy occurred domestically or internationally.

Providing children born through surrogacy with comprehensive, accessible, and supportive information about their birth is essential to respecting their human rights and supporting their identity development. A transparent, compassionate, and nationally consistent system for recording and sharing this information should be established, aligned with Australia's human rights obligations.

Question 5 -

Barriers to Entering Surrogacy Arrangements in Australia and Potential Solutions

The main barriers preventing people from entering surrogacy arrangements in Australia arise largely from inconsistent and restrictive eligibility requirements, systemic issues, and socio-cultural factors that disproportionately affect certain groups.

Key Barriers

1. **Restrictive Eligibility Criteria**
 - In some jurisdictions, such as Western Australia, laws explicitly exclude certain groups from accessing surrogacy, notably same-sex couples and single men. This legal discrimination prevents equal access to surrogacy for LGBTIQ+ individuals.
 - Eligibility requirements differ widely across states and territories, leading to confusion and inequity. For example, variations exist regarding what constitutes a valid 'medical reason' for surrogacy, minimum age limits for surrogates and intended parents (ranging from 18 to 25), and citizenship or residency prerequisites.
 - Certain criteria, such as the requirement that a surrogate must have previously given birth, reduce the pool of available surrogates, further limiting opportunities.
2. **Systemic and Practical Barriers**
 - There is a general shortage of surrogates in Australia, which lengthens waiting times and increases the complexity of finding suitable arrangements.
 - The surrogacy process is often perceived as lengthy, complicated, and emotionally taxing, which may deter prospective intended parents, particularly those who are financially disadvantaged or from culturally and linguistically diverse backgrounds.
3. **Disproportionate Impact on Vulnerable Groups**
 - LGBTIQ+ people face legal and social barriers that limit their surrogacy options domestically, often pushing them to seek international surrogacy arrangements that can be more expensive, risky, and legally uncertain.
 - Financially disadvantaged individuals may find the costs associated with surrogacy prohibitive, particularly when compounded by inconsistent regulation and legal fees.
 - People from culturally and linguistically diverse backgrounds may face additional challenges navigating complex legal and medical systems, along with potential discrimination.

Recommendations to Overcome Barriers

- **Remove Exclusionary Eligibility Requirements:** Laws should be reformed to eliminate discriminatory restrictions based on sexual orientation, relationship status, or gender identity, ensuring equitable access to surrogacy for all Australians.
- **Harmonise Eligibility Criteria Nationally:** Establish consistent, clear, and fair eligibility standards across all states and territories regarding who may become surrogates and intended parents, including standardising minimum age requirements and definitions of medical eligibility.
- **Expand the Pool of Surrogates:** Consider revising restrictive criteria, such as the requirement for surrogates to have previously given birth, where it is safe and appropriate to do so.
- **Streamline and Support the Surrogacy Process:** Improve education, guidance, and support services for all participants in the surrogacy process to reduce perceived complexity and emotional strain.
- **Address Financial and Cultural Barriers:** Implement measures such as financial assistance programs and culturally sensitive support services to assist disadvantaged groups and culturally diverse communities.
- **Promote Community Awareness:** Encourage public education to reduce stigma and increase understanding of surrogacy, potentially expanding the willingness of individuals to become surrogates.

Addressing the fragmented and exclusionary nature of Australia's surrogacy laws through national harmonisation and the removal of discriminatory eligibility criteria is essential. Coupled with increased support and resources, these reforms would promote equitable access to surrogacy arrangements for all Australians, including marginalised and vulnerable groups.

Question 6 -

Eligibility requirements for surrogacy serve important purposes in ensuring the welfare and rights of all parties involved—surrogates, intended parents, and children born through surrogacy. While it is necessary to have some requirements in place, these should be clear, fair, and consistent across Australia.

At present, surrogacy agreements across Australian states and territories are not legally enforceable. This lack of enforceability can discourage both intended parents and surrogates from entering into surrogacy arrangements due to uncertainty and risk. Additionally, the requirements for what constitutes a valid surrogacy agreement vary significantly between jurisdictions—some demand that agreements be in writing and signed before conception, while others have differing stipulations.

Rationale for Eligibility Requirements

Eligibility requirements are essential to:

- **Protect the rights and wellbeing of surrogates,** ensuring they have the capacity to consent freely and are fully informed.

- Safeguard the best interests of the child, including ensuring the intended parents can provide a safe and supportive environment.
- Provide legal clarity and prevent exploitation or coercion of vulnerable parties.
- Promote ethical surrogacy practices, avoiding commercial exploitation.

Proposed Eligibility Requirements

To address these aims, eligibility requirements should include:

- Clear, consistent criteria nationally, to avoid confusion and inequality between states and territories.
- Requirements that parties entering surrogacy agreements must have the capacity to consent, including age limits and mental capacity standards.
- Inclusion of medical and psychosocial assessments for surrogates and intended parents to ensure suitability.
- Written surrogacy agreements signed prior to conception, specifying the rights and obligations of all parties.
- Provisions for reimbursement of reasonable expenses for surrogates, in line with current laws.
- Consideration of removing overly restrictive criteria that limit access for certain groups, such as same-sex couples or single individuals, to uphold human rights and equity.

Legal Enforcement of Agreements

Given the deterrent effect of unenforceable agreements, consideration should be given to:

- Establishing consistent national requirements for valid surrogacy agreements.
- Making surrogacy agreements, or at least key provisions, legally enforceable, to provide certainty and protection for all parties.

Eligibility requirements for surrogacy are necessary to protect the interests and rights of surrogates, intended parents, and children. These requirements should be consistent across Australia, fair, and respectful of human rights, with legal frameworks strengthened to support enforceability of agreements. Such reforms would promote ethical, safe, and accessible surrogacy arrangements nationwide.

Question 7 –

The current landscape of surrogacy eligibility requirements across Australia is inconsistent and, in some cases, restrictive. To ensure equitable and effective access to surrogacy arrangements, several changes to eligibility criteria should be considered.

Requirements to Be Changed or Removed

- **Removal of Exclusionary Criteria:** Certain jurisdictions, such as Western Australia, currently exclude same-sex couples and single men from accessing surrogacy arrangements. These restrictions should be removed to uphold principles of equality

and non-discrimination, enabling all individuals and couples, regardless of sexual orientation or relationship status, to access surrogacy.

- **Harmonisation of Age Requirements:** Minimum age requirements for surrogates and intended parents vary across states, ranging from 18 to 25 years. Standardising these age limits nationally would reduce confusion and promote fairness.
- **Review of Medical Criteria:** Definitions of what constitutes a ‘medical’ reason for surrogacy differ between states. These criteria should be clarified and aligned nationally to avoid arbitrary restrictions and to accommodate a wider range of legitimate family-building needs.
- **Residency and Citizenship Rules:** Variations in residency or citizenship requirements for surrogates and intended parents can create barriers, especially for culturally and linguistically diverse Australians. These should be reconsidered to ensure inclusivity while maintaining safeguards against exploitation.
- **Surrogacy Experience Requirements:** Some jurisdictions require that a surrogate must have previously given birth, potentially reducing the number of available surrogates. This requirement should be evaluated in light of evidence to determine whether it is necessary or if it unduly restricts surrogacy options.

To improve access to surrogacy in Australia, eligibility requirements must be reviewed and harmonised nationally. This includes removing discriminatory barriers, standardising age and residency criteria, and ensuring agreements are legally enforceable. These reforms will support equitable, safe, and transparent surrogacy arrangements for all Australians.

Question 8 –

The current legal framework for surrogacy agreements in Australia varies significantly across states and territories, leading to inconsistencies and potential confusion for parties involved. Key areas where requirements differ include pre-approval by regulatory bodies, criminal history checks, psychological assessments, and the specifics of counselling and independent legal advice.

To improve the process and safeguard all parties, it is recommended that:

- Pre-approval by a regulatory body should be standardised nationally to ensure that all surrogacy arrangements undergo consistent oversight before proceeding. Currently, only Victoria and Western Australia mandate this step for arrangements involving assisted reproductive technology.
- Psychological assessments and criminal history checks should be consistently required across all jurisdictions to ensure the welfare of the surrogate, intended parents, and the child.
- Counselling and independent legal advice should continue to be mandatory; however, the legislation should specify clear standards for the content and documentation of these processes, alongside defined consequences for non-compliance to strengthen accountability.
- Overall, harmonisation of these requirements nationwide would provide clarity, reduce barriers, and promote confidence in surrogacy arrangements. Such uniformity would

help protect the rights and wellbeing of surrogates, intended parents, and children born through surrogacy.

Introducing these changes would address current disparities, enhance legal certainty, and ensure that all parties are fully informed and supported throughout the surrogacy process.

Question 9 -

Surrogacy agreements in Australia are currently not legally enforceable, although reimbursement of the surrogate's reasonable expenses is typically upheld. This lack of enforceability can deter both intended parents and surrogates from entering into surrogacy arrangements due to uncertainty and potential risks.

a. Enforceability of all parts of the agreement

It may not be appropriate for all aspects of a surrogacy agreement to be enforceable, given the complex and sensitive nature of these arrangements. For example, provisions related to the relinquishment of parental rights might raise ethical and legal concerns if strictly enforceable. However, key components—such as reimbursement of agreed reasonable expenses, consent processes, and obligations relating to medical decisions—could reasonably be enforceable to provide certainty and protection for all parties.

b. Who should be able to enforce the agreement

Primarily, the intended parents and the surrogate should have the ability to enforce relevant parts of the agreement. Additionally, there could be a role for an independent regulatory body or court to oversee enforcement where disputes arise, to ensure that the interests of all parties, especially the child, are protected.

c. How agreements could be enforced

Enforcement mechanisms could include court orders or regulatory oversight where disputes arise, supported by clear legislative guidelines. Introducing enforceability for certain parts of the agreement could also encourage more thorough and formalised processes, such as mandatory counselling, legal advice, and pre-approval by relevant authorities to minimise risks and misunderstandings.

While not all aspects of surrogacy agreements should be legally enforceable, establishing enforceability for critical provisions would improve the legal certainty and protection for surrogates and intended parents, thereby fostering trust and encouraging more people to participate in domestic surrogacy arrangements.

Question 10 –

Currently, surrogacy arrangements in Australia require legal advice and counselling before entering into an agreement. However, there are significant concerns about the practical availability and fairness of these services. The ALRC has noted that despite mandatory requirements, there are very few lawyers and counsellors specialising in surrogacy. This limited access effectively creates a monopoly, where two main lawyers dominate the market, manipulating vulnerable communities, including LGBTIQ+ people, financially disadvantaged individuals, and culturally diverse groups, who often have little choice but to engage their services. This situation risks exploitation and raises serious ethical and human rights concerns.

a. Counselling after the child's birth

Counselling should not only be mandatory before entering into a surrogacy arrangement but

also be available and encouraged after the child's birth. Post-birth counselling can provide essential support to surrogates, intended parents, and children as they navigate complex emotional and legal issues. This ongoing support would help ensure the wellbeing of all parties involved and foster healthier surrogacy relationships.

b. Consequences if legal advice and counselling are not provided

If legal advice and counselling are not properly provided before entering a surrogacy agreement, the agreement's validity and any subsequent parentage applications should be challenged or potentially invalidated. This would incentivise compliance and protect parties from entering arrangements without fully understanding their rights, responsibilities, and potential risks. It would also act as a safeguard against exploitation by ensuring parties receive appropriate guidance before committing.

c. Proof of legal advice and/or counselling for parentage applications

Parentage applications should require formal proof that the parties involved have received independent legal advice and counselling. This requirement would help standardise the process across Australia, ensuring all parties have access to necessary information and support before the transfer of legal parentage occurs. Requiring documented proof would also assist courts and regulators in monitoring compliance and protecting vulnerable individuals from coercion or misinformation.

Additional considerations

To break the current monopolistic hold and improve access to professional services, reforms should consider supporting the development of more specialist professionals and services would increase competition, improve service quality, and reduce the risks of exploitation currently present in the market.

Question 11 –

Australia currently faces significant gaps in the availability, accessibility, and consistency of professional services supporting ethical surrogacy. These gaps pose barriers for intended parents and surrogates—particularly for people from LGBTIQ+ communities, culturally and linguistically diverse (CALD) backgrounds, people with disabilities, and those living in regional or lower-income settings.

a. Should surrogacy agencies operate in Australia (in a not-for-profit capacity)?

Yes, there is a strong case for allowing regulated, not-for-profit surrogacy support organisations to operate in Australia. These would not be commercial businesses, but community-based, ethical services that assist in facilitating surrogacy arrangements safely, transparently, and with care for all parties involved.

Such organisations could provide:

- Support in connecting intended parents and potential surrogates through values-based matching;
- Education and resources about legal, medical, and psychological aspects of surrogacy;
- Coordination of necessary steps such as legal advice, counselling, and medical services;
- Ongoing emotional and peer support before, during, and after the pregnancy.

Importantly, these services would not profit from the surrogacy arrangement, but exist to reduce exploitation and confusion by providing structured, ethical pathways within the domestic system.

This approach could also help address current concerns about a small number of professionals—particularly two dominant legal practitioners—holding significant influence over the surrogacy space. Many vulnerable individuals report feeling pressured or manipulated into using particular services, with limited access to alternative providers or truly independent advice.

b. Availability, accessibility, and subject matter of legal and counselling services

There is currently a lack of accessible, specialised legal and counselling support across the country. Even though these services are legally required, they are often difficult to find, expensive, and inconsistent in quality.

Key service gaps include:

- A shortage of lawyers and counsellors with specific expertise in surrogacy;
- Over-reliance on a very small group of professionals, which limits choice and raises concerns about monopolistic practices and undue influence over vulnerable individuals;
- A lack of cultural and language support for people from CALD communities;
- Insufficient post-birth counselling and long-term support for surrogates and families;
- Inconsistent national standards around what advice and counselling must cover.

To address these gaps, reforms should include:

- Publicly funded training programs to develop more qualified, independent surrogacy professionals;
- Clear national guidelines outlining the content and quality of required counselling and legal services;
- Ongoing, inclusive support for surrogates and intended parents throughout the entire journey, including post-birth;
- Improved oversight to ensure ethical, non-coercive practices by service providers.

c. Advertising restrictions and their impact

Restrictions on advertising surrogacy arrangements vary across jurisdictions and are often confusing. These restrictions make it harder for intended parents and potential surrogates to find each other and access reliable, independent services.

To improve transparency and access, Australia should consider allowing limited, ethical advertising by not-for-profit organisations or public health bodies. This would ensure that information is available to those who need it, without commercialising the process or promoting surrogacy as a commodity. Carefully regulated awareness campaigns could help individuals understand their rights and options in a safe and informed way.

The current gaps in professional services are a major barrier to ethical, accessible surrogacy in Australia. Addressing these gaps through not-for-profit support structures, expanded access to independent legal and counselling services, and clear national standards would strengthen the surrogacy framework. This would ensure that surrogacy remains a compassionate, values-driven pathway to parenthood—centred on informed consent, dignity, and the wellbeing of all involved. I am very much against commercial surrogacy.

Question 12 -

Professional services supporting surrogacy in Australia should be designed to promote ethical, transparent, and person-centred care—without commercialising the process. These services must prioritise the wellbeing of surrogates, intended parents, and children, while also ensuring accessibility, informed decision-making, and protection from exploitation.

a. What should their role be?

Professional services should serve as trusted, impartial facilitators in the surrogacy process. Their primary roles should include:

- Providing education and guidance to all parties about their rights, obligations, and the legal and emotional aspects of surrogacy;
- Facilitating connections between intended parents and surrogates through ethical, values-based matching;
- Coordinating access to independent legal advice, mandatory counselling, and medical support;
- Supporting informed consent by ensuring all parties are fully aware of risks and expectations;
- Offering ongoing support before, during, and after the birth, particularly for the surrogate and her family.

These services should never profit from surrogacy arrangements and must operate with strong ethical safeguards to avoid coercion or manipulation.

b. Should services be for-profit or not-for-profit, and how should they be funded?

Professional surrogacy services in Australia should operate strictly on a not-for-profit basis. Surrogacy is an altruistic and deeply personal process that should not be driven by commercial gain. Not-for-profit organisations can ensure that the focus remains on ethical practice, emotional care, and human dignity—rather than financial outcomes.

These services could be:

- Publicly funded (via state or federal health and family programs);
- Supported by grants from community organisations or philanthropic sources;
- Operated in partnership with existing public health bodies, to reduce duplication and cost.

Government funding would ensure affordability, fairness, and equal access across regions and socio-economic groups.

c. Should services operate together or separately (e.g., should counselling be independent of clinics)?

To protect the autonomy and wellbeing of all parties, key services—such as counselling and legal advice—should be delivered independently of fertility clinics or coordinating organisations. This ensures:

- Unbiased advice that supports informed, pressure-free decision-making;
- Greater trust in the surrogacy process;
- Protection of surrogates' rights, particularly around bodily autonomy and emotional readiness.

However, coordination between services is still important. A central, not-for-profit body could assist with referrals, information sharing (with consent), and ensuring that all process requirements are met—without compromising independence or transparency.

d. How can services best meet the diverse needs of people involved in surrogacy arrangements?

Surrogacy in Australia involves a wide range of individuals, including:

- LGBTIQ+ families;
- Single parents;
- People with disabilities;
- Culturally and linguistically diverse (CALD) communities;
- Individuals from regional or remote areas.

To meet these diverse needs, professional services should:

- Offer inclusive, culturally safe, and trauma-informed care;
- Provide multilingual resources and interpreters where needed;
- Employ professionals with lived experience and specialist training in fertility, gender, and family diversity;
- Develop regional outreach programs or telehealth options to support access across the country;
- Facilitate peer support networks to reduce isolation and promote shared learning.

Furthermore, the current dominance of a small number of legal professionals in the surrogacy space has led to concerns around access, impartiality, and undue influence. To address this, the system should encourage greater diversity in professional providers, along with regulatory oversight to prevent monopolistic practices and ensure accountability.

Professional services supporting surrogacy in Australia should be structured around not-for-profit, values-driven principles. Their core purpose must be to inform, protect, and support all parties equally. Services should operate independently where needed, work in coordinated frameworks, and be designed to reflect the rich diversity of Australian families. Public funding and strong regulatory standards will be critical in ensuring these services remain accessible, ethical, and free from exploitation.

Question 13 –

Surrogacy in Australia is built on an altruistic model, where the act of carrying a child is a profound gift rather than a commercial transaction. Any entitlements provided to surrogates and intended parents must protect this foundational principle, ensuring that support is offered without incentivising or commodifying the surrogacy process.

a. Medicare rebates for fertility treatments

Medicare rebates should be extended to cover fertility treatments provided in connection with altruistic surrogacy arrangements. Currently, intended parents must shoulder significant out-of-pocket costs due to the exclusion of surrogacy-related services from Medicare coverage. This creates inequity, particularly for those who are already medically or socially infertile and rely on surrogacy as their only pathway to parenthood.

Expanding Medicare rebates would:

- Align with the principles of universal health care,
- Reduce financial pressure without opening the door to commercial incentives, and
- Help make domestic surrogacy more accessible, especially for LGBTIQ+ individuals, single parents, and financially disadvantaged families.

Importantly, such a policy shift should be tightly limited to altruistic arrangements, with clear safeguards to prevent the misuse of public funds in for-profit or overseas commercial surrogacy scenarios.

b. Access by surrogates to paid or unpaid parental leave, including through enterprise agreements

Surrogates play a critical role in the reproductive journey, and their entitlement to adequate leave must reflect the physical, emotional, and psychological impact of pregnancy and birth. Current access to Centrelink's Paid Parental Leave scheme and unpaid leave under the NES provides some protection, but it is inconsistent and often insufficient.

Improvements should include:

- Guaranteed access to paid parental leave for surrogates, regardless of employment type or income level,
- Requiring that enterprise agreements extend parental leave rights to surrogates, with no penalties or loss of employment status.

These reforms would not constitute payment for surrogacy, but rather recognition of the medical and human needs of the surrogate as a patient and birth-giver.

c. Making surrogacy more affordable — without commercialisation

It is desirable to make surrogacy arrangements more affordable — but not at the cost of turning it into a business. Affordability should be addressed through public support and systemic reform, not through market-based models. Commercial surrogacy risks exploiting financially vulnerable women, creating incentives where informed consent may be compromised by economic hardship.

Ways to improve affordability ethically include:

- Expanding Medicare and public health support for related treatments, legal and counselling services,
- Funding not-for-profit surrogacy support organisations, which can offer administrative help, education, and safe matching without profit motives, and
- Clarifying and broadening what counts as a reimbursable expense, ensuring surrogates are never left out of pocket — including for time off work, travel, childcare, and health-related costs.

These reforms would reduce financial strain on both surrogates and intended parents while preserving the integrity of altruistic surrogacy.

Entitlements for surrogates and intended parents should centre on care, fairness, and accessibility — not on compensation or profit. By strengthening access to Medicare, parental leave, and public support mechanisms, Australia can reinforce the ethical and legal framework of altruistic surrogacy. Reforms must resist commercial pressures and instead focus on supporting people, not transactions.

Question 15 –

Australia’s commitment to an altruistic surrogacy framework must be preserved while ensuring that surrogates are not financially disadvantaged for their contribution. Current inconsistencies across jurisdictions around what counts as a “reasonable expense” and how reimbursements are processed create confusion, delay, and in some cases, unfair outcomes. A more uniform, transparent, and supportive reimbursement process would help ensure equity and safeguard against exploitation — without commercialising the arrangement.

a. What expenses should be reimbursable

Reimbursable expenses should be clearly defined, comprehensive, and reflect the full scope of costs a surrogate may reasonably incur throughout the process — including pre-conception, pregnancy, and post-birth phases. These should include:

- Medical expenses (including IVF, scans, pathology, hospital care, medications)
- Counselling (before, during, and after pregnancy)
- Legal advice
- Loss of income due to pregnancy or medical leave
- Travel and accommodation related to medical or legal appointments
- Childcare and housekeeping support where needed
- Insurance costs
- Maternity clothing and nutritional supplements
- Psychological support services post-birth

Importantly, reimbursement should reflect actual costs, not profit — preserving the altruistic nature of the arrangement.

b. How payment should be calculated

Reimbursement should be based on actual, documented expenses, not estimates or pre-set lump sums. A standardised national schedule of “typical reimbursable costs” could be developed to guide intended parents and surrogates, providing clarity and consistency without creating a fee-for-service model.

This could include:

- Hourly caps for lost wages based on average earnings or capped at the surrogate’s actual income,
- Benchmarks for common medical and support costs, reviewed regularly to remain current.

This would help prevent financial exploitation or disputes, and reinforce that surrogacy is not a commercial contract.

c. Should there be limits on amounts?

Yes — but limits should be structured and fair, to reflect a genuine cost recovery model rather than a profit-making opportunity. Caps could apply to:

- Loss-of-income payments (e.g. up to a certain number of weeks)
- Counselling and legal costs (with flexibility for additional needs if medically advised)

These caps would protect surrogates from being under-reimbursed and intended parents from undue financial burden, while discouraging surrogacy from becoming a vehicle for personal income.

d. Process for reimbursement

To ensure transparency and accountability, the reimbursement process should be:

- Receipted and documented: Surrogates should provide receipts or medical/legal documentation of costs.
- Held in trust: Intended parents could place agreed-upon funds in a trust account administered by an independent legal or government body. Payments would then be disbursed based on verified claims.
- Auditable: A light regulatory audit process could be introduced to ensure compliance and protect all parties.
- Nationally consistent: A uniform process across all states and territories would ensure fairness and reduce confusion.

This approach protects surrogates from financial disadvantage while guarding against backdoor commercialisation.

e. Jurisdictions worth learning from

Canada, which also follows an altruistic model, provides a useful comparison. Its federal Assisted Human Reproduction Act prohibits commercial surrogacy but allows reimbursements for a well-defined list of expenses, supported by regulations requiring receipts and medical

justification. While implementation challenges exist, the Canadian model's transparency and federal coordination offer valuable lessons.

Within Australia, some states such as Victoria and Queensland already provide clearer definitions of reimbursable expenses than others. Harmonising these definitions and processes nationally would strengthen the system.

Improving the reimbursement process is vital to supporting surrogates and encouraging ethical, accessible domestic surrogacy. By clarifying allowable expenses, requiring proper documentation, and using trust-based payment systems, Australia can uphold the altruistic spirit of surrogacy while protecting all parties involved. These reforms should be guided by the principle that no surrogate should be out of pocket — but nor should anyone profit from another's fertility journey.

Question 16 –

I support a compensated surrogacy, not a commercial surrogacy.

Question 17 –

Australia currently prohibits commercial surrogacy in all states and territories, in keeping with an altruistic surrogacy model that prioritises ethical protections, non-exploitation, and the welfare of children and surrogates. Introducing a compensated model would represent a major shift in Australian reproductive law and policy, with serious human rights, ethical, and social implications. If compensation were to be considered, it should not evolve into a commercialised industry, but rather take the form of limited, capped compensation that recognises the surrogate's physical and emotional contribution — without incentivising surrogacy as income-generating work.

a. How should compensation be calculated?

If compensation were to be permitted, it should be:

- Standardised and capped nationally, not negotiated privately to avoid coercion or bidding wars.
- Based on non-commercial criteria, such as time off work, physical discomfort, risk exposure, and pregnancy-related disruption to daily life.
- Informed by independent, non-profit professional bodies (such as a National Surrogacy Advisory Board), drawing from public health and women's health expertise.

Any payment must reflect acknowledgment, not commodification.

b. Should there be a limit on the amount of compensation?

Yes. Strict limits would be essential to ensure surrogacy remains altruistic in spirit, rather than market-driven.

- A national compensation cap (e.g., similar to loss-of-income thresholds or non-economic damages in civil law) could be introduced.
- The cap should be reviewed and adjusted only in consultation with ethical bodies, not market forces.

- Any higher or uncapped compensation could lead to undue inducement, particularly among financially vulnerable women — undermining informed consent and autonomy.

c. Who should set the amount of compensation?

Compensation amounts should not be set by intended parents or legal negotiators (to avoid power imbalances), but by a government-appointed independent body such as:

- A Surrogacy Ethics and Regulation Commission or a national tribunal.
- Informed by public health, ethics experts, legal professionals, and lived experience voices (surrogates, LGBTIQ+ parents, CALD communities).
- The body should operate under uniform national legislation, to avoid state-based inequalities and forum-shopping.

d. What should the process for compensation be?

To ensure transparency, prevent exploitation, and maintain ethical integrity:

- Compensation could be held in trust, managed by a licensed third party (such as a legal trustee or government-appointed body).
- All expenses and compensation should be receipted, auditable, and subject to pre-approval and post-agreement oversight.
- No upfront lump sums — to reduce coercive incentives and manage risks if the pregnancy does not proceed as expected.

Australia should retain its non-commercial, altruistic surrogacy framework, but could consider modest, regulated compensation as a way to ethically recognise a surrogate's contribution — without turning reproduction into a marketplace. Any changes must be nationally consistent, tightly regulated, and guided by human dignity, fairness, and medical ethics, not market dynamics. Surrogacy must always centre the rights and wellbeing of children, surrogates, and families, not the interests of commercial intermediaries or legal monopolies.

Question 18 –

1. **Complexity in Citizenship and Parentage Recognition for International Surrogacy**
Many Australian intended parents pursue surrogacy overseas, which creates complex challenges when bringing the child to Australia. To obtain Australian citizenship by descent for the child, intended parents must prove a legal connection to the child at birth. This process is often complicated, particularly because the surrogate's consent or involvement may be required to apply for the child's Australian passport.
2. **Risk of Statelessness**
There is a significant risk that a child born through international surrogacy may become stateless if they are unable to secure citizenship either from Australia (through intended parents) or from the country where they were born. This creates serious legal and practical issues for the child's identity, rights, and access to services.
3. **Difficulties in Obtaining Passports and Visas**
Even when citizenship is obtained, applying for an Australian passport can be challenging. Surrogate consent may be required, and visa options for bringing the child

to Australia can be limited or unclear. These hurdles delay or complicate the child's ability to enter and reside in Australia legally.

4. Access to Entitlements and Services

Access to important government services such as Medicare generally requires the child to have Australian citizenship or permanent residency. Until citizenship or residency is legally recognized, children born through surrogacy may face barriers in accessing healthcare and other essential services.

5. Lack of Pre-emptive Registration for International Surrogacy

Currently, there is no formal requirement for intended parents to register their intention to engage in international surrogacy before traveling overseas. This absence of pre-registration complicates the administrative process when returning to Australia with the child and delays legal recognition of parentage.

The main problems revolve around legal complexities, uncertainty, and administrative barriers related to citizenship, passport issuance, visa arrangements, and access to services for children born through surrogacy, especially internationally. These issues create risks of statelessness and delay the legal recognition of parentage, undermining the stability and wellbeing of surrogacy families.

Potential Reform

Requiring intended parents to register their intention before going overseas for surrogacy could streamline processes and reduce difficulties in establishing parentage and citizenship upon the child's return to Australia.

Question 19 –

a. Timing

The process should ideally begin before the birth of the child, with clear pre-birth orders or administrative recognition of intended parents' status where possible. This would provide legal certainty to all parties—intended parents, surrogates, and the child—from the outset. However, if this is not possible, the process must allow for efficient and timely recognition after birth to avoid prolonged uncertainty.

b. Decision-Making Authority

The decision about legal parentage could be streamlined by shifting towards a more administrative process rather than solely judicial decisions. Administrative processes, with appropriate safeguards and checks, tend to be faster, less costly, and less adversarial, making the transition smoother for families. Judicial oversight could still be available in contested or complex cases.

c. Automatic Recognition

Where the surrogacy arrangement meets clear legal criteria—such as being altruistic and complying with all relevant legal requirements—automatic recognition of intended parents should be introduced. This reduces uncertainty and ensures children have legally recognized parents without unnecessary delays or disputes.

d. Differentiated Processes Based on Circumstances

The process should be tailored to the specific circumstances to provide the safest and most straightforward legal pathway for everyone involved.

e. Treatment of Intended Mothers vs. Intended Fathers

Current Australian law does not always treat intended mothers and fathers equally, especially in cases involving assisted reproductive technology or international surrogacy. Reforms should ensure equal treatment of intended parents regardless of gender or biological connection, recognizing all intended parents' roles fairly in legal parentage determinations.

f. Compliance with Process Requirements

Granting legal parentage should depend on compliance with essential procedural safeguards, such as obtaining independent legal advice and counselling before entering surrogacy arrangements. This protects all parties, especially the child's best interests, ensuring decisions are informed and voluntary. However, the process should remain accessible and not unduly burdensome.

g. Prioritising the Best Interests of the Child

The overarching principle must be the best interests of the child—ensuring the child has legal security, access to parental care, citizenship, and essential services. All legal parentage processes should prioritize the child's welfare above administrative or procedural technicalities.

h. Learning from Other Jurisdictions

Australia could look to international examples to improve its surrogacy parentage laws:

- The United Kingdom allows for pre-birth parentage orders that provide legal certainty before birth.
- Some Canadian provinces enable streamlined administrative parentage recognition processes.
- New Zealand emphasizes the child's best interests in balancing legal recognition and parental rights.

Incorporating such models could enhance Australia's system by reducing delays, clarifying parentage, and protecting all parties.

Improving legal parentage processes in Australian surrogacy could involve: early and clear pre-birth recognition, administrative rather than purely judicial decisions, automatic parentage recognition when criteria are met, tailored processes based on surrogacy types, equal treatment of all intended parents, requiring compliance with safeguards, and prioritizing children's best interests. Learning from overseas systems may help Australia design a fair, efficient, and child-focused parentage framework.

Question 20 –

a. Australian Citizenship:

Obtaining Australian citizenship by descent can be complicated due to inconsistent legal definitions of parentage across federal and state laws. Different tests under the Australian Citizenship Act 2007 (Cth) and the Family Law Act 1975 (Cth) create confusion and uncertainty about who qualifies as a legal parent for citizenship purposes.

b. Australian Passport:

Applying for an Australian passport for a child born via international surrogacy can be difficult, especially when consent from the surrogate is required. This requirement can delay or hinder passport issuance, complicating the child's ability to travel to Australia.

c. Australian Visa:

Visa options for children born through international surrogacy are limited. Without clear parentage recognition and citizenship, intended parents may struggle to obtain visas that allow their child to enter Australia, increasing the risk of the child being stateless.

Underlying Issues:

- Inconsistent laws across Australian states and territories on eligibility, criminal law application, and process requirements add to the complexity.
- Gaps and divergences between state and federal laws cause confusion over legal parentage and citizenship pathways.
- Differences between family law, citizenship, and passport regulations at the federal level exacerbate difficulties in securing documentation.
- These inconsistencies can encourage 'reproductive tourism,' where intended parents seek surrogacy arrangements in jurisdictions with easier processes.

Potential Solutions:

- Centralising legislative power by having states and territories refer surrogacy legislation to the Commonwealth, creating a unified national surrogacy law.
- Developing and adopting uniform surrogacy laws across all states and territories to ensure consistency.
- Amending existing state laws to align closely with each other and federal legislation.
- Combining the above approaches to reduce confusion, improve clarity, and streamline the process of obtaining citizenship, passports, and visas for children born through international surrogacy.

Question 22 –

a. Inconsistencies Between Jurisdictions:

Surrogacy laws across Australian states and territories vary significantly in terms of eligibility criteria, criminal law applications to international arrangements, and process requirements. This patchwork leads to a fragmented legal landscape that complicates surrogacy arrangements, especially when parties live in different states.

b. Problems Caused by Inconsistencies:

These legal inconsistencies cause confusion for intended parents, surrogates, and professionals involved, leading to uncertainty about rights and obligations. It also encourages 'reproductive tourism,' where people seek jurisdictions with more permissive laws, which can raise ethical and legal concerns.

c. Impacts of Differences Between Federal Legal Regimes:

There are also discrepancies between federal laws governing citizenship, family law, and passports, which add layers of complexity. For instance, differing legal parentage tests can affect a child's citizenship status and access to rights such as healthcare, creating potential risks including statelessness.

d. Judicial Process for Transferring Legal Parentage:

If a judicial process is retained for transferring parentage, consideration is needed on which court(s) should handle applications. State courts currently oversee this, but the Federal Circuit Court and Family Court of Australia also have jurisdiction over family law matters. A consistent approach across courts could help streamline processes and reduce confusion.

e. Importance of Harmonising Approaches:

Harmonisation is crucial to ensure fairness, legal clarity, and protection for all parties involved. Consistent laws reduce confusion, prevent exploitation, and facilitate smoother legal recognition of surrogacy arrangements across the country.

f. How Harmonisation Could Be Achieved:

Several reform options exist, including:

- Regulating surrogacy at the federal level to create a uniform national framework, eliminating conflicting state laws.
- Developing uniform or substantively consistent legislation adopted by all states and territories to ensure consistency while respecting regional governance.
- Establishing a national oversight body for surrogacy to monitor, approve, and review arrangements and safeguard participants' interests. Alternatively, states and territories could create their own oversight bodies, though this may perpetuate some inconsistency.

Additionally, harmonising ethical guidelines for health professionals and ensuring independent oversight separate from fertility clinics can promote ethical surrogacy practices.

Question 23 –

Yes, it is both appropriate and necessary for surrogacy arrangements to be subject to oversight to ensure the protection and well-being of all parties involved—especially the surrogate, intended parents, and the child. Given the complexity and deeply personal nature of surrogacy, careful regulation helps safeguard against exploitation and ensures ethical, transparent, and supportive practices.

a. Need for a Regulator or Oversight Body

An effective oversight mechanism could take the form of an independent administrative body or tribunal with clear responsibilities to approve, monitor, and review surrogacy arrangements. This body would serve to uphold the altruistic nature of surrogacy, ensuring that surrogates are not exploited and that intended parents meet the necessary requirements to provide a safe and loving environment for the child. Such oversight can help guide all parties through the process with clear information and support, reducing confusion and risk.

b. National vs. State and Territory Oversight

Given the inconsistencies in surrogacy laws across Australian states and territories, a national oversight framework would best promote consistency, fairness, and clarity. A national body could harmonise standards and ensure uniform ethical and legal protections across jurisdictions. However, it could also work alongside state and territory regulators, leveraging local knowledge while maintaining overarching national standards.

c. Groups Needing Oversight

Oversight should extend to all participants in the surrogacy arrangement, particularly health

professionals involved in fertility treatments and psychological support. Clear and harmonised ethical guidelines for medical and allied health practitioners are essential to prevent conflicts of interest, ensure informed consent, and maintain high standards of care. Independent regulation of these professionals, separate from fertility clinics, can enhance trust and protect the welfare of surrogates and children.

Altruistic Focus

The primary purpose of oversight should be to preserve the altruistic spirit of surrogacy—where surrogates are supported and respected, not commodified. Oversight should prevent exploitation by ensuring surrogates are only reimbursed for reasonable expenses and not financially incentivised beyond that. Oversight mechanisms should also prioritise the best interests of the child, ensuring legal clarity and social support throughout the process.

Question 24 –

The law should indeed play a role in discouraging or prohibiting certain forms of surrogacy, particularly those that risk exploitation, harm to surrogates, intended parents, or children, or that circumvent established ethical and legal safeguards. However, the current reliance on criminal law to regulate these matters has shown limitations, sometimes pushing arrangements underground, thereby reducing oversight and increasing risks.

a. Sanctioning or Criminalising Certain Forms of Surrogacy

Engaging in or facilitating commercial surrogacy—where surrogates receive payments beyond reasonable expenses—is criminalised across all Australian jurisdictions to protect against exploitation.

b. Effects of Using Criminal Law to Regulate Surrogacy

While criminal laws aim to prevent exploitation, they may inadvertently drive surrogacy arrangements underground, limiting transparency and the ability of regulators to ensure ethical standards are met. Criminalisation can also negatively affect children born through international surrogacy, potentially limiting their legal parentage recognition or citizenship rights.

c. Regulatory Approaches Preferable to Criminal Law

Instead of relying predominantly on criminal sanctions, a more constructive regulatory framework focused on transparency, education, and oversight is preferable. There is a significant lack of awareness about surrogacy laws and processes among the public, medical professionals, and legal practitioners, which contributes to confusion and risks for all parties involved. Education efforts targeting these groups would improve understanding of legal requirements and ethical considerations.

Importantly, there is a pressing need for greater transparency and accountability within the legal profession dealing with surrogacy arrangements. Currently, there is a noticeable monopoly of surrogacy lawyers in Australia, which can limit access to impartial advice and contribute to power imbalances in surrogacy negotiations. Increasing competition and transparency among legal service providers could help ensure fairer and more ethical practices, reducing potential exploitation.

Finally, harmonising laws across Australian jurisdictions and establishing clear, uniform guidelines would reduce confusion and inconsistencies that currently exacerbate the challenges of surrogacy arrangements, both domestic and international.

Question 25 –

Yes, there is a clear and urgent need to improve awareness and understanding of surrogacy laws, policies, and practices in Australia. The Australian Law Reform Commission (ALRC) has identified a widespread lack of public knowledge about surrogacy, with many people mistakenly assuming that all forms of surrogacy are illegal. This misinformation creates barriers, including a limited availability of surrogates within Australia, and can lead individuals and families to unknowingly take risks—especially when engaging in international surrogacy arrangements where legal and health risks may be higher.

Furthermore, the variation in surrogacy laws between Australian states and territories adds another layer of complexity and confusion, not just for the public but also for professionals involved in surrogacy. Medical professionals, including IVF clinics operating nationally, may inadvertently provide incorrect advice due to their limited understanding of the differing laws across jurisdictions. This lack of consistent knowledge risks undermining the care and support intended parents and surrogates receive during pregnancy, birth, and the post-natal period.

Only two Australian jurisdictions have developed formal guidelines to assist public healthcare providers in supporting parties involved in surrogacy, leaving many healthcare professionals without clear processes to follow. This gap risks confusion and insensitivity regarding the distinct roles and needs of surrogates, intended parents, and children.

To address these issues, there is a pressing need for targeted education and information campaigns aimed not only at the general public but also at key groups involved in surrogacy arrangements, such as:

- Medical professionals, including fertility specialists and maternity care providers;
- Counsellors and social workers who support families and surrogates;
- Legal professionals who guide intended parents and surrogates through the complex legal landscape.

Education should cover fundamental topics such as:

- What surrogacy entails, including the different types (altruistic vs. commercial);
- The relevant laws and legal rights surrounding surrogacy;
- The risks associated with international surrogacy, including legal parentage and citizenship challenges;
- Practical challenges related to bringing children born through surrogacy back to Australia;
- Best practices for providing ethical and supportive services to all parties involved.

Improving awareness and understanding will help reduce confusion and risks, promote informed decision-making, and ensure that surrogates and intended parents receive compassionate and legally sound support throughout their journey.

Question 26 –

The ALRC's approach to clearly define the scope of this Inquiry is both practical and necessary, given the complex nature of surrogacy and the limited timeframe available. It is appropriate that the Inquiry focuses on issues directly related to surrogacy laws and practices within Australia, and considers international practices only to the extent that they inform possible improvements domestically.

Regarding the decision not to examine the shortage of donated eggs in Australia, this is understandable given that addressing the egg supply shortage would require a separate, more focused investigation. The shortage is a significant issue, as it can indeed act as a barrier to accessing domestic surrogacy arrangements. However, this problem overlaps with broader assisted reproductive technology policies and donor regulations, which may warrant a dedicated inquiry beyond the scope of this current review.

Similarly, the ALRC's choice to avoid an in-depth analysis of overseas regulatory regimes or to recommend specific jurisdictions for international surrogacy reflects a careful balance between offering helpful insights and respecting the limits of the Inquiry. While learning from overseas practices is valuable, making detailed recommendations about international surrogacy could lead to unintended consequences and legal complexities.

Overall, the ALRC's focus on areas within its Terms of Reference ensures that the Inquiry remains manageable and relevant, while leaving room for future work to address other interconnected but distinct challenges in assisted reproduction and surrogacy.

Question 27 –

No, the Issues Paper has comprehensively identified the key challenges and considerations involved in regulating surrogacy. At this stage, there are no additional important issues outside the scope that need to be addressed. The focus should remain on refining and improving the existing framework based on the thorough analysis already presented.