

Surrogacy law in the UK: It's time to have your say on new proposals

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Surrogacy is a 'life line' for those who are unable to carry a pregnancy and the building block used by increasing numbers of modern families to have children of their own. However, UK surrogacy law is significantly lagging behind the science; created some 30 years ago when IVF was first developed and when surrogacy was to be tolerated but not encouraged, some of headline issues with the current law are:

- On birth, the child's legal parents are the surrogate (this is the case even where she carries a donor egg) and if she is married or in a civil partnership, her partner will be the second legal parent by default.
- Intended parents can first apply for a parental order 6 weeks after their child's birth and the court process to achieve the order can take between 6 and 12 months. During that time their newborn child is in legal limbo.
- Any agreement reached between the surrogate and intended parents is non-enforceable and parties on both sides are vulnerable to a decision by the other to pull out.
- The lack of legal regulation means some commissioning parents seek surrogates on social media, in a non-regulated, unprotected environment that largely relies on goodwill and luck, without safeguards for medical or psychological suitability, leaving the surrogate and the intended parents both open to exploitation.

The Law Commission report proposes a new approach for domestic surrogacy arrangements that seeks to create a pathway for surrogacy. Regulated surrogacy organisations will be given responsibility for overseeing the creation of surrogacy arrangements; provide guidance and advice about the underlying agreement, as well as arrange medical and psychological screening and mandatory counselling for all involved. Significantly, the proposals include introducing laws that would make the intended parents the legal parents from the birth of their child and there would no need for court proceedings (subject to the surrogate's right to change her mind).

For families where the child has been created following an international surrogacy arrangement and born in a foreign country, the Law Commission acknowledge the need for there to be unified guidance on nationality and immigration issues and provision for recognition of legal parenthood across borders to help those who have surrogate child overseas bring their baby into the UK.


This is your chance to give feedback into this important legal development. Do these proposals go far enough? Do you agree that the new pathway will provide the support surrogates and intended parents need whilst continuing to look after and safeguard the child? You can share your thoughts via an online form on the Law Commission website. You have until September 27th to respond – make sure you have your say.

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