

Surrogacy law reform: Parliamentary briefing paper, 2025

NGA Law (specialist surrogacy law firm)

Brilliant Beginnings (leading non-profit UK surrogacy agency)

What is surrogacy?

Surrogacy is where a woman gives birth to a child for someone else. The intended parents may be a different-sex couple who cannot carry a pregnancy (perhaps following cancer, repeated miscarriages, unexplained infertility or the mother having been born without a womb), a same-sex couple or a single parent. Modern surrogacy typically involves embryos created in a fertility clinic with the intended parents' eggs and sperm (or with donated eggs) which are transferred to a surrogate who carries a child not biologically hers (called gestational surrogacy). Historically surrogacy has involved the artificial insemination of a woman with the intended father's sperm (called traditional surrogacy).

How many UK children are conceived through surrogacy?

Around 500 children per year are born through surrogacy to UK parents (according to family court statistics), up from around 50 per year before 2008. More than half are now born through international surrogacy, largely due to difficulties created by the current UK legal framework. The most popular international surrogacy destination is the USA, where surrogacy is safe and ethical but expensive. Other options have changed over time but currently include Canada, Ukraine, Georgia, Cyprus and Mexico.

Do surrogates often change their minds?

Very rarely. Surrogates are typically mothers who have enjoyed pregnancy and want to help someone else have a family and never see the baby as their own. Over the past 30 years, there have been only a tiny handful of UK cases involving surrogates seeking to keep the baby, compared with thousands of successful UK arrangements. Surrogates are very clear they are not the child's mother, and prefer the term 'surrogates' to 'surrogate mothers'.

Is surrogacy exploitative, or a risk to women or children's rights?

Not inherently. Informed consent is core to ethical surrogacy practice, and while there are legitimate concerns about some surrogacy practice overseas (typically in poor countries where surrogacy is not legally regulated), such cases are the exception rather than the norm. UK and US surrogacy is overwhelmingly ethical and all credible peer-reviewed research evidence demonstrates positive long term outcomes for both surrogates and children born.

Is it illegal to pay a surrogate in the UK?

UK surrogates are typically paid £12,000 to £25,000, broadly as expenses. Surrogates overseas are compensated a sum in addition to expenses, typically \$30,000 to \$80,000 in the US. It is not illegal to pay a surrogate (in the UK or overseas) but the Family Court must retrospectively authorise any compensation as part of the transfer of legal parenthood. It has now done so in thousands of cases (with none ever refused).

Current law and practice

The Surrogacy Arrangements Act 1985 – makes UK surrogacy agreements unenforceable, prohibits third parties arranging surrogacy for profit in the UK, prevents lawyers from drafting surrogacy agreements, and prohibits advertising. The Act was a reaction to media coverage of the 'baby Cotton' case in 1985 and its intent was to discourage surrogacy. In fact UK surrogacy has grown informally, with UK surrogacy

arrangements frequently made via Facebook groups or non-profit surrogacy organisations in the UK (including Brilliant Beginnings). There is, however, a significant and chronic shortage of UK surrogates.

The Human Fertilisation and Embryology Act 1990 (updated in 2008) – makes the surrogate and her spouse the legal parents, excluding the rights of the biological parents. The intended parents can apply for a parental order after their child is born to become the legal parents instead (see Annex) after which they receive a UK birth certificate in their names. The court process takes 6-12 months.

The Law Commissions' Review

The Law Commissions of England and Wales and Scotland have completed an in-depth review UK surrogacy law. Their final recommendations (March 2023) include:

- The creation of a new 'pathway to parenthood' for UK surrogacy with intended parents recorded on their child's initial birth certificate (provided the surrogate does not change her mind).
- Regulation of non-profit UK surrogacy organisations to oversee the new pathway, including requirements for a written surrogacy agreement, screening, legal advice and counselling.
- Tighter categorisation of permitted payments to UK surrogates with a new requirement to account for costs along the way, and possible sanctions for intended parents who breach the rules.
- No significant changes to the law for parents conceiving through international surrogacy.

The recommendations include many positives, but need to go further to create meaningful change. The government has not yet committed Parliamentary time to progressing reform.

Current issues and problems

Difficulties finding a UK surrogate – There is a chronic shortage of UK surrogates. That means not just long waiting lists, but no clear process or certainty of intended parents ever finding a UK surrogate.

No legal structure or security – UK law makes surrogacy arrangements risky and uncertain, based on trust and with the surrogate given an absolute right to change her mind. The intended parents are not recognised as legal parents, even if they are their child's biological parents, and surrogates and their spouses are given legal responsibility for children they do not consider theirs. There is also no formal screening or preparation process for those going into surrogacy in the UK.

Intended parents driven overseas – A majority of parents now choose to go abroad to conceive their children through surrogacy. Children born overseas are often born stateless and parentless and can face long delays securing travel documents. While most international commercial surrogacy is safe, legal and ethical, some risks exploitation of women, particularly in less economically developed countries.

Parental orders – The court process to resolve parenthood is outdated, occurs too late and takes too long. The criteria have been criticised by High Court judges, including:

In *Re Z (No. 2) (2016)* the President of the High Court Family Division made a formal declaration of incompatibility under the Human Rights Act that the law discriminated against children born to single parents.

The President of the Family Division in Re X (2014): *“Can Parliament really have intended an application made just one day late to be barred forever?... It is the very antithesis of sensible; it is almost nonsensical.”*

Ms Justice Russell in Re Z (2016): *“There is no screening of either surrogate or commissioning parents and no support available other than support from others involved with the [Facebook] forum... This unregulated form of surrogacy means that there are on the one side vulnerable surrogates, and on the other commissioning parents who are legally unprotected from unpredictable outcomes.”*

Is there a better way?

Surrogacy is here to stay. We need workable law which accepts it as an established form of family building, and manages it sensitively and pragmatically. Nearly 8,000 people have signed our [petition for surrogacy law reform](#) which calls for:

- **Parentage from birth** – Children should have secure status with their parents immediately from birth, whether they are born through surrogacy in the UK or overseas.
- **An ethical framework for UK surrogacy** – Safeguards including screening, written agreements, counselling and legal advice to ensure all parties are protected and supported.
- **Fair compensation for surrogates** – Surrogates deserve reasonable compensation for the enormous commitment they make. It is already a reality that the family court authorises, which we should accept and manage more openly alongside ethical safeguards preventing exploitation.
- **Children’s long term welfare interests** – Improvement of public record-keeping to keep better information for children born through surrogacy, as we do for those born through gamete donation.



NGA Law is a specialist fertility law firm, which has represented parents in more than 2,000 surrogacy cases, including 21 landmark reported cases (including the very first international surrogacy, and the case in which the President of the Family Division made a declaration of incompatibility under the Human Rights Act).

Brilliant Beginnings is a leading non-profit UK surrogacy agency (one of only four surrogacy organisations in the UK) which works with UK parents and surrogates, supporting ethical UK and international surrogacy arrangements, and campaigns to raise awareness and encourage positive change.

Annex – Criteria for a parental order (granting legal parenthood to intended parents through surrogacy)

- The child is the biological child of at least one intended parent, conceived through assisted reproduction.
- If a couple, the applicants are married, civil partners or living as partners in an enduring family relationship.
- The application is made within six months of the birth (although case law has modified this).
- The child’s home is with the applicant/s and one or both is domiciled in the UK.
- The surrogate (and her spouse) consent to the order (six weeks after birth).
- The court is either satisfied that no more than reasonable expenses has been paid, or agrees to authorise the payments retrospectively.
- The order is appropriate to safeguard the child’s lifelong welfare.

For more information:

[Surrogacy law reform - Brilliant Beginnings](#)

[Making a difference - NGA Law](#)