

# Reform surrogacy but keep safeguards, lawyers urge

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Lawyers said that the new surrogacy process should “reflect the needs of contemporary society”JOSE LUIS PELAEZ/GETTY IMAGES

Save

Family lawyers have urged ministers not to abandon the safeguards imposed by the present surrogacy laws after the law commission called for the rules to be updated.

Proposals to transfer parental rights to couples and single people having children through surrogacy as soon as babies were born was “a fantastic step forward”, Bethan Carr, a surrogacy specialist at Stowe Family Law, said.

She added that the “pathway to legal parenthood” would focus the intentions of those involved and remove the need for intended parents to make an application to the court.

Joanna Farrands, a partner at law firm Barlow Robbins, said under the present lengthy process many intended parents did not realise that they had to apply to a court for a parental order, leaving children and parents in a legal limbo for months. She said that if the

reforms were implemented it would give greater certainty to parents undertaking surrogacy and reduce the disputes that could arise after the birth.

Hannah Saxe, a senior associate at Irwin Mitchell, said that the proposed legal pathway should also ensure that the intended parents' legal status reflected the reality of the arrangements "on the ground" for them and their child.

Victoria Sterritt, a family law partner at Seddons, said: "On the face of it, any proposals that seek to modernise the surrogacy process are to be greeted with open arms."

She cautioned, however, that it was important to ensure the reform proposals did not go too far and abandon the existing safeguards. By enforcing a lapse of time between the birth and parental orders being considered, she said that the law gave those involved time to implement the next "pivotal step" in a considered manner.

Ms Sterritt said: "There is a built-in safeguarding measure for the birth mother to have that time after the event of the birth, and also for the court to have the opportunity to scrutinise the scenario and ensure that all is as it should be. This enables effective monitoring of the process for what has pre-birth only been assessed on paper, based on the theory of the scenario. The reality can be a very different beast."

She said it was important that the reforms continued to safeguard and monitor not only the prospective parents, but also the surrogate and most importantly the child.

Andrew Powell, a barrister at 4PB, welcomed the reforms, which he said have "lagged behind societal change" for a long time. While many potential parents were forced abroad, he suggested that the proposed changes could lead to more people looking for surrogacy arrangements in Britain.

"We'll have to wait and see what the final law looks like but a legal framework which gives more clarity to the surrogacy process will give many parents a huge vote of confidence and reflect the needs of contemporary society," he said.

## Radical reform 'requires careful thought'

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Some of the proposals were said to be "more radical", such as dispensing with the surrogate's consent and allowing surrogacy for infertile couples where neither parent would need a genetic link.

Samantha Little, a partner in the children law team at Russell-Cooke, said that such reforms would "require very careful thought".

She said: "The suggestion that some sort of licensed clinic may have a greater role in arranging and supporting surrogacy may cause some consternation, particularly given the difficulties that have already emerged in some cases with errors being made with legal paperwork by the fertility clinics in providing treatment."