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17 April 2009

YOUR JOURNEY. OUR SUPPORT.

Ms Rachel Callinan  
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Dear Ms Callinan

**Re: Inquiry into legislation on altruistic surrogacy in NSW**

Thank you for the information sent through in relation to the inquiry and for your helpful advice in the lead up and assistance on the day. The corrected transcript is attached. Answers to the questions remaining to be addressed appear below.

**PATRONS**  
Glynis Nunn-Cearns OAM  
Candice Reed

**CHIEF EXECUTIVE OFFICER**

Sandra K Dill AM

**Criteria to meet before entering into an altruistic surrogacy arrangement**

Q1

**Our intention in our written response was to distinguish our recommendation from that in the Victorian legislation,** which requires every application to be approved by a government committee. A proven protocol has been where a properly constituted institutional ethics committee has approved specific policy and procedures established by the clinic. Thereafter, each case has been considered by a clinic established Surrogacy Review Panel. This panel must seek further ethics committee approval should additional ethical matters arise in a particular case.

**DIRECTORS**  
Doreen Burge  
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Clinics are charged with the professional duty and legal responsibility of providing appropriate care and are therefore are the best qualified to make these clinical judgments for their patients.

The **law can and should provide a framework** to ensure the best possible outcome. The following should be required in law to ensure that each person has been made as aware of the psychosocial implications of what they are about the undertake, through counselling by ANZICA approved counsellors, and the legal consequences:

1. Surrogacy should be provided in ART clinics licensed by the Reproductive Technology Accreditation Committee (RTAC). RTAC is recognised in Commonwealth legislation and provides an existing mechanism for comprehensive implications counselling for those considering gamete donation or surrogacy.
2. Independent legal advice to be sought by each of the parties.
3. The primary concern should be for any child born from a surrogacy arrangement. Intended parents should have an existing relationship with the surrogate and be committed to continuing an open association, even at some distance.
4. The practice of surrogacy, including specific policy and procedures, should be approved a properly instituted ethics committee. Thereafter, each case should be examined by a clinic Surrogacy Review Panel established by each clinic. The panel must seek further ethics committee approval should additional ethical matters arise in a particular case. The treating doctor should not be a member of the review panel.

**Australia's National Voice**

Access Australia's National Infertility Network Ltd.  
ABN 78 061 639 549

**Legal rights and responsibilities**

Q2

The legal rights and responsibilities, to which we refer, are those that may be imposed on the intending parents, such as a fitness-to-parent code. With the above mentioned framework enshrined in law, together with a legal mechanism for recognising the intending parents as the legal parents of the child, the legal rights and responsibilities would be addressed.

Q3

The idea of 'reasonable expenses' is one that we believe is understood. To be clear, the law could simply add the words "so that she is not out of pocket as a result of her generosity" and add a sentence saying that any fee for the surrogate is prohibited. Any attached penalty would give the parties any necessary caution in their approach.

**Legal parentage**

Q4

It seems reasonable for the circumstances of the child's birth to be recorded on a section of the birth certificate that can only be accessed by the child born, the intended parents, the surrogate and any egg or sperm donor. Informal discussions with Birth Registry authorities say that this could be done. It is important that this information be protected so that it cannot be accidentally revealed to any other party.

**Should surrogacy be available for single men and single women?**

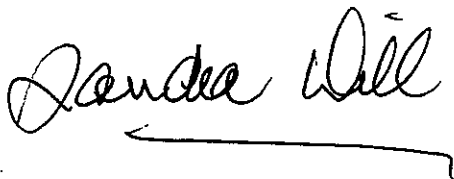
After further considering the questions that arose in the inquiry we have come to the view that access to surrogacy was not an equity issue but a medical one. Surrogacy involves a woman undergoing a medical procedure for conception then a pregnancy and delivery to have a child for another woman. It does not seem responsible or defensible to submit someone to the associated risks involved unless there was a medical reason for doing so.

The Access Australia position is that:

Surrogacy should be available for women who are without a uterus or who for medical reasons are unable to carry a pregnancy safely. Evaluation of this would be a clinical matter conducted by an infertility specialist and based on the circumstances of the particular woman.

Thank you for the opportunity to contribute to the committee's deliberations.

Sincerely

A handwritten signature in black ink, reading "Sandra K Dill". The signature is fluid and cursive, with a long horizontal line extending from the bottom of the name.

Sandra K Dill AM, BComm, MLS  
**Chief Executive Officer**