

**INQUIRY INTO LEGISLATION ON ALTRUISTIC
SURROGACY IN NSW**

Name: Ms Susan Mobbs

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Submission to
INQUIRY INTO LEGISLATION INTO ALTRUISTIC SURROGACY IN NSW

by Susan Mobbs

Thankyou for accepting my submission into the inquiry into altruistic surrogacy in NSW. I am an intended parent who is expecting a child via my sister in law who is acting as a gestational surrogacy for my husband and myself.

- a. The role, if any, that the NSW Government should play in regulating altruistic surrogacy arrangements in NSW.**

The NSW government should be responsible for setting up legislation and guidelines in regards to surrogacy. IVF Clinics should be responsible for assessing the suitability of parties for surrogacy following the guidelines set out by the government.

- b. The criteria, if any, that the intended parent/s and/ or birth parent/s should have to meet before entering into an altruistic surrogacy arrangement.**

Surrogacy should be medically required - criteria could include: risks to mother or baby, recurrent miscarriage, no uterus, or malformed uterus. Medical professionals should be able to assess whether patients meet this criteria. The surrogate should have previously had children and be completed their family. All parties should be required to undergo psychological assessment and counselling should be made available (but not mandated).

- c. The legal rights and responsibilities that should be imposed upon the intended parent/s and / or birth parent/s**

Intended parents should pay all cost involved with surrogacy such as medical, legal, travel, accommodation, and childcare. The surrogate should have the right to transfer parentage to the intended parents after a child is born. This transfer should be allowed to happen while the child is relatively young (ie under 6 months).

- d. The role that a genetic relationship between the child and the intended parent/s and / or birth parent/s should play in any altruistic surrogacy arrangement.**

It is preferable that the intended parents be the genetic parents of a child born through surrogacy. However donor gametes should be allowed if there is a medical reason for this, as intended parents should have the same choices as others who choose to use donor gametes. The intended parents should be considered the legal parents of the child, provided that the surrogate agrees to this. It is unfair and unjust to make parents and children go through years of legal limbo in order to adopt their own child.

- e. **The legislative amendments that should be made to clarify the legal status of any child born of such an arrangement.**

Current adoption laws do not cater for surrogacy as they were not set up to meet the specific situations involving surrogacy. Legislative amendments need to be made in order that legal parentage can be transferred to the intended parents provided that the surrogate consents. Transfer of parentage should happen when the child is young (from birth to 6 months), so that it has legal rights in relation to inheritance, and acknowledgement of its genetics and true parents. Current legislation leaves families in legal limbo for years until they are able to adopt their own child.

- f. **The rights that a child born through an altruistic surrogacy arrangement should have to access information relating to his or her genetic parentage, and who should hold this information**

Children born of surrogacy should have the right to know their genetic parentage, this information should be contained in central governing body.

- g. **The efficacy of surrogacy legislation in other jurisdictions and the possibility and desirability of working towards national consistency in legislation dealing with surrogacy.**

Surrogacy should be allowed in all states of Australia. NSW should accept surrogacy arrangement that involve intended parents and surrogates living within all state and territories of NSW.

- i. **Any other relevant matter.**

On a personal note. My husband and myself live in country NSW, I am a teacher, my husband is a radiographer. we are interested in surrogacy as a result of me getting cancer at 23. I went through IVF and ended up with 3 embryos. I lost my uterus and therefore the ability to be pregnant. Still having 3 embryos (and not being able to donate or destroy them) I needed to use surrogacy to have a family. We are expecting our first child in Feb - with my sister in law acting as our surrogate. If the current legislation stays as it is we will have wait years until we are able to adopt our own child. My sister in law will be legally recognised as the mother and her husband the father of our child even though it is not directly genetically related to him/her. There will be not legal recognition of our child's genetic heritage, we will have to apply for a parentage order, until that is granted we will have problems regarding accessing healthcare for our child without my sister in laws consent, should we want to travel overseas and get a passport for our child we would require my sister in laws consent.

Surrogacy is about creating families, it is not about tearing mothers and babies apart like adoption. It is about giving babies back to their families.

The government needs to look at Medicare funding for surrogacy. Currently Medicare does not fund surrogacy (as it is "treating" fertile women - the surrogate). However the commissioning parents require medical intervention and surrogacy to create a family. I was diagnosed with cancer at the age of 23, and lost my uterus - however I still have fully functioning ovaries. I cannot create embryos without IVF yet it is viewed as social infertility because the surrogate is treated as the patient. On the other hand Medicare does fund IVF for older women (those over 40) whose chances of falling pregnant are greatly diminished.