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## NEWSLETTER

### **Children's voices in surrogacy law: an innovative UK research project aimed at putting children's views at the forefront**

*In this interview, Dr. Katherine Wade, Professor. Kirsty Horsey, and Dr. Zaina Mahmoud, collectively [the team](#) of the project [Children's Voices in Surrogacy Law](#), provide insights on the project's aim and activities. The project took place in a regulated surrogacy context currently undergoing reform.*

#### **1. How did Children's Voices in Surrogacy Law come about and why does it focus on children as opposed to other parties involved in surrogacy?**

Children's Voices in Surrogacy Law aims to fill a gap in research on surrogacy law in the UK. While over the past years research has been conducted to gather other parties' opinions on domestic surrogacy arrangements (SAs), such as surrogates, intended parents (IPs) and involved professionals, little was known about children's views on the law. This project asked children their views on the current law and the extent to which law reform is required. In the UK, SAs are [legal](#) as long as there is no commercial third party involvement, and surrogates are able to claim their reasonable expenses (i.e. there is an altruistic surrogacy model)."

"When conducting research on children's lived experiences, it is essential to do so while they actually are children, hence avoiding gathering their recollection of childhood, through an adult lens."

Dr. Katherine Wade

In recent years, two Law Commissions (of England & Wales and of Scotland) were tasked to make

recommendations for reform on surrogacy law. Regarding children, legal rules were often based on mere assumptions about how they might impact children and were not founded on any concrete evidence. In line with the topics under discussion in the reform process, the Children's Voices project aimed to gather children and young people's views on three main areas: parenthood, "contributions to surrogates", and origin information and contact. Throughout the research process a fourth topic emerged, namely the impact of surrogacy in children's lives ("navigating surrogacy in their social worlds").

#### **2. Which activities did you undertake?**

The project was divided into two research phases. In Phase One, 25 children aged 8-17 years who had experience of surrogacy were involved (seven were born through surrogacy, 17 were children of surrogates and one had a cousin born through surrogacy in their extended family). In Phase Two, 24 children between 8-18 years were involved, who had not experienced surrogacy in any form. By comparing contributions from both groups, the researchers could determine whether children's surrogacy experience had impacted on their views.

### 3. How did you get children and adolescents to express their views? Which method did you use and why?

Surrogacy is legal in the UK, and therefore, finding participants for the project was not particularly challenging. The team collaborated with five organisations in the UK (Brilliant Beginnings, COTS, Donor Conception Network, My Surrogacy Journey and SurrogacyUK) to recruit participants and calls for participants were also disseminated on Twitter).

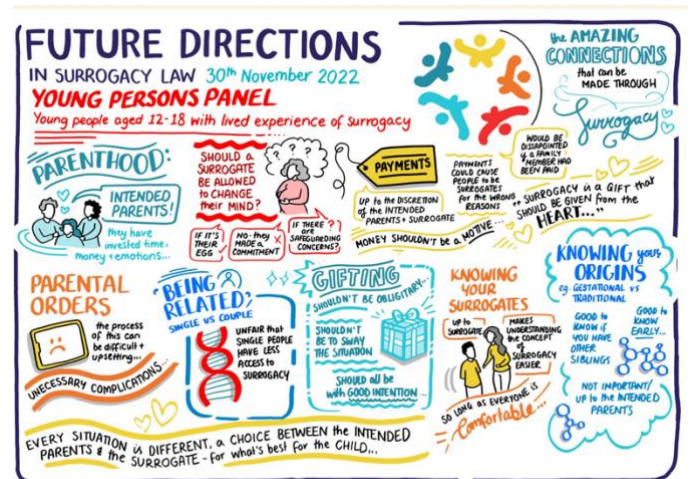
During the research phase, data were collected in two forms: a) focus groups and b) artwork on the theme what surrogacy means to me (Phase One) and what I learned about surrogacy today (Phase Two). These contributions were [digitalised](#), and the Digital Art Wall was first showcased at a conference held in November 2022, called [Future Directions in Surrogacy Law](#).



“To become a parent, you need a sperm and an egg. A parent is someone who has a child or has had a child for someone else via IVF.” (Oliver, 11, child of surrogate)

To engage with participants during focus groups, the team of Children's Voices in Surrogacy Law, together with the help of illustrators, developed a child-friendly deck of [playing cards](#), composed of explanation cards (cards with pictures and definitions), illustration cards (cards with pictures only) and question cards. Questions concerned parenthood (such as who should be considered a parent), contributions (such as whether surrogates should be able to receive money/gifts), and the origins of the child (such as whether the child should know or have the possibility to contact the surrogate or donor/s). The card games included voting and sorting activities, which meant that children gave their own answer without hearing the other participants' responses, to avoid the risk of copying answers. The research team avoided directly addressing children's personal experience, with the focus being on gathering their views on specific aspects of current surrogacy laws and reforms in the UK.

This innovative method sought to ensure child-friendly participation and contributed to making the participants feel part of an important project.



Panel: Young Persons' Panel

### 4. Which were the main results collected so far?

The following are [some of the project's notable results](#):

- Parenthood: as per the current law, the surrogate is the legal mother at birth, as is her spouse or civil partner. By court order, legal parentage can then be transferred to the IPs based on a set of criteria ([parental order](#)). Many children considered that IPs should be recognised as legal parents at birth of the child in a SA. Therefore, the current system should be amended. Children did not consider the genetic link requirement as particularly important.
- Contributions: there was no common view among participants of Phase One and Two on the acceptability of money as a potential contribution to the surrogate. Indeed, for some children, money was an acceptable potential contribution, but for others it was not.
- Origin information and contact: many participants were in favour of children knowing they were born through surrogacy and meeting the surrogate. Also, some were in favour of children being told information at a young age.

“They could all make a group decision, if they want to do it. And if they agree they all want to be the parents, then they could go to court and get it

changed. I don't know if that is possible, that three people can be the parents.”  
Scarlett, 11 y. born through surrogacy.

#### **5. To what extent were the project's results considered by the Law Commissions in the UK?**

For the first time, children's voices in relation to surrogacy were seriously considered in a law reform process. The preliminary reports of the project were shared with the Law Commissions of England and Wales and the Scottish Law Commission. Phase One was cited in their [joint report Building Families through Surrogacy: a New Law](#). In [March 2023](#), the latter was shared with the UK Government, which has now six months to give a preliminary response and one year for a final response to the two Law Commissions.

#### **6. Way forward**

The project's findings are currently being disseminated domestically in the UK, as well as internationally. The research team intends to start Phase Three of the project, which will focus on children's voices in international surrogacy arrangements (ISAs).

**If you are interested in further exchanging on the project and its methodology, please contact the research team:**

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