

6 June 2019



Our ref: L1/11/1D

Dear Consultee

**JOINT CONSULTATION PAPER ON BUILDING FAMILIES THROUGH SURROGACY: A NEW LAW  
LCCP No 244; SLCDP No 167**

We invite comment on the above mentioned joint Consultation Paper which has been published today. The paper is available on our website at <https://www.scotlawcom.gov.uk/law-reform/consultations/> together with a summary and a news release.

Surrogacy is where a woman bears a child on behalf of someone else or a couple, who then intend to become the child's parents (the intended parents). Surrogacy is legal in the UK, and is recognised by the Government as a legitimate form of building a family.

However, change is needed to make sure the law works for everyone involved. To reflect the wishes of surrogates and intended parents, the Law Commissions are proposing to allow intended parents to become legal parents when the child is born, subject to the surrogate retaining a right to object for a short period after the birth. This would replace the current system where the intended parents must make an application to the court after the child has been born, and do not become legal parents until the court grants them a parental order. The process can take many months to complete.

This proposal for the creation of a new surrogacy process or "pathway" is one of several that the Law Commissions are now consulting on which aim to bring greater certainty, put the child at the heart of the process and provide comfort and confidence to both the surrogate and the intended parents.

Consultation is critical in all our law reform projects to ensure that the final recommendations contained in our report would, if implemented, result in law which is just, principled, responsive and easy to understand. We would therefore be grateful to receive your views on any or all of the questions in this paper; they will be fully considered and analysed in the course of reaching our final conclusions.

As the Law Commission of England and Wales is co-ordinating the submission of responses, please see the online form at <https://www.lawcom.gov.uk/project/surrogacy/> or page (i) of the paper. Where possible, we would prefer the electronic submission of comments. Please note that the consultation process for this project will conclude on **27 September 2019**; accordingly, we would be grateful if comments were submitted by then.

**PLEASE NOTE THAT** information about this joint Consultation Paper, including copies of responses, may be made available in terms of the Freedom of Information Act 2000 and the Freedom of Information (Scotland) Act 2002. Any confidential response will be dealt with in accordance with these Acts. We



may also publish and/or attribute comments and publish a list of respondents' names. For further information on such matters, please see the relevant page at the front of the joint Consultation Paper.

More information about the work of the Commission can be found on our website at <https://www.scotlawcom.gov.uk/>.

Finally, should you wish to offer any comments on the way in which we conduct our consultation exercises, we would be pleased to hear from you.

Yours faithfully

**MALCOLM McMILLAN**  
Chief Executive