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Surrogacy in the UK:

Myth busting and reform

Report of the Surrogacy UK Working Group on Surrogacy Law Reform

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The **Surrogacy UK Working Group on Surrogacy Law Reform** is comprised of:

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Foreword

Mary Warnock

Margot Brazier

Susan Golombok

The UK has regulated surrogacy arrangements for 30 years and many other countries have, in that time, modelled similar laws on ours. Little, however, has changed in the law in that 30-year period, other than to provide a mechanism for the transfer of legal parenthood from surrogates to intended parents from 1990 and to recognise, in 2008, that intended parents may legitimately comprise people other than married heterosexual couples.

In recent years, some aspects of the landscape of surrogacy have changed. The explosion of the internet, bringing easily accessible information and cheap international travel has, alongside the willingness of other nations to open their borders and clinics to those willing and able to travel to enter surrogacy arrangements, led to an expansion of international surrogacy. For some, this has brought its own problems – for example with immigration or the acquisition of legal parenthood. Such cases, coupled with high-profile media coverage of the rare occasions when surrogacy goes wrong, raise concern about the ethics of some international surrogacy practices and their commercialisation.

However, despite some claims to the contrary, the majority of surrogacy arrangements undertaken by intended parents from the UK are relationships entered into using UK-based surrogates and on an altruistic basis. We also know, from academic studies following families created by surrogacy, that surrogate-born children fare well in supportive environments. This report seeks to highlight the reality of the practice of surrogacy in the UK in 2015, while recognising the problems that international surrogacy arrangements may bring. It recommends the careful formulation of new legislation on surrogacy which recognises the value of surrogacy as a way of having children and helps to protect and facilitate the altruistic, compensatory nature of surrogacy in the UK while preventing commercialisation and sharp practice. Its recommendations are premised on the primary assumption that the welfare of the children born through surrogacy is paramount.

We support this report and urge the government to reconsider surrogacy, to facilitate further research into how it is conducted and what compensations are paid, to bring the law into line with modern social realities and to discourage those who need to undertake surrogacy from doing so overseas.

Mary Warnock, Professor Margot Brazier and Professor Susan Golombok

Executive Summary

- This report examines the **current realities of the practice and regulation of surrogacy** in the UK, and dispels 'surrogacy myths' that have informed debate in recent years.

- It concludes that the time is ripe to embark upon **reform of surrogacy law** and regulation in the UK, and makes a series of recommendations to that effect. The 30-year old **law regulating surrogacy in the UK is out of date and in dire need of reform**.

- Our **recommendations for reform centre on the welfare of surrogate-born children** and on realigning the law with their best interests.

- **Existing data on surrogacy is inadequate**. Figures purporting to show the incidence of surrogacy and/or where surrogacy arrangements take place differ considerably by source in relation to how many people enter surrogacy arrangements, how many travel for surrogacy, where they go and whether they apply for parental orders.

- **It is a myth that 'international' or 'cross-border' surrogacy has become commonplace** for intended parents from the UK. Even the most generous estimates evidence nowhere near the supposed volume of overseas surrogacy being undertaken by UK intended parents, though this number is increasing as more intended parents are pushed abroad. We should promote UK surrogacy as the first choice for UK intended parents.

- Judges should not be forced to make legally correct decisions that **do not promote the welfare of the child**, or decisions which, to achieve the paramount aim of protecting welfare, circumvent the law.

- We must **guard the principle of altruistic surrogacy** in the UK – surrogacy as a relationship not a transaction.

- The **law must recognise the correct people as parents of children born through surrogacy**. Not to do so is not in children's or families' best interests.

- **More research** should be undertaken to interrogate how those involved perceive the social, medical, legal and other aspects of surrogacy in the UK.

In particular, this group recommends the following specific changes to law:

- Parental orders should be pre-authorised so that legal parenthood is conferred on intended parents at birth.
- Intended parents should register the birth.
- Parental orders should be available to single people who use surrogacy.
- Parental orders should be available to IPs where neither partner has used their own gametes ('double donation').
- The time limit for applying for a parental order should be removed.
- Parental order/surrogacy birth data should be centrally and transparently collected and published annually.
- IVF surrogacy cycles and births should be accurately recorded by fertility clinics/ Human Fertilisation and Embryology Authority (HFEA).
- NHS funding should be made available for IVF surrogacy in line with NICE guidelines.
- The rules on surrogacy-related advertising and the criminalisation of this should be reviewed in the context of non-profit organisations.

We also recommend the following actions for government:

- The Department of Health, in consultation with the surrogacy community, should draft and publish a 'legal pathway' document for intended parents and surrogates.
- The Department of Health should produce guidance for professionals in the field, written in consultation with the surrogacy community for midwives and hospitals, Children and Family Court Advisory and Support Service (Cafcass) and clinics.
- Surrogacy should be included in schools' sex and relationships education (SRE) classroom curriculum (from primary) – linked to awareness of (in)fertility, family options for same sex partners etc.

Introduction

The Human Fertilisation and Embryology Act 1990, the UK's primary piece of legislation regulating IVF and related technologies, research and practices, was reviewed between 2004 and 2007, to ensure that it would remain 'effective and fit for purpose in the early 21st Century'.[1] This was a recognition that science, technology and societal opinion had advanced since the law was initially passed. Draft legislation was published in 2007 and parliamentary debate commenced on what would later become the Human Fertilisation and Embryology Act 2008 – not in itself a whole new law, but a piece of amending legislation to be read alongside the 1990 Act. The 2004-7 review period included detailed assessment of the existing state of the relevant science and its regulation in the UK by the UK House of Commons' Science and Technology Committee,[2] followed by various public consultations issued by the Department of Health and Human Fertilisation and Embryology Authority.

By this point, surrogacy in the UK had already been regulated for over 20 years: the Surrogacy Arrangements Act 1985 had been the response to some of the findings of the 1984 Warnock Committee report,[3] when it was felt that a quick solution to the problems of commercialised surrogacy arrangements and potentially exploitative profit-making agencies was needed. The 1990 Act added further regulation, ensuring it was enshrined in law that surrogacy arrangements are legally unenforceable, and creating the parental order mechanism under which, in certain limited circumstances, legal parenthood may be formally transferred from the surrogate to the intended parents after birth. In 1997, the incoming Labour government commissioned a further review of surrogacy: the Brazier Committee's report was published in 1998 and recommended that the 1985 Act and relevant sections of the 1990 Act be repealed and a new Surrogacy Act created in their place.[4] The Committee thought that this new Act should continue to render surrogacy agreements unenforceable and maintain the prohibitions on commercial surrogacy, and should require the establishment of a statutory Code of Practice for non-profit surrogacy agencies that would be registered with the Department of Health. It also envisaged that in response to the assumed rising costs of surrogacy arrangements, the new legislation should outline what was acceptable in terms of 'payments' to surrogates, defined as compensation for expenses reasonably incurred.

When the Department of Health's 2005 public consultation on the 1990 Act was published, it contained few questions specifically pertaining to surrogacy: asking merely 'what, if any, changes are needed to the law and regulation as it relates to surrogacy'; 'if

[1] A phrase taken from the Department of Health's consultation document, Review of the Human Fertilisation and Embryology Act: A Public Consultation (Department of Health, 2005).

[2] House of Commons Science and Technology Committee Fifth Report of Session 2004-05, Human Reproductive Technologies and the Law, Volume I, HC 7-I.

[3] Report of the Committee of Inquiry into Human Fertilisation and Embryology, Cm 9314, (HMSO, July 1984) (hereafter, the 'Warnock Report').

[4] Surrogacy: Review for Health Ministers of Current Arrangements for Payments and Regulation, Report of the Review Team Cm 4068 (HMSO, London 1998) (hereafter, the 'Brazier Report').

changes to the law and regulation on surrogacy are necessary, do the recommendations of the 'Brazier Report' represent the best way forward?' and 'if changes to the law and regulation on surrogacy are necessary, should they be taken forward as part of the review of the HFE Act, or in separate legislation?' Despite this, nothing changed regarding the regulation of surrogacy in the 2008 Act, other than the extension of the availability of parental orders to certain groups (e.g. those in enduring relationships and civil partnerships), to match similar necessary changes to the laws on parenthood following the use of other forms of regulated assisted reproduction.[5] Elsewhere, surrogacy has been described as 'the fertility treatment that time forgot'[6] and the law that relates to it as 'thoroughly confused'[7] and 'still hazy after all these years'.[8] Various related secondary legislation has been enacted to 'tidy up' loose edges, for example formally determining that the paramountcy of children's welfare is the most relevant consideration when courts award a parental order,[9] or extending the availability of parental leave and support to intended parents who have children via surrogacy.[10]

At the same time, much of the world has opened up to those seeking surrogacy. Intended parents from the UK can now with a few keyboard strokes find information about and arrange travel to numerous overseas destinations in order to enter surrogacy arrangements for the birth of their much-wanted children. This brings its own problems, as often it raises conflict of laws or immigration issues, or difficulties in meeting the requirements for the acquisition of parental orders upon return to the UK, especially where payments were made which might be deemed to be in excess of 'reasonable expenses' incurred by the surrogate. Notwithstanding these practical problems, international surrogacy can also raise ethical issues, such as the potential for exploitation of women from poorer nations and their families, not only as an unintended consequence of a transaction entered into by (usually) wealthier intended parents, but by clinics, agents, lawyers, brokers and others seeking profit. Perhaps for some of these reasons, various overseas destinations have begun to close the doors to those coming from overseas – that said, even when this happens, new markets continue to emerge.

Good, consistent data does not currently exist regarding the number of people from the UK undertaking surrogacy arrangements and how and where they do so and for what financial and other cost. This report surveys the current landscape of surrogacy as practised in the UK and begins to interrogate the information that does exist, as well as to add some new information from a survey undertaken by this working group, from which we draw a number of conclusions about

[5]However, it should be noted that the model for parental orders is actually adoption law, because of the transfer of legal parenthood that takes place, as confirmed by the Department of Health's 2009 Consultation on a review of Parental Order Regulations. Whether this is the correct presumption is beyond the scope of this report.

[6]Horsey, K. and Neofytou, K., (2015) 'The Fertility Treatment Time Forgot: What should be done about Surrogacy in the UK?' in Horsey, K. (ed.), (2015) Revisiting the Regulation of Human Fertilisation and Embryology (Abingdon: Routledge), 117.

[7]Warnock, M., (2002) Making Babies: Is There a Right to Have Children? (Oxford: Oxford University Press), 91.

[8]Horsey, K. and Sheldon, S., (2012) 'Still Hazy after all these years: The Law Regulating Surrogacy' 20(1) Medical Law Review 67.

[9]The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (SI 2010/986).

[10]RKA v Secretary of State for Work and Pensions (2012) highlighted this issue. The Children and Families Act 2014 allows parents through surrogacy and eligible/intending to apply for a Parental Order the same rights to time off work to care for their new children as those adopting children, broadly in line with that for other parents. Regulations, which came into force in April 2015, now provide the framework in which these applications can be made.

how surrogacy works best in practice. Alongside some analysis of the state of surrogacy in the UK today, as well as some of the problems that emerge from overseas surrogacy or that have come before the courts, we conclude that the time is ripe to embark upon reform of surrogacy law and regulation in the UK, and we make a series of recommendations to that effect.

Surrogacy in the UK: Myth busting and reform

Report of the Surrogacy UK Working Group on Surrogacy Law Reform

1. Surrogacy in the UK: setting the scene

Surrogacy arrangements have been regulated in the UK since 1985. The Surrogacy Arrangements Act 1985 reflected the state of knowledge and societal beliefs about surrogacy at the time and was largely based on recommendations made in the Warnock Report. Though some further regulation of aspects of surrogacy (most notably how legal parenthood can be transferred to the intended parents (IPs) from the surrogate and her partner) occurred in primary legislation in both the 1990 and 2008 Human Fertilisation and Embryology (HFE) Acts, as well as in some other pieces of secondary legislation, the law pertaining to surrogacy is now 30 years old and increasingly out of date. It does not reflect the realities of modern surrogacy and needs thorough review by lawmakers, with a view to bringing the law in line with the views and needs of the families – and reflecting the best interests of the children – created by this method.

The time since the Surrogacy Arrangements Act has seen major social change: not least the birth of the internet and cheap, easy overseas travel for fertility treatment (often dubbed 'reproductive tourism'), but also changes in the types and variety of family form (and ways of forming families) that have come to be accepted.[11] There have also been significant legal changes, including the passage of the Human Rights Act 1998 as well as the introduction of, first, civil partnerships and, more recently, same-sex marriage in 2014. Additionally, burgeoning surrogacy markets have emerged in various countries, notably e.g. parts of the US, India, Thailand or Nepal – or are beginning to emerge (e.g. Mexico, Cambodia, Greece).[12]

Reliable data on the number of surrogacy arrangements being entered into by parents from the UK, whether domestic or overseas arrangements, is notoriously hard to obtain, as has been remarked upon by numerous academic commentators over many years.[13] This is not helped by the fact that different government agencies record different aspects of the process, using different timelines and parameters. It is also probably the case that some families created by surrogacy are not recorded at all, particularly if there is no clinical involvement in their creation. In addition, despite the findings and recommendations of the Brazier Report in 1998, little has changed in terms of surrogacy's regulation. In fact, it is an enduring truth that 'the law governing surrogacy remains confused, incoherent,

[11]See, e.g. Nordqvist, P. and Smart, C., (2014) Relative Strangers: Family Life, Genes and Donor Conception (Basingstoke: Palgrave Macmillan), ix.

[12]Note, however, that despite its domination of the discussion of internationalised surrogacy in recent years, a Bill has recently been proposed that will restrict access to surrogacy in India for foreign nationals, making surrogacy permissible only for overseas citizens of India (OCIs), people of Indian origin (PIOs), non-resident Indians (NRIs) and any foreigner married to an Indian citizen (see Daily Mail, 'Now Foreigners Can't Hire Wombs in India' 3 October 2015; BBC News Online, 'India to ban foreign surrogate services' 28 October 2015). Thailand has already closed its doors to foreign intended parents, following a series of scandals. Nepal's Supreme Court suspended commercial surrogacy in August 2015, without directing what should happen to children already conceived or born, leaving many IPs who had already entered or even completed agreements in limbo.

[13]See e.g. Blyth, E., '"I wanted to be interesting. I wanted to be able to say 'I've done something interesting with my life'": Interviews with Surrogate Mothers in Britain', (1994) 12(3) Journal of Reproductive and Infant Psychology 189; Crawshaw, M., Blyth, E. & van den Akker, O., (2012) 'The changing profile of surrogacy in the UK – Implications for national and international policy and practice', 34(3) Journal of Social Welfare and Family Law 267; Horsey and Sheldon, note 8, above

and poorly adapted to the specific realities of the practice of surrogacy'.[14] On a positive note, however, an ongoing longitudinal study has shown that the psychological well-being of children born and families created through surrogacy in the UK is not in question,[15] and there have been published studies showing that motivations and experiences of women who become surrogates are generally positive.[16]

This working group started from the premise that so much information on surrogacy arrangements is missing from public, political, legal and social discourse – particularly what kinds of arrangement (domestic or overseas, altruistic or commercial etc) are entered into by IPs from the UK, and how people experience them.[17] Rather, what have come into existence, and seem to persist, are a series of 'surrogacy myths', which have influenced policy and debate to date. As part of our work towards this report, we commissioned our own survey on people's views of surrogacy practices and the law that relates to surrogacy, with a view to interrogating some of these surrogacy myths and finding out what really happens in surrogacy arrangements in the UK. We received an unprecedented number of responses, particularly from within the surrogacy community (surrogates and IPs). Some of the major findings from the survey are outlined in section 3.

Key Findings:

- Reliable data on surrogacy in the UK is largely absent, including that relating to the number of IPs travelling overseas for surrogacy.
- As a result of the lack of good data, a number of 'surrogacy myths' have been born, which have informed much of the public, political, legal and social debate on surrogacy.

[14]Horsey and Sheldon, (ibid) 67.

[15]Golombok, S., Murray, C., Jadva, V., MacCallum, F. and Lycett, E., (2004) 'Families created through surrogacy arrangements: Parent-child relationships in the first year of life' 40 Developmental Psychology 400; Golombok, S., MacCallum, F., Murray, C., Lycett, E. and Jadva, V., (2006) 'Surrogacy families: Parental functioning, parent-child relationships and children's psychological development at age 2' 47(2) Journal of Child Psychology and Psychiatry 213; Golombok, S., Murray, C., Jadva, V., Lycett, E., MacCallum, F. and Rust, J., (2006) 'Non-genetic and non-gestational parenthood: Consequences for parent-child relationships and the psychological well-being of mothers, fathers and children at age 3' 21 Human Reproduction 1918; Golombok, S., Casey, P., Readings, J., Blake, L., Marks, A. and Jadva, V., (2011) 'Families created through surrogacy: Mother-child relationships and children's psychological adjustment at age 7' 47(6) Developmental Psychology 1579; Golombok, S., Blake, L., Casey, P., Roman, G., and Jadva, V., (2013) 'Children born through reproductive donation: A longitudinal study of child adjustment' 54 Journal of Child Psychology and Psychiatry 653.

[16]E.g. Van den Akker, O., 'Genetic and gestational surrogate mothers' experience of surrogacy' (2003) 21(2) Journal of Reproductive and Infant Psychology 145; Jadva, V., Murray, C., Lycett, E., MacCallum, F. and Golombok, S., (2003) 'Surrogacy: The experiences of surrogate mothers' 18(10) Human Reproduction 2196; Jadva, V. and Imrie, S., (2013) 'Children of surrogate mothers: Psychological well-being, family relationships and experiences of surrogacy' 29(1) Human Reproduction 90; Jadva, V., Imrie, S. and Golombok, S., (2015) 'Surrogate mothers 10 years on: A longitudinal study of psychological wellbeing and relationships with the parents and child' 30(2) Human Reproduction 373.

[17]Even a pan-European study of surrogacy commissioned by the European Parliament only received six responses to a survey (of the data on surrogacy kept by clinics in various EU member states) sent out in 2012. Of these, 'more than one respondent commented on the complexity of the topic and the ability to provide data on parts of the surrogacy situation in their country and not on others' (McCandless J. et al, A Comparative Study on the Regime of Surrogacy in EU Member States (European Parliament, 2013), 17).

2. Statistical Differences

There is a developing perception that 'international' or 'cross-border' surrogacy (i.e. an arrangement where the surrogate is located overseas) has become commonplace for IPs from the UK. In a Westminster Hall debate in October 2014, which was widely reported in the press and elsewhere, Jessica Lee MP cited an estimated 1,000-2,000 children born to surrogates for UK-based IPs *per year*, with 'up to 95%' of these being born overseas.[18] No other data that we can find supports this contention, yet the failure of commentators, campaigners, the media and others to interrogate the source and validity of this figure has led to misperceptions about cross-border surrogacy being perpetuated and influencing views about what should happen about surrogacy in the UK (and internationally). Even the most generous estimates (see below) evidence nowhere near this volume of overseas surrogacy being undertaken by IPs from the UK.

It is true that the number of parental orders (POs) being granted has risen in recent years, as was recorded by Crawshaw *et al* in 2012, who identified an average of fewer than 50 POs in total being granted per year up to 2007, rising to 75 in 2008; 79 in 2009; 83 in 2010 and 149 in 2011.[19] They surmised that the rise would continue as clinics offered their services to a wider range of individuals and/or targeted specific groups.[20] Of those figures, 'approximately 26% [38.7] of Orders made in the year to October 2011 took place overseas, contrasting with 13% [10.8] in 2010, 4% [3.2] in 2009, [and] 2% [1.5] in 2008', according to the General Records Office of England and Wales.

> *"Figures purporting to show the true incidence of surrogacy and/or where surrogacy arrangements happen differ considerably about how many people enter surrogacy arrangements, how many travel for surrogacy and where they go"*

It therefore seems clear that depending on whose data is being presented, figures purporting to show the true incidence of surrogacy and/or where surrogacy arrangements happen differ considerably in relation to how many people enter surrogacy arrangements, how many travel for surrogacy and where they go. As there is no *requirement* to apply for a PO and because there are limits on who may do so, the PO records are not themselves a true indicator of how many surrogacy arrangements are entered into, or where they take place. Similarly, data from the passport office do not tell us the true number of children born to overseas surrogates before being brought into the UK, as this will only be a percentage of the total number of overseas passport applications that are made per annum.

[18]Hansard 2014 Col 1WH 14 October (http://www.publications.parliament.uk/pa/cm201415/cmhansrd/cm141014/halltext/141014h0001.htm). See also Blyth, E., Crawshaw, M., and Fronek, P., (2015) 'Reform of UK surrogacy laws: the need for evidence' BioNews 813.

[19]Crawshaw et al (note 13 above), 269.

[20]For example, the British Surrogacy Centre opened a UK office in 2011, targeting gay male couples in particular. It seems likely that the legitimisation of gay marriage in the UK will lead to an increase in the number of children born within such marriages. Figures released by the Office for National Statistics in October 2015 show that 15,098 couples legally married after the Marriage (Same Sex Couples) Act 2013 came into force on 29 March 2014 (7,732 of these were conversions from civil partnerships): http://www.ons.gov.uk/ons/rel/vsob1/marriages-in-england-and-wales--provisional-/for-same-sex-couples--2014/sty-for-same-sex-couples-2014.html [accessed 20 Oct. 2015].

2.1 The Ministry of Justice (MoJ) and Her Majesty's Passport Office (HMPO)

MoJ data tell us that overseas surrogacy makes up an average of about 13-14% of known place of birth origin UK POs, as shown in the following table.[21]

2.1.1 Table showing MoJ data on POs made (counted by child)

Year	Foreign	UK	Unknown	Total	Total - unknown	% of known w/foreign birth address	Mean average
2011	6	98	17	121	104	5.8	
2012	8	134	48	190	142	5.6	
2013	31	102	29	162	133	23.3	
2014	16	163	61	240	179	8.9	10.9
2015 Q1)	14	43	27	84	57	24.6	
						Total	**13.64**

In private correspondence from the Head of Passport Nationality Policy Team at HMPO, we were told that the Passport Office '[does] not see anywhere near the volumes that have previously been quoted from a number of agencies'. It appears, therefore, that the number of overseas passport applications made for surrogate-born children is simply an unknown percentage of the total 150-200 overseas passport applications received by HMPO per annum. Despite this, information provided by HMPO relating to the number of entries in the Parental Order Register in the period 2003-2013 shows that a small but increasing proportion of the total number of POs recorded annually (1098 over 11 years) relate to births taking place overseas, with the primary locations in that period being India (11.38%) and the USA (9.74%).[22]

[21] As a mean for the period 2011-15. This rises to 16% if considering only 2013-14, though shows a spike of 23.3% in 2013 and 24.6% in the first quarter of 2015.

[22] Note: these numbers do not correspond with the numbers cited by Crawshaw et al (text surrounding note 19, above), or the data from the MoJ (table 2.1.1).

2.1.2 Table showing births recorded in the PO register 2003-2013 (including country of birth)

Country	2003-2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Canada				1		1		3		5
China							1			1
Cyprus									1	1
England & Wales	127	56	66	77	50	91	96	117	129	809
Georgia							5		1	6
India		1		4	4	17	27	35	37	125
Russia							2	1	1	4
Scotland	3	4		1	2	2	3	4	1	20
Sth Africa							1			1
Thailand						2				2
Ukraine				2		7	3	3	2	17
USA	3	1	1	6	4	12	20	27	33	107
Total	133	62	67	91	60	132	158	190	205	1098
Total non-UK	3	2	1	13	8	39	59	69	75	269
% non-UK	2.25	3.22	1.49	14.28	13.3	29.54	37.34	36.31	36.58	24.5

2.2 Children and Family Court Advisory and Support Service (Cafcass) data

Cafcass, which is the agency responsible for reporting to the court on whether the conditions for a PO (as outlined in S54 HFE Act 2008) have been met, says there is a 'general awareness' that the number of surrogacy arrangements is increasing, citing a rise from 138 PO applications in the year April 2011 - March 2012 to 241 in April 2014 - March 2015.[23] The following table shows the number of PO applications received by Cafcass annually since 2008 (when central records began to be collected), and information relating to the recorded country of the address of female respondents in the applications.[24] According to this data, 123 of 213 *female* respondents (57.74%) in PO applications in 2014-15 were from overseas (excluding those where the respondent address was unknown or no information was held).

[23]Cafcass Study of Parental Order Applications made in 2013/14, July 2015, available at http://www.cafcass.gov.uk/media/257188/intranet4cafcass/DavWWWRoot/ce/policy_team/Shared%20Documents/Research/Cafcass%20research/2014-15/Surrogacy/Study%20of%20parental%20order%20applications%202013-14%20(internet).pdf. Note the dates of recording differ from that in the tables above.

[24]The data was obtained via a Freedom of Information Act request and was received on 1 September 2015. Cafcass notes:

- The data includes all Parental Order (s54 HF&E) and Parental Order (s30 HF&E) applications received by Cafcass in the period 1st April 2008 to 31st March 2015.
- Data is reported where the gender of the respondent is known to be female. There may be more than one female respondent on a case. All female respondent details have been summarised therefore it is possible the number of respondents exceeds the number of cases in the period (our emphasis).
  - o 'Non UK other' relates to female respondents whose country of address is not clear from the recorded information held.
  - o 'Unknown address' relates to female respondents whose addresses are not recorded.
  - o 'Respondent information not held' relates to cases where no female respondents are recorded.
- There may be some margin of human error in the data entry. The data sources are:
  - o ECMS: ECMS is a live system, continually updated and is subject to change when further updates are made; it was introduced on 11 July 2014.
  - o CMS: Prior to July 2014, information is taken from CMS (Case Management System); data from CMS is a static snapshot on the day it ceased to be a live database, 11th July 2014.

2.2.1 Table showing Cafcass data on PO application respondents

Country	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
Canada				1	2	1	1
England	10	11	63	81	90	105	89
Georgia						2	4
India			6	16	19	32	47
Ireland			1	1			
Nigeria							2
Russia				2		1	2
Scotland			1	2	1	1	1
Sth Africa				1			3
Thailand			1				12
Ukraine			1	1	1	2	1
USA	1	1	7	10	18	30	48
Wales			2	2	1	4	
Non-UK other			2	4	2	1	3
Unknown address			3	3	2	8	14
Respondent info not held	52	46	23	14	17	14	14
Grand total	63	58	110	138	153	201	241

2.3 Other sources

There are varied other reports of the numbers of overseas surrogacy arrangements being entered into each year and many of the figures are derived from sources where it is difficult to be confident about the robustness of data collection mechanisms. The Human Fertilisation and Embryology Authority (HFEA) holds no data, though does have some advice on its website for those who travel overseas.[25]

Childlessness Overcome Through Surrogacy (COTS), the UK's oldest surrogacy support organisation (established in 1988), says on its website that the organisation celebrated its 960th surrogate birth in August 2015.[26] This means that COTS has supported arrangements that have a mean of just over 34 babies born to surrogates per year of its existence. There is no indication, however, whether or not any of these have been overseas surrogacy arrangements.[27]

One independent surrogacy adviser told us in private

[25] http://www.hfea.gov.uk/1424.html [accessed 19 Oct. 15].

[26] http://www.surrogacy.org.uk/ [accessed 14 Oct. 15].

[27] They do, however, stipulate that they will not help couples from overseas obtain a child via surrogacy in the UK, in accordance with the law.

correspondence that he has:

'helped 30-35 people from Europe go to the US. I have spoken with probably around 10-15 more who have gone via Thailand or India. Nepal I have no one thus far and about five via Mexico. This is from all over Europe though - I would say 85% would be UK people though. This will be over a few years.'

Broken down by year, his numbers were as follows:

2013 - 18 IPs (10 from UK – 55.6%)
2014 - 31 IPs (21 from UK – 67.74%)
2015 (to date, August) - 32 IPs (18 from UK – 56.25%)[28]

The British Surrogacy Centre (BSC)[29] says on its website that there is 'no doubt that foreign surrogacy arrangements are attractive, hundreds of couples every year travel to America and other International destinations in search of a surrogate or egg donor'.[30] However, the 'hundreds' cited here notably includes those travelling for donated eggs. Specifically on surrogacy, they claim 'over the past eight years, we have helped 85 couples and singles with surrogates', suggesting that an average of just over 10 families per year are created by surrogacy that the BSC has helped to facilitate. As the BSC has both US and UK offices, however, there is a possibility that a larger proportion of this number was surrogacy arrangements for US-based IPs. The website also says that 'in the past 12 months alone, from the 175 applications from prospective intended parents, the British Surrogacy Centre chose to work with 63'. This also does not mean that all those IPs were from the UK, nor that they have/will be successful, or that all those from the UK require/will apply for a PO.

The organisation Families Through Surrogacy sent us its 'industry survey' results from March 2015. In this, they describe cross-border surrogacy arrangements as 'increasingly common'. Surveying 15 surrogacy providers in eight different countries (from which they received responses to a survey sent out in December 2014), a total of 3801 'client contracts' were entered into over the previous three calendar years, with clients representing 57 different source countries. 271 of these 'clients' in that period were intended parents from the UK.[31] 170 of these were reported as being 'engaged' by Thai clinics, with 57 doing so in 2014 alone.[32] While this industry survey shows the booming nature of the international commercial surrogacy business, and not only from those IPs travelling from the UK, the mean of UK clients travelling to these clinics in the past

[30] Note these numbers refer to IPs helped, not the number of children born.

[31] Set up by Barrie and Tony Drewitt-Barlow, the first gay male couple from the UK to publicly have children via surrogacy (in the US). They now have five children via surrogacy, arising from some complicated biological relationships – see 'Portrait of a 21st Century family: Meet Britain's first gay dads and their twins Aspen and Saffron, who say the mind-bogglingly tangled biological web behind their birth is TOTALLY normal' Daily Mail (23 May 2015).

[32] http://www.britishsurrogacycentre.com/ [accessed 14 Oct. 15].

[31] The data do not show whether 'client contracts' and the number of intended parents are the same, or e.g. whether IPs in a couple would equal one contract.

[32] In February 2015 the Thai government stopped access to surrogacy for foreign couples following the 'Baby Gammy' scandal and other issues. See 'Thailand outlaws commercial surrogacy for foreigners' BioNews 791 (23 February 2015).

three years is just 90 (though we do not know if this is 90 couples or 90 IPs in total). The figures also do not tell us how many of the arrangements resulted in children born and brought back into the UK.

2.4 Conclusions from the data

There is much variability in the data by year and by source of information. The actual number of POs in relation to surrogacy arrangements conducted overseas is unclear and, though increasing, appears to be far lower than the numbers cited in Parliament in October 2014. A lower estimate fits with numbers reflected in our survey (section 3, below) and the numbers from HMPO. Anecdotal evidence from HMPO suggests that the majority of IPs who go overseas do in fact apply for POs. This is the same as suggested for both international and UK-based surrogacy in our survey. There is no evidence supporting concerns that POs are not generally sought, despite some claims to the contrary.[33]

Incomplete data means that up to 25% (in some years) of children granted POs do not have a known origin of birth – this could mean the actual average rate of overseas surrogacy is higher than 13.64% but this would still not be within the thousands as has been claimed.

Key Findings:

- It is a myth that thousands of IPs from the UK are travelling abroad each year for surrogacy.
- The number of IPs who travel internationally for surrogacy from the UK is small, but increasing.

[33] See 'Unregistered surrogate-born children creating 'legal timebomb', judge warns' The Guardian (18 May 2015); 'Surrogacy parents risk losing children' The Times (19 May 2015). Also see Crawshaw et al (note 13, above) at 270..

3. Our Own Survey Data

We conducted an online survey from June-August 2015, asking respondents a number of questions about their experiences of surrogacy. The survey was created using Bristol Online Survey software. It was disseminated widely through direct circulation to members by national surrogacy organisations including Surrogacy UK and COTS, as well as to 'independent' surrogate groups. It was also distributed via the BioNews and HFEA websites, via some clinics and several patient groups, and more generally via social media.[34]

> *"As far as we are aware, this is the largest ever UK survey of surrogates, IPs and other interested parties"*

There were **434 responses** in total, including from **111 surrogates**, **206 IPs** (15% (65) in gay male couples) and 112 'others'. As far as we are aware, this is the largest ever UK survey of surrogates, IPs and other interested parties. There is a great deal in the survey responses to analyse both quantitatively and qualitatively (including many free text responses), but the major preliminary findings are presented here.[35] The vast majority of the responses from surrogates and IPs related to surrogacy arrangements previously or currently being undertaken in the UK, though 19 (9.2%) of our IP respondents report using a surrogate from overseas). 248 (57.3%) of the respondents indicated willingness to participate in follow-up interviews, which we hope will lead to further research opportunities in the future and a more detailed picture of the realities of surrogacy as it is practised in the UK.

3.1 What the surrogates said

Of the **111 surrogates** who responded, 47 (42.3%) had completed one or more surrogacy arrangement, 26 (23.4%) were pregnant and 28 (25.2%) were trying to conceive. 32 women (28.8%) had been surrogates more than once previously, for different IPs each time. Another 19 (17.1%) had been a surrogate once before for different IPs. Six (5.4%) had done it once before for the same IPs and five (4.5%) had done it more than once before for the same IPs each time. For 49 women (44.1%), including those trying to conceive, this was the only time they have been a surrogate.

49 (44.1%) of the 111 were gestational (or 'host') surrogates using the IPs' embryo. A further 21 (18.9%) were gestational surrogates using an embryo made with a donated egg, while 39 (35.1%) were or had been in 'traditional' surrogacies, using their own egg and sperm from the male IP (but not in a clinical setting).[36] The majority

[34]See Horsey, K., 'Seeking views on surrogacy in the UK' BioNews 606 (15 June 2015). http://www.bionews.org.uk/page_535731.asp.

[35]In comparison, the Brazier Report said 'We were pleased to have received 117 responses from people who had been involved in surrogacy arrangements: 38 from surrogate mothers and 79 from commissioning parents'.

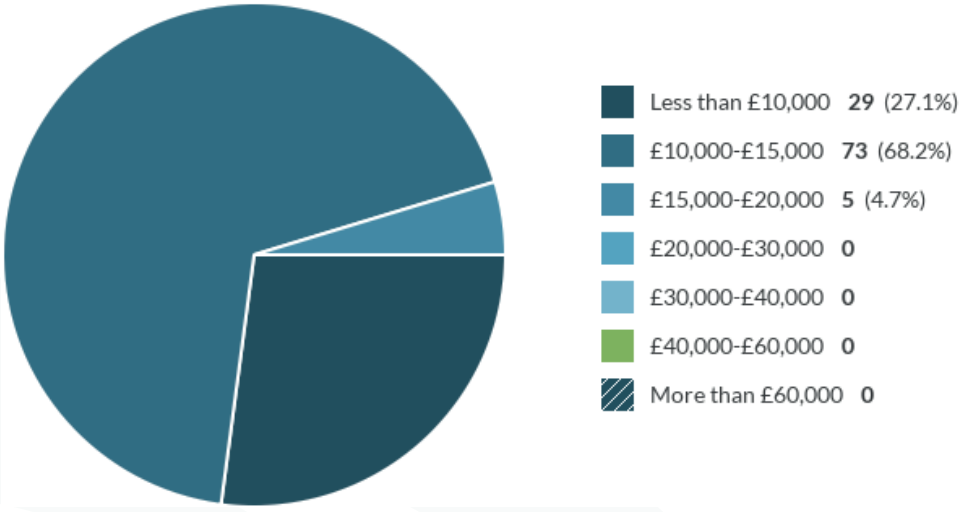
[36]Interestingly one woman was a gestational surrogate using both donor sperm and eggs – meaning the IPs would not be able to obtain a PO according to the eligibility criteria in S54 HFE Act 2008 – and another described herself as a traditional surrogate using donor sperm (with insemination not in a clinic), which if true raises issues about the safety of sperm procurement.

of surrogates were introduced to the IPs through a surrogacy agency (44%) or support group (25.6%). Others met through online surrogacy support fora or were friends or family members of IPs. None were introduced by a clinic.

Contact, origins and compensation

83 (94.3%) of the surrogates who had completed a surrogacy cycle maintain contact with the children they gave birth to/IPs. 96 (87.3%) said that they knew the IPs they had worked with had told or intended to tell their child about the means of their conception. Only two (1.8%) said they thought that the child would not be told. 104 (95.4%) received compensation for being a surrogate.[37] 29 (27.1%) of these received less than £10,000, while 73 (68.2%) received £10-15,000 and five (4.7%) received £15-20,000. No-one said they received any more than that.

3.1.1 Compensation received by surrogates in the UK



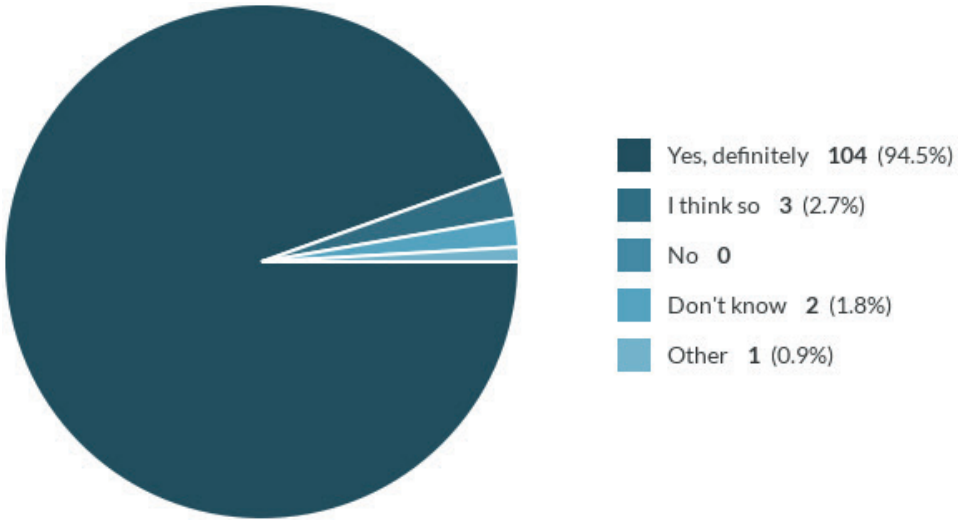
Legal Parenthood

104 (94.5%) of the surrogates say that the IPs they are working/ have worked with will 'definitely' apply for a PO and a further 3 (2.7%) say they think so. No-one said 'no'.[38]

[37] The question asked 'In your most recent surrogacy journey, did / will you receive any money (compensation for your expenses) for being a surrogate?'

[38] The one 'other' who responded here states the PO process is already completed.

3.1.2 Opinions on whether IPs will apply for PO



72 (64.9%) of the surrogates who responded said that they thought that the legal parents of a child born to a surrogate should be 'the IPs, whether genetically related or not'. Another 10 (9%) said it should be the IPs when both are genetically related, and a further four (3.6%) said the surrogate and the intended father, if he provided the sperm. The interesting (though in the minority) answers here are that only four (3.6%) said the surrogate and her partner (*as the law currently states*); nine (8.1%) said the surrogate and both intended parents and a further nine (8.1%) answered 'whoever the genetic parents are'.

76 (68.5%) said a clear 'no' to a question asking whether the surrogate should have the right to change her mind about giving the baby to the IPs. Only six (5.4%) said 'yes, at any point', while four (3.6%) said 'until birth' and another four said 'until the child goes home with the IPs'. 'Other' responses (with explanatory text option) suggested that only where the surrogate had 'cause for concern' about the IPs should she be able to change her mind, where some said this should only be the case if she had a genetic relationship with the child.

Key Findings:

- Most UK surrogates receive less than £15,000 compensation.
- Many surrogates do it more than once, and a high proportion maintains long-term contact with the IPs and their children.
- Surrogates perceive that there is a high degree of openness among IPs and their children about how they were created.

- Most surrogates believe that the IPs should be the legal parents.
- Three quarters of surrogates believe the surrogate should have no right to change her mind.

3.2 What the IPs said

Of the **206 IPs** who responded, 187 (90.1%) had used or were using a surrogate in the UK, compared to 19 (9.2%) who had used/were using a surrogate overseas.[39]

A) In the **UK group**, 23 respondents (12.3%) were trying to conceive, another 23 were trying to find a surrogate and another 23 were at the 'initial meetings stage' with their potential surrogate, while for 20 (10.7%), the surrogate was pregnant.[40] 95 (50.8%) of these respondents described themselves as in a heterosexual couple where the female was unable to carry a child, while a further 52 (27.8%) were heterosexual where the female was unable to conceive or maintain pregnancy. 37 (19.8%) respondents identified as being from a gay male couple.

The majority of these respondents were introduced to the surrogate through a surrogacy agency (29.4%) or support group (33.2%). Others met through online surrogacy support fora (24.1%) or used friends or family members as surrogates. None were introduced by a clinic. 72 (38.5%) used an embryo created from their own egg and sperm, 39 (20.1%) used an embryo created with a donor egg and their own sperm, three (1.6%) used their own egg but donor sperm.[41] 64 (34.2%) used the surrogate's egg and sperm from the intended father (only two of these in a clinical setting). Almost half the respondents (92) had not yet had a child via surrogacy. For those who had, 63 (33.4%) had one child, 27 (14.4%) had two and just one (0.53%) had three children.[42] The ages of these children ranged between four days and nine years old.

Contact, origins and compensation

Of those from this sample who had already had children via surrogacy, 91 answered a question about whether they maintained contact with the surrogate. 88 (96.7%) said that they do maintain contact with the surrogate, while only three (3.3%) said they do not. 182 respondents answered that they already had (39) or in future would (140) tell their child(ren) that they were conceived using a surrogate (three had not yet decided). None said 'no'. 158 answered a question on the appropriate age to tell. The vast majority of these (130 (82.3%) said this was/would be at pre-school age (0-4 years old), 21 (13.3%) said 5-7 years old, four (2.53%) said 8-10, one said 11-13, and two said between 14-16.

[39]Note: four of the total number of IPs who responded did not live (main domicile) in the UK. IPs may be part of a couple, in which case the information provided could at times relate to the same surrogacy arrangement.

[40]Five of the 10 remaining respondents (who selected 'other') gave free text responses, e.g. one citing a miscarriage for the surrogate, another citing three 'failed journeys'.

[41]Again, one respondent used a gestational surrogate using both donor sperm and eggs – meaning the IPs would not be able to obtain a PO. This IP may correspond to the surrogate who said the same thing, above.

[42]It is unknown what proportion of the '2 children' respondents had twins.

[43]Interestingly, this is roughly equivalent to the cost of two private IVF cycles.

In terms of **costs incurred** by this group (177 responses), none said they paid (in total) more than £60,000 for the surrogacy process. 23 (13%) paid less than £10,000 in total,[43] 45 (25.4%) £10-15K, 37 (20.9%) £15-20K, 54 (the modal average – 30.5%) paid £20-£30K, 13 (7.3%) £30-40K and five (2.82%) between £40-60K. There were 166 responses to a question asking approximately how much of the total cost was compensation paid to the surrogate. The sum given (in free text) ranged between £0 and £25,000. The mean average for compensation paid to the surrogate among the respondents was £10,859. By comparison, the mean average sum paid for medical/clinical costs was £6,774, for travel and accommodation £1,939 and £435 for legal advice/fees.[44]

Legal parenthood

68 respondents in this IP group (36.4%) were already legal parents of their children, having completed the PO process, while a further 19 (10.2%) had the surrogate-born child(ren) living with them but no legal parenthood.[45] 181 answered whether they had/would apply for a PO: 178 of these (98.3%) said they either had or would apply for a PO, while three (1.7%) said they would not.[46]

Key Findings:

- The vast majority of IPs who use UK surrogates have/will apply for a PO.
- About one fifth of surrogacy in the UK is undertaken for gay male IP couples.
- A high proportion of IPs maintain long-term contact with the surrogate.
- The majority of IPs have or will tell their children about how they were created, with the majority of these doing so at pre-school age.
- The mean average of compensation paid to surrogates was £10,859.

B) In the group who used a surrogate from overseas, two (10.5%) were trying to conceive, another one was at the 'initial meetings stage' with their potential surrogate, while for another two, the surrogate was pregnant. One (5%) of these respondents described him/herself as in a heterosexual couple where the female was unable to carry a child, while a further two were heterosexual where the female was unable to conceive or maintain pregnancy. 14 (74%) respondents identified as being from a gay male couple and one (5.3%) was a single man.

The vast majority (84%) of these respondents were introduced to

[43] Interestingly, this is roughly equivalent to the cost of two private IVF cycles.

[44] See Appendix 1. The mean averages may not be precise – for example, in the costs to the surrogate, a respondent had entered £10, when presumably this means £10,000. Discounting the four answers that appear to be errors of this type would make the mean payment a little higher.

[45] For one respondent, the child was still in the care of the surrogate.

[46] Of the three who said no, one said 'it's too late' and the other two had not yet had a baby (one miscarriage, one 'not yet at that stage').

the surrogate through an agency, support group or online forum. None used friends or family members, but three (15.8%) were introduced by a clinic. Three used an embryo created from their own egg and sperm, 15 (79%) used an embryo created with a donor egg and their own sperm (reflecting the proportion of gay/single men in this sample). One used traditional surrogacy (surrogate's own egg and intended father's sperm, in a non-clinical setting). Six of these respondents (31.6%) had not yet had a child via surrogacy. For those who had, eight (42.1%) had one child and five (26.3%) had two children. The ages of these children ranged between four days and three years old.

Destinations

14 respondents (73.7%) used a surrogate from the US: four of these (21.1%) were from California. The other destinations were India (3), Thailand (2) and Nepal (1). The most common reasons cited for choosing these destinations (more than one reason could be cited) were 'certainty' (12), 'availability of surrogates' (10), 'ease of setting up arrangement' (10) and 'ethical reasons' (7).

Contact, origins and compensation

Of those from this sample who had already had children via surrogacy, nine (69.2%) maintain contact with the surrogate, while four (30.7%) do not. Of the whole 19 respondents, 18 (94.7%) said they had (3) or will (15) tell their child(ren) that they were conceived using a surrogate.[47] 12 (66.7%) said this was/would be at pre-school age (0-4 years old), four (22.2%) said 5-7 years old, one (5.55%) said 8-10 and one other said between 14-16.

In terms of **costs incurred** by this group, 14 (73.7%) said they paid (in total) more than £60,000. One (5.26%) paid less than £10,000, one between £20-30K, one between £30-40K, and one between £40-50K. There were 16 responses to a question asking approximately how much of the total cost was compensation paid to the surrogate. The sum given (in free text) ranged between £4,000 and £40,000 with the majority of respondents (6/37.5%) saying £20,000 was paid. The mean average for compensation paid to the surrogate among the 16 respondents was £17,375. By comparison, the mean average sum paid for medical/clinical costs was £26,281.25, for travel and accommodation £8,781.25 and £14,000 for legal advice/fees.

Legal parenthood

Eight respondents in this group (42.1%) were already legal parents of their children, while another five (26.3%) had the surrogate-

[47] One did not answer this question. None, therefore, said 'no'.

born child(ren) living with them but no legal parenthood. 14 (73.7%) said they either had or would apply for a PO, while three (15.8%) said they would not and one said they were undecided.[48]

Key Findings:

- A higher proportion of gay males use surrogacy overseas than in the UK.
- The most common destinations travelled to for surrogacy were in the US.
- A greater proportion of IPs who use overseas surrogates are ineligible or unlikely to apply for a PO.
- The majority of IPs have or will tell their children about how they were created, with the majority of these doing so at pre-school age.
- The mean average of compensation paid to surrogates overseas was £17,375.
- The mean overall cost of surrogacy was, however, much higher than for surrogacy in the UK, with nearly three quarters of respondents paying more than £60,000.

3.3 Who else responded?

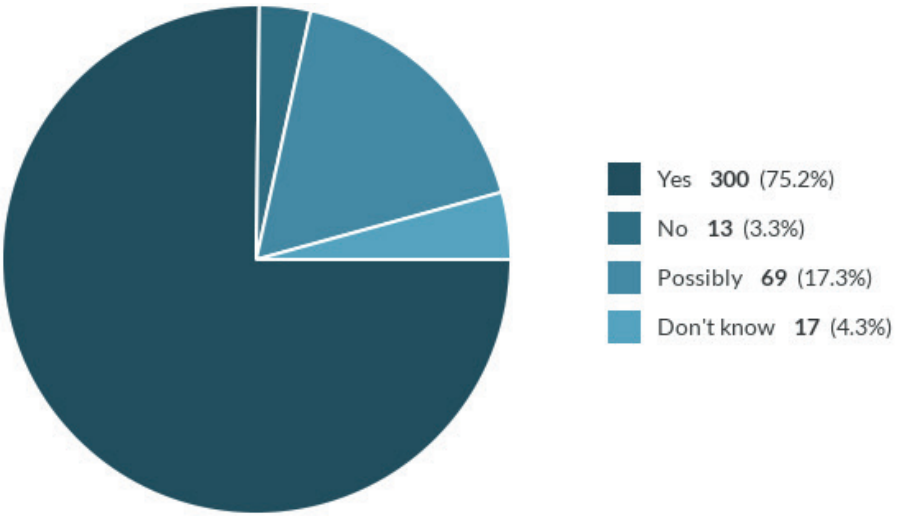
A further 112 people who were **neither surrogates nor IPs** responded to the survey (25.8% of the total respondents). Of these, nine were clinicians, nine were lawyers, six were social workers and 15 were academics/researchers with an interest in surrogacy. The remaining 73 respondents were asked to specify their interest/involvement in surrogacy in free text – many of these were considering surrogacy as a potential option for the future, while many others were friends or family members of either surrogates or people who had already had or would need to have children via surrogacy. Others were involved with surrogacy in different ways (e.g. fertility counsellors, a marketing manager of an IVF clinic) or interested because they had experienced different kinds of fertility treatment (e.g. IVF or DI). One person self-identified as 'a concerned citizen'.

3.4 Overall views on legal reform

There was an overwhelming view among the respondents as a whole that surrogacy law needs to be reformed, as shown by the following chart:

[48]Of the four who said no/undecided, two defined themselves as 'not eligible', one said 'I/we don't want to' and one said it was 'not required' as the parents both had dual citizenship and the child 'will be taking up citizenship other than British'.

3.4.1 Do you think surrogacy law in the UK needs to be reformed?



Breaking down these responses by category of respondent gives the following figures:

	Surrogates		Partners		IPs (UK)		IPs (overseas)		Other	
	No	**%**	**No**	**%**	**No**	**%**	**No**	**%**	**No**	**%**
Yes	73	65.7	4	80	131	70.1	16	84.2	76	67.9
No	5	4.5	0	0	4	2.1	1	5.3	3	2.7
Possibly	21	18.9	1	20	37	19.8	1	5.3	9	8
Don't know	10	9	0	0	2	1.1	1	5.3	4	3.6
No response	2	1.8	0	0	13	7	0	0	20	17.9
Total	111		5		187		19		112	

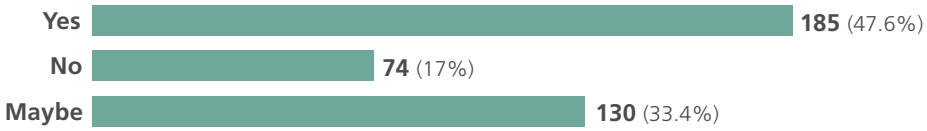
The subsequent questions asked for a variety of ranked responses about why surrogacy law needs to be reformed and what kinds of specific reform should be undertaken or which particular aspects of the existing law needed reform. Detailed tables of results can be seen in Appendices 2, 3 and 4. Broadly, there was a lot of agreement, especially among surrogates and IPs, that reform is necessary because:

- The current law is out of date
- People should be discouraged from seeking surrogacy overseas

- The process in the UK should be made more transparent and easier
- More people should have access to surrogacy in the UK
- The system should better reflect the realities of surrogacy in the UK
- The current system does not treat the right people as parents.

We also asked those who answered that the law should (or possibly should) be reformed whether there should be a **public consultation** prior to this happening, eliciting the following results:

3.4.2 Should there be a public consultation on surrogacy?



> *there is still so much ignorance and prejudice about surrogacy*

The views on this differed by sample group: though the majority of IPs and those in the 'other' group supported the idea of a public consultation, for surrogates and their partners there was more reticence. In the free text responses when asked for the reason for their answers, the general feeling among surrogates and their partners was that 'the public' don't understand surrogacy and would not know or care about the issues. Others worded this more strongly, e.g. 'giving everyone an opinion is not necessarily a good thing because there is still so much ignorance and prejudice about surrogacy' (a surrogate) or 'there is a lot of stigma attached to surrogacy with people who are not well informed and not directly affected' (a surrogate's partner). By contrast, in the IPs and 'other' group, many felt a public consultation would be a way to *educate* and that surrogacy (and law reform) is a matter of public interest. Still, however, among IPs there was some concern that only those involved in surrogacy in some way should be consulted.

We also asked for free text responses asking for any final comments on the practice or regulation of surrogacy in the UK. While these will take some considerable qualitative analysis, some preliminary observations can be made here. 18 surrogates commented, as did 35 IPs who used UK surrogates, seven IPs who used overseas surrogates, one partner of a surrogate and 30 'others'. Among the surrogates' concerns was a clear desire for surrogacy to remain non-commercial, for there to be more understanding about surrogacy arrangements among hospital and other personnel,

leading to better treatment of those concerned; for the law to be based on lived experiences and good/best practice, as well as comments about how well surrogacy in the UK can and does work (despite representations in the media etc), particularly when surrogacy arrangements were founded on friendship and trust. The surrogate's partner who responded was concerned about the lack of legal protection for both IPs and surrogates, and indicated his belief that money taints surrogacy relationships.

> *"I'm not doing anything wrong"*

Among the IPs who used UK surrogates there were calls for better legal frameworks, better information, better treatment by hospitals (many described being treated badly or even 'like criminals' by hospital staff), more support from government, better representation of surrogacy in the media and, again, little support for commercialised surrogacy or profit-making by either surrogates or agencies. There were many emotive words describing the IPs' experiences, e.g. 'stressful', 'wearing', 'distressing', 'injustice', a 'fight' and one said 'I'm not doing anything wrong' – these comments related both to the whole process of arranging and going through surrogacy and the process of obtaining legal parenthood. A number of responses made reference to it being unfair or not right that they had to 'apply' to become parents of their (genetic) offspring, or called for parental status at birth.

Among the seven responses from the IPs who used surrogates overseas, there was some concern that regulation(s) should protect all parties and that IPs were discriminated against because they needed to use surrogacy. Some described some of the fees paid to lawyers as 'exorbitant'. There was some comment on the disparity between obtaining a pre-birth or at-birth order overseas and the 'slow and outdated' process of applying for a PO after the birth in the UK.

Responses from the 'other' group need to be divided and further analysed by the type of respondent. There was one clearly anti-surrogacy respondent in this group, though some others expressed concern about the welfare of children. The majority of the comments were clearly from those who might be considering surrogacy as a future option and many of these express fear that the surrogate is 'in control' and could keep 'their baby' and dislike of the fact that the surrogate is the legal parent, especially when not genetically related. While proper analysis of these

responses has yet to be undertaken, such comments appear to indicate just how difficult a choice it can be for IPs to enter into a surrogacy arrangement and support the contention that surrogacy is a 'last resort' for people wanting to become parents, rather than a matter of convenience. There were also some comments suggesting that 'better' laws in the UK would prevent [some] people going overseas for surrogacy.

Key Findings:

- Three quarters of all respondents believe that surrogacy law should be reformed.
- Most of these believe that the existing law is out of date and many would like to make going through surrogacy in the UK easier and see what they view as the 'right' people recognised as parents.
- There was less consistency in views on a public consultation – most reticence here was expressed by surrogates and IPs who thought the public would not know or care about surrogacy.
- Those going through surrogacy want their experience to be better, especially regarding treatment by professionals involved.

4. The Legal View: problems with the existing PO requirements

There have been numerous cases in recent years which serve clearly to illustrate some of the inadequacies of the existing law. Some of these are briefly outlined below.

4.1 Retrospectively authorised payments

Neither a surrogate who is paid nor the party who pays commits any offence, but there is a risk that anything considered to be 'payment' for surrogacy could result in the refusal of the court to grant a PO. Section 54(8) HFE Act 2008 requires the court:

> To be satisfied that no money or other benefit (other than for expenses reasonably incurred) has been given or received by either of the applicants for or in consideration of
>
> (a) the making of the order,
> (b) any agreement required by subsection (6),
> (c) the handing over of the child to the applicants, or
> (d) the making of arrangements with a view to the making of the order,
>
> unless authorised by the court.

As far back as 1998, the Brazier Report described surrogates being paid 'in excess of any reasonable level of actual expenses incurred as a result of the pregnancy'.[49] Despite this, the committee noted that it was 'not aware of any case in which an application has been refused on the grounds that an unacceptably large sum of money has been paid to the surrogate mother by the commissioning couple'.[50] However, it has been a relatively common occurrence in recent years for payments to surrogates that might be thought to be over and above what can be called 'reasonable expenses' to be retrospectively authorised by a court when considering whether or not a PO can be granted. For example, in *Re X & Y (Foreign Surrogacy)* [2008], a British couple paid 235 Euros per month to their Ukrainian surrogate, as well as 25,000 Euros when the children (twins) were born. Though these payments evidently exceeded the surrogate's 'expenses' (in fact, the lump sum was to enable her to place a deposit on a flat), the payments were later authorised so that a PO could be made. In doing so, Hedley J commented that:

> 'it is almost impossible to imagine a set of circumstances in which by the time the case comes to court, the welfare of the child (particularly a foreign child) would not be gravely compromised (at the very least)

[49] Para 3.2.

[50] Para 5.3. See also Re Q (Parental Order) [1996].

by a refusal to make an order' (at 24).

In Re L (a minor) [2010], Hedley J again authorised payments made to a surrogate from Illinois, US, citing the child's welfare as the paramount consideration. That this is the correct approach was later confirmed in the Human Fertilisation and Embryology (Parental Orders) Regulations 2010. The approached was followed in *X and Y (Children)* [2011], in respect of payments to two different Indian surrogates.

It appears that what might be considered payments beyond 'reasonable expenses' or compensation (as certainly happens in some overseas surrogacy arrangements) will generally always be authorised by a court unless there is *another* reason for the court to consider that the granting of a PO to the intended parents would not be in the best interests of the child.

4.2 Extensions to PO time limits

S54(3) HFE Act 2008 states that in order for a PO to be granted, the application must be made between six weeks and six months after the birth of the child concerned. Despite this, in *X (A Child) (Surrogacy: Time Limit)* [2014], the High Court granted a PO after the six-month deadline for making them had passed. In his judgment, Sir James Munby, President of the Family Division, described the six-month time limit as 'almost nonsensical' and asked:

'Can Parliament really have intended that the gate should be barred forever if the application for a parental order is lodged even one day late? I cannot think so' (at [55]).

He added:

'Given the subject matter, given the consequences for the commissioning parents, never mind those for the child, to construe section 54(3) as barring forever an application made just one day late is not, in my judgment, sensible' (at [55]).[51]

This decision was later followed in *A & B (No 2 - Parental Order)* [2015]. In this case, a couple applied for a PO in relation to twins born to a surrogate in India in December 2011 (thus, at the time of the hearing the children were three years old). As Theis J stated at the outset of her judgment, the case raised 'important issues as to the extent the court is able to purposively interpret or 'read down' the criteria' in S54 HFE Act 2008,[52] after the decision in X (at [4]).

[51] He also was of the view that the same conclusion would be justified with reference to the parties' Convention rights.

[52] In accordance with S3(1) Human Rights Act 1998

The lateness of the application came because the IPs were unaware that they required a PO, as their names were on the birth certificate issued in India. When they first became aware that this was necessary, they were advised (prior to X) that they were ineligible. Theis J explained the problems that lack of a PO can cause:

'Without a parental order the commissioning parents will not be the legal parents of the child they have probably cared for since birth, and whom the child regards as their de facto parents. Whilst this in itself may not affect their ability to provide day to day care for the child, it may have long term consequences, for example affecting inheritance rights…' (at [12]).

After careful analysis of the circumstances, Theis J felt able to purposively interpret S54(3), and 'read it down' according to the judgment in X so as to give effect to the children's long-term welfare interests (and all parties' Convention rights, in particular Article 8). In her opinion:

'to not construe it in such a way could have detrimental long term consequences for the children and the applicants, which is precisely what the section sets out to prevent' (at [72]).

4.3 Single parents

In early 2015, much media attention was given to the surrogacy arrangement undertaken by Kyle Casson, a single man. What made the case particularly 'sensational' for some was that Mr Casson's own mother had been the surrogate (using a donor egg). Of particular interest, however, is the fact that the legal case centred around his need (eventually granted by the court) to adopt his own child, as he was unable, as a single person, to apply for a PO. Adoption brought its own difficulties, due to the fact that the arrangement had been made before the child was in existence, as well as the fact that Mr Casson was viewed in law as the child's brother.[53]

His is not the only case where being single has stood as a barrier to legal parenthood.[54] In *Re Z*,[55] decided in September 2015, Sir James Munby, despite clear and unequivocal consent from the American surrogate and support for the order from the Cafcass PO reporter, refused to grant a single man (the biological father) a PO. His decision was based on the literal wording of S54(4) HFE Act 2008.

[53]Re B v C (Surrogacy: Adoption) [2015]. See also Horsey, K., 'A surrogacy conundrum that didn't need to be' BioNews 16 March 2015 (http://www.bionews.org.uk/page_507198.asp).

[54]Denying singles access to legal parenthood is particularly problematic – perhaps even discriminatory or in violation of the Article 8 right to found a family – in the case of surrogacy as it is a) generally a single man in question as a woman would ordinarily be able to use donor sperm, unless she was doubly infertile (in which case that would raise further questions about surrogacy) and b) single women can access DI and IVF and become the legal mother of the child(ren) born by doing so (in fact DI may happen without clinic intervention, though this raises a different set of problems: see Jackson, E., 'The Law and DIY Assisted Conception' in Horsey, K. (ed), (2015), note 6 above).

[55]Re Z (A Child: Human Fertilisation and Embryology Act: parental order) [2015].

As he described it,

'But for one matter this application would be unproblematic. The problem is that the application is made by a single parent, whereas section 54 seemingly requires an application to be made by "two people"' [at 5].

The father asked the court to interpret the law flexibly, as if it said 'one or' two applicants. His lawyers contended that modern international surrogacy makes single fathers conceiving biological children on their own a reality. They argued that the law should not deny such children legal recognition, and that the discrimination against single parents makes no sense (and may be contrary to the right to private and family life under the Human Rights Act 1998) given the fact that single men and women in the UK may become legal parents through adoption, IVF or donor conception.[56] However, the judge felt unable to 'read down' the law, as the potential to consider allowing POs for single people had been considered and rejected in debates leading to the 2008 Act [15-17, 36].[57]

Interestingly, however, it seems from the case report that the father may go on to seek a declaration that the UK legislation (S54(4) HFE Act 2008) is incompatible with human rights law, so it is unlikely that this is the end of the argument on single IPs' access to legal parenthood following surrogacy.

4.4 One applicant must be genetically linked to the child

S54 HFE Act 2008 requires that one or both of the IPs must have a genetic link to the child, in order for them to be able to apply for a PO. By comparison, this is not the case for couples undergoing IVF, as the wording of the law would render a female recipient of IVF (with donated egg) the legal mother once she had given birth, alongside her spouse/partner (S33 HFE Act 2008).[58]

The rationale for this requirement in relation to surrogacy is presumably to 'legitimise' the relationship and in some way to prevent and protect women and their husbands/partners being pressured into (or deliberately and criminally embarking on) conceiving babies purely with the aim of giving them away (harking back to previous links of surrogacy to so-called 'baby-selling'). It is hard to imagine that without evidence of such pressure being exerted or of the inability to stem such criminal behaviour, this requirement remains justified today, particularly in a circumstance where an infertile couple is unfortunate enough to require 'double donation'. In South Africa, a corresponding

[56]Natalie Gamble Associates 'High Court rules it cannot grant birth certificates to single dads through surrogacy' http://www.nataliegambleassociates.co.uk/blog/2015/09/07/high-court-rules-it-cannot-grant-birth-certificates-to-single-dads-through-surrogacy/ [accessed 20 Oct. 2015].

[57]This is in contrast to the provision in S54(3) requiring a PO application to be made within six months – in X (see section 4.2 above), Sir James Munby said: 'I have considered whether the result at which I have arrived is somehow precluded by the linguistic structure of section 54, which provides that "the court may make an order … if … the [relevant] conditions are satisfied." I do not think so. Slavish submission to such a narrow and pedantic reading would simply not give effect to any result that Parliament can sensibly be taken to have intended (at [56]). That said, in A & Anor v P & Ors [2011] a PO was effectively granted to a single parent (mother) by Theis J where the father had died after the application was made but before it was granted. The overall effect of that ruling is the same as granting a PO to one applicant.

[58]It is possible that this might one day result in a discrimination claim on the difference of treatment of same-sex female couples from same-sex male couples in law.

provision has recently been ruled unconstitutional on the grounds that it 'violates … rights to equality, dignity, reproductive health care, autonomy and privacy'.[59] On the argument that the welfare of the child was best served by maintaining a requirement for one of the IPs to be genetically related, the judge in that case said:

'this constitutes an insult to all those families that do not have a parent-child genetic link' (at [84]).

4.5 Lack of consent from the surrogate

S54 HFE Act 2008 also requires that the surrogate should give her free and unconditional consent to the granting of a PO, unless she cannot be found. This requirement has been dispensed with in recent cases before UK courts on this basis, as well as on the grounds that the granting of the PO applied for would manifestly be in the child(ren)'s best interests (see e.g. *D and L (Surrogacy)* [2012]).

Key Findings:

- Recent surrogacy cases indicate increasing judicial dissatisfaction with the provisions of surrogacy law, especially in relation to POs
- Judges are increasingly prepared to purposively read down the provisions of S54 HFE Act 2008 in order to give effect to the welfare of the child
- It is possible that at least one of the PO eligibility requirements under S54 violates IPs' or children's human rights

[59] AB and Another v Minister of Social Development As Amicus Curiae: Centre for Child Law (40658/13) [2015] ZAGPPHC 580 (12 August 2015) (see e.g. [76]).

5. The Case for Reform

5.1 Surrogacy myth busting

There are many discrepancies in the figures and a lack of proper interrogation and checking back of sources that has led to a series of 'surrogacy myths' informing the surrogacy debate, in both the public and professional fields. We believe that there needs to be more rigorous and disciplined collection and ownership of surrogacy data in the UK.

Until now, surrogacy has been poorly understood and misrepresented. Calls for commercialised surrogacy to be made legal in the UK should be treated with caution, as they are often based on false premises or pervasive 'surrogacy myths'. From our research and survey data, we can already begin myth busting:

- It is **not** the case that thousands from the UK are going overseas for surrogacy
- Surrogacy is **not** 'already commercial' in the UK – the mean average of £10,000-£15,000 represents compensation, not 'payment'[60]
- There is **no** 'ticking time bomb' (i.e. large numbers of people not applying) in respect of POs[61]
- Surrogacy is **not** risky – surrogates hand over the babies and don't view themselves as the mother
- There is **no** general view among IPs that they don't need to apply for a PO in the UK if they go abroad
- Surrogacy in the UK is **not** exploitative as it is currently practised – for surrogates, children or IPs
- Surrogacy is **not** morally wrong[62]

> *"Surrogacy is a relationship, not a transaction"*

What we do know is that the number of people doing surrogacy in the UK is small but increasing.[63] The percentage of overseas surrogacy arrangements is very small (and possibly increasing). There are some very positive aspects of surrogacy in the UK (including a high level of ongoing contact between surrogates, IPs and the children, early discussion with children about the means of their creation, pride and positivity) that should be preserved –surrogacy is viewed as a relationship, not a transaction. However, there is striking clarity and strong consensus among IPs and surrogates over the areas that need to be improved – in particular a clear feeling that the law is outdated and not reflective of modern family structures. There is also a high level of rejection among our survey respondents of any move towards commercialisation.[64]

[60] Our survey showed no indication of 'under the table' payments being made to surrogates though it will be useful to undertake some follow-up research, particularly among those respondents paying the highest sums.

[61] See 'Unregistered surrogate-born children creating 'legal timebomb', judge warns' The Guardian (18 May 2015); 'Surrogacy parents risk losing children' The Times (19 May 2015).

[62] In the UK this perception, if it exists, is likely to stem from the 1984 Warnock Committee Report, which informed the 1985 Act. Its author, Baroness Warnock, signatory of this report, has since recanted from this position. In 2002, she said that the view of the majority of the Warnock committee had probably been 'over-influenced' by some of the scare stories about commercial surrogacy agencies in the US 'poised to establish themselves in the UK' in terms that seemed 'extraordinarily exploitative of the women involved' (note 6, above: 88-89). She goes on to say that 'the present position in the UK with regard to surrogacy is thoroughly confused, and there is understandably a good deal of dissatisfaction with it' (at 91).

[63] And is likely to increase further in the wake of the legalisation of same sex marriage.

[64] Also, 90% of 20 surrogates who responded to an informal internal survey of Surrogacy UK members in June 2014 said that they would not continue to be surrogates if the process was commercialised.

We have had surrogacy law in the UK for 30 years and our model of regulation has been emulated in other countries. There are aspects of the existing law that are worthy of retention – there is not a case for radical reform. We should build on an existing model that is not perfect but which provides a workable basis from which improvements can be made, to match the demands of modern family building and mirror other aspects of assisted reproduction law. Surrogacy is life-building and life-creating. The people doing it are proud but also frustrated by the system and its limitations. The current system is creaking as numbers increase.

5.2 We should clarify what 'payments' really are

We do not support a move to commercial surrogacy, as we would view this as out of kilter with the policy behind altruistic gamete donation (which is in line with the EU Tissue Directive). It also seems to be largely unsupported among those who have experienced surrogacy first hand. Surrogacy law in the UK should fit with public policy governing other areas of assisted reproduction. In countries where commercial surrogacy is legal/ the norm, often IPs pay not only a 'fee' to the surrogate but also to the clinic/broker. They may also pay for commercially procured eggs, a factor that raises further public policy issues.

Data from our survey demonstrates that compensation paid to surrogates in the UK usually ranges between £0 and £15,000 (section 3.1, above).[65] There is not, therefore, any set 'price' for surrogacy in the UK and it is very much undertaken by women on an altruistic basis.[66] Surrogacy UK uses a 'surrogacy calculator' to help surrogates estimate the expenses they will incur. While the full breakdown of expenses may not be shared, the estimated total expenses must be agreed by the parties before the arrangement is entered into. Nevertheless, even altruistic surrogacy is not a cheap option for IPs (particularly when IVF and other clinical costs are factored in) and may be unaffordable for some considering this route.

We believe that more research should be conducted to look into exactly how surrogates' expenses/compensation are calculated. We would like there to be a greater transparency and openness about the costs that surrogacy actually entails. While we want to prevent the cost of domestic surrogacy escalating further than necessary (in part to discourage IPs from going overseas), we believe that surrogates should be properly and openly recompensed for their time and expenses. In part, this is to make sure that surrogacy

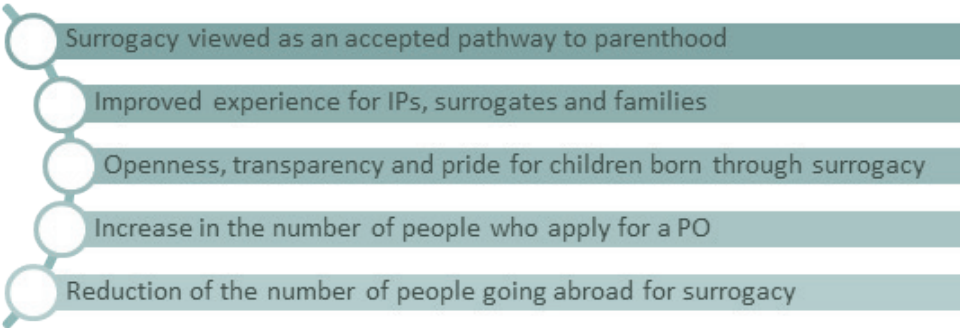
[65] A small minority of our survey responses on this point showed figures exceeding £15,000. As a comparator, the courts award a base sum (this can be higher if there are psychological complications) of around £8,250 compensation for the 'pain, suffering and lost amenity' of pregnancy and birth in 'wrongful birth' cases (Judicial College, (2013) Guidelines for the Assessment of General Damages in Personal Injury Cases (12th edn, Oxford University Press) 30), as well as a sum of £15,000 (the 'conventional award') for the woman's lost autonomy.

[66] Altruism here is defined in terms of there being zero financial cost to the surrogate at the end of the arrangement. How this is calculated probably varies considerably and more research is needed to show exactly what kind of expenses are/are not generally included. Further, some surrogates in our survey undertook the arrangement for zero compensation – it would be useful to follow up to see whether these were e.g. sisters or friends of the IPs.

does not become an 'underground' practice and mirrors as closely as possible the realities of other costs of pregnancy and fertility treatments.

5.3 Our view of how reform should look

We believe that the existing law in the UK should be improved, to consolidate and acknowledge social and political acceptance of domestic, altruistic surrogacy as a mainstream form of assisted reproduction.[67] This could also be achieved in part by including information on surrogacy in sex and relationships education (SRE) in schools. We would like to see increased certainty for all parties involved, and the following things encouraged:



Much progress could be made initially by further research and the publication of improved information, guidance and examples of 'best practice', informed by better data collection, dissemination and analysis. To start with, alongside support for further research into surrogacy:

Key Findings:

- The Department of Health should draft and publish a 'legal pathway' document for IPs and surrogates
- The Department of Health should produce guidance for professionals in the field, written in consultation with the surrogacy community for midwives and hospitals, Cafcass and clinics.[68]
- Surrogacy should be included in schools' sex and relationships education (SRE) classroom curriculum (from primary) – linked to awareness of (in)fertility, family options for same sex partners etc.

[67] As indicated above, our definition of altruistic does not exclude the reimbursement of expenses incurred by the surrogate as agreed by the parties at the outset of the arrangement. There should be zero cost incurred by the surrogate as a result of her agreement to help others to have a child.

[68] Many of our survey respondents reported in free text answers that they felt poorly treated by medical and other professionals, perhaps based on non-awareness or distrust of surrogacy

6. Recommendations

We would like to see the law relating to all aspects of surrogacy reviewed (including a **public consultation** as occurred with other aspects of fertility treatment provision before the legal reforms in 2008) and consolidated in a **new Surrogacy Act**. We envisage that this Act would continue to reflect the **altruistic, compensatory model** of surrogacy in the UK, while **removing unnecessary barriers** standing in the way of those seeking to use surrogacy or become surrogates and better representing how domestic surrogacy arrangements actually work in practice.

We believe that better laws could simplify domestic surrogacy, thus making it more attractive for some IPs who might otherwise have gone overseas. While we do not believe that travelling internationally to access surrogacy should be prohibited (nor do we think this could be properly enforced), we would like to see the numbers of people who do so decrease. It is impossible to effectively regulate surrogacy arrangements that happen outside the UK, thus raising serious ethical concerns that surrogates (and IPs) might be liable to exploitation.

In addition, there may be reasons why some IPs to date have not or do not intend to apply for POs, including those who are prevented from doing so by the too-restrictive eligibility requirements in S54 HFE Act 2008. If the PO process for UK surrogacy was simplified and brought forward, so the process was done before birth with parenthood automatically transferring to the IPs at birth then IPs may be less likely to go abroad, except with very good reason.

Further, we are concerned that the lack of willingness of policy and lawmakers to talk openly about the realities of surrogacy and the need for legal reform (for example in the review of the 1990 HFE Act which led to the passage of the 2008 Act) leads to surrogates and IPs feeling excluded and misunderstood (and marginalised e.g. by medical professionals in maternity care, as many of our survey respondents indicated). This is in direct conflict with what we know makes for happy and mentally healthy children. Bringing surrogacy law into line with other assisted reproductive practices would benefit children born through surrogacy, surrogates and their families, and the IPs who have turned to this option as their last or only available route to parenthood. It would eradicate any perceptions of stigma that these groups may feel by the lack of open debate and the reluctance of the government to look into reforming and modernising the law.

We consider that the law is still wedded to particular notions of motherhood and family that are entirely debatable in the 21st century, especially in a society in which other aspects of law and policy have

recognised and continue to recognise changed and changing family structures.

In particular, this group recommends the following specific changes:

- Parental orders should be pre-authorised so that where arrangements run smoothly, legal parenthood is conferred on the IPs at birth.[69]
- IPs should register the birth.[70]
- Parental orders should be available to single people who use surrogacy.
- Parental orders should be available to IPs where neither partner has used their own gametes ('double donation').
- The time limit on applying for a parental order should be relaxed (or removed).
- Parental order/surrogacy birth data should be collected centrally and transparently, and published annually.
- IVF surrogacy cycles and births should be accurately recorded by clinics/HFEA.
- The rules on surrogacy-related advertising and the criminalisation of this should be reviewed in the context of non-profit organisations.

[69]Where current/future PO conditions are met.

[70]A cooling off period could be introduced during which time the surrogate could challenge the registration.

Appendix 1

Questions On Costs Paid By IPs Who Used Surrogates In The UK

40 Approximately how much (in GBP) of this overall cost was for the surrogate's own compensation / expenses?

Statistics

N	Valid	166
	Missing	0
Mean		£10,859.3253

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	£0.00	2	1.2	1.2	1.2
	£10.00	2	1.2	1.2	2.4
	£13.00	1	.6	.6	3.0
	£15.00	1	.6	.6	3.6
	£500.00	1	.6	.6	4.2
	£1,000.00	2	1.2	1.2	5.4
	£2,000.00	1	.6	.6	6.0
	£2,500.00	1	.6	.6	6.6
	£3,000.00	1	.6	.6	7.2
	£4,000.00	1	.6	.6	7.8
	$5,000.00	5	3.0	3.0	10.8
	£6,000.00	3	1.8	1.8	12.7
	£7,000.00	8	4.8	4.8	17.5
	£7,200.00	1	.6	.6	18.1
	£7,500.00	3	1.8	1.8	19.9
	£7,600.00	1	.6	.6	20.5
	£8,000.00	4	2.4	2.4	22.9
	£8,500.00	2	1.2	1.2	24.1
	£9,000.00	4	2.4	2.4	26.5
	£9,500.00	1	.6	.6	27.1
	£10,000.00	22	13.3	13.3	40.4
	£10,500.00	1	.6	.6	41.0
	£11,000.00	5	3.0	3.0	44.0
	£11,300.00	1	.6	.6	44.6
	£12,000.00	29	17.5	17.5	62.0
	£12,500.00	7	4.2	4.2	66.3
	£13,000.00	11	6.6	6.6	72.9
	£13,500.00	6	3.6	3.6	76.5
	£14,000.00	5	3.0	3.0	79.5
	£14,500.00	1	.6	.6	80.1

		Frequency	Percent	Valid Percent	Cumulative Percent
	£15,000.00	25	15.1	15.1	95.2
	£16,000.00	4	2.4	2.4	97.6
	£17,000.00	1	.6	.6	98.2
	£18,000.00	2	1.2	1.2	99.4
	£25,000.00	1	.6	.6	100.0
	Total	166	100.0	100.0	

41 Approximately how much (in GBP) of this overall cost was for medical / clinical costs?

Statistics

N	Valid	159
	Missing	1
Mean		£6,774.3082

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	£0.00	33	20.6	20.8	20.8
	£15.00	1	.6	.6	21.4
	£50.00	1	.6	.6	22.0
	£200.00	4	2.5	2.5	24.5
	£250.00	1	.6	.6	25.2
	£400.00	1	.6	.6	25.8
	£500.00	9	5.6	5.7	31.4
	£750.00	1	.6	.6	32.1
	£1,000.00	8	5.0	5.0	37.1
	£2,000.00	1	.6	.6	37.7
	£2,500.00	1	.6	.6	38.4
	£3,000.00	4	2.5	2.5	40.9
	£3,500.00	2	1.3	1.3	42.1
	£3,650.00	1	.6	.6	42.8
	£4,000.00	4	2.5	2.5	45.3
	£4,500.00	2	1.3	1.3	46.5
	£4,700.00	1	.6	.6	47.2
	£5,000.00	10	6.3	6.3	53.5
	£6,000.00	2	1.3	1.3	54.7
	£7,000.00	7	4.4	4.4	59.1
	£7,500.00	1	.6	.6	59.7
	£8,000.00	6	3.8	3.8	63.5

		Frequency	Percent	Valid Percent	Cumulative Percent
	£9,000.00	6	3.8	3.8	67.3
	£10,000.00	14	8.8	8.8	76.1
	£11,000.00	1	.6	.6	76.7
	£12,000.00	10	6.3	6.3	83.0
	£13,000.00	3	1.9	1.9	84.9
	£14,000.00	1	.6	.6	85.5
	£15,000.00	6	3.8	3.8	89.3
	£16,000.00	2	1.3	1.3	90.6
	£17,000.00	1	.6	.6	91.2
	£20,000.00	8	5.0	5.0	96.2
	£22,000.00	2	1.3	1.3	97.5
	£23,000.00	1	.6	.6	98.1
	£25,000.00	1	.6	.6	98.7
	£30,000.00	1	.6	.6	99.4
	£40,000.00	1	.6	.6	100.0
	Total	159	99.4	100.0	
Missing	System	1	.6		
Total		160	100.0		

42. Approximately how much (in GBP) of this overall cost was spent on your own travel / accommodation costs?

Statistics

N	Valid	154
	Missing	1
Mean		£1,939.1364

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	£0.00	16	10.3	10.4	10.4
	£1.00	1	.6	.6	11.0
	£6.00	1	.6	.6	11.7
	£20.00	1	.6	.6	12.3
	£100.00	3	1.9	1.9	14.3
	£200.00	3	1.9	1.9	16.2
	£250.00	1	.6	.6	16.9
	£300.00	2	1.3	1.3	18.2
	£500.00	17	11.0	11.0	29.2
	£600.00	1	.6	.6	29.9

		Frequency	Percent	Valid Percent	Cumulative Percent
	£700.00	3	1.9	1.9	31.8
	£750.00	1	.6	.6	32.5
	£800.00	3	1.9	1.9	34.4
	£1,000.00	39	25.2	25.3	59.7
	£1,200.00	1	.6	.6	60.4
	£1,300.00	1	.6	.6	61.0
	£1,500.00	10	6.5	6.5	67.5
	£2,000.00	18	11.6	11.7	79.2
	£3,000.00	14	9.0	9.1	88.3
	£3,500.00	2	1.3	1.3	89.6
	£4,000.00	2	1.3	1.3	90.9
	£5,000.00	7	4.5	4.5	95.5
	£6,000.00	3	1.9	1.9	97.4
	£8,000.00	1	.6	.6	98.1
	£10,000.00	1	.6	.6	98.7
	£12,000.00	1	.6	.6	99.4
	£50,000.00	1	.6	.6	100.0
	Total	154	99.4	100.0	
Missing	System	1	.6		
Total		155	100.0		

43. Approximately how much (in GBP) of this overall cost was spent on legal advice / fees?

Statistics

N	Valid	154
	Missing	0
Mean		£435.3831

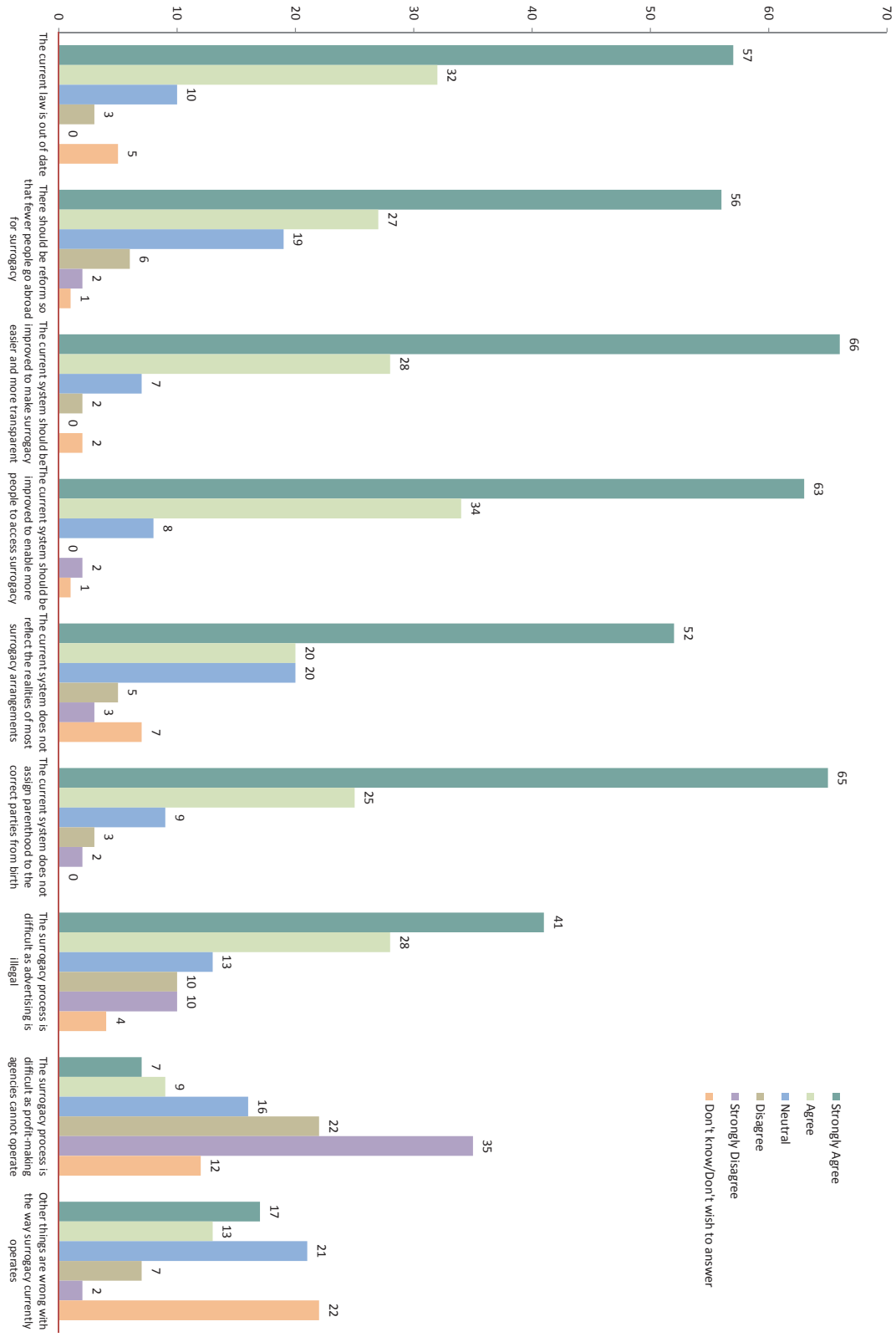
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	£0.00	80	51.9	51.9	51.9
	£1.00	1	.6	.6	52.6
	£3.00	1	.6	.6	53.2
	£30.00	1	.6	.6	53.9
	£50.00	1	.6	.6	54.5
	£100.00	4	2.6	2.6	57.1
	£200.00	5	3.2	3.2	60.4
	£215.00	1	.6	.6	61.0

		Frequency	Percent	Valid Percent	Cumulative Percent
	£300.00	4	2.6	2.6	63.6
	£350.00	1	.6	.6	64.3
	£400.00	1	.6	.6	64.9
	£450.00	1	.6	.6	65.6
	£500.00	22	14.3	14.3	79.9
	£600.00	2	1.3	1.3	81.2
	£650.00	1	.6	.6	81.8
	£700.00	1	.6	.6	82.5
	£900.00	1	.6	.6	83.1
	£1,000.00	12	7.8	7.8	90.9
	£1,500.00	2	1.3	1.3	92.2
	£2,000.00	6	3.9	3.9	96.1
	£2,500.00	2	1.3	1.3	97.4
	£3,000.00	1	.6	.6	98.1
	£4,000.00	1	.6	.6	98.7
	£4,500.00	1	.6	.6	99.4
	£5,000.00	1	.6	.6	100.0
	Total	154	100.0	100.0	

Appendix 2

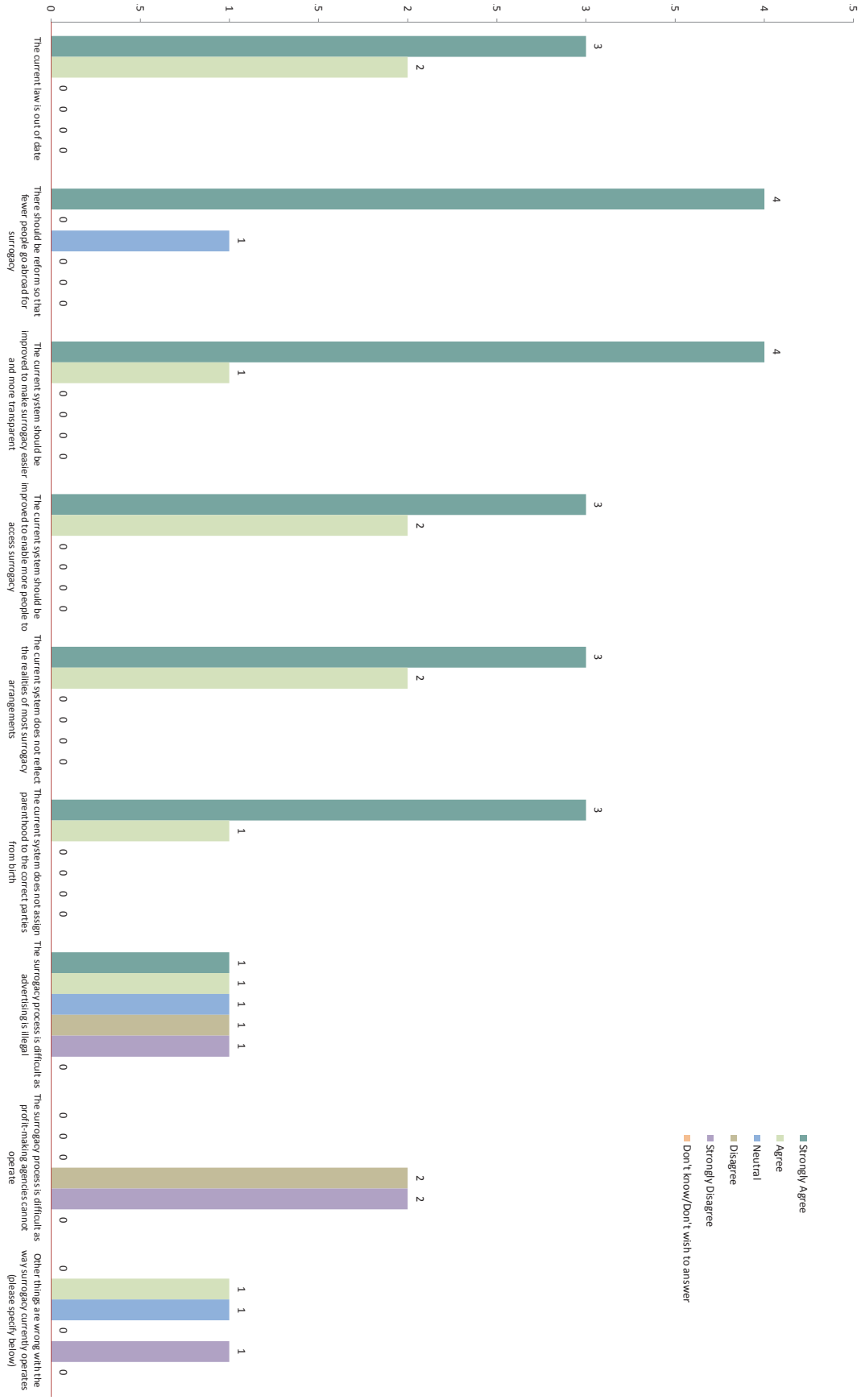
Questions on why reform is necessary (comparison by group) (Q53a)

a) Surrogates



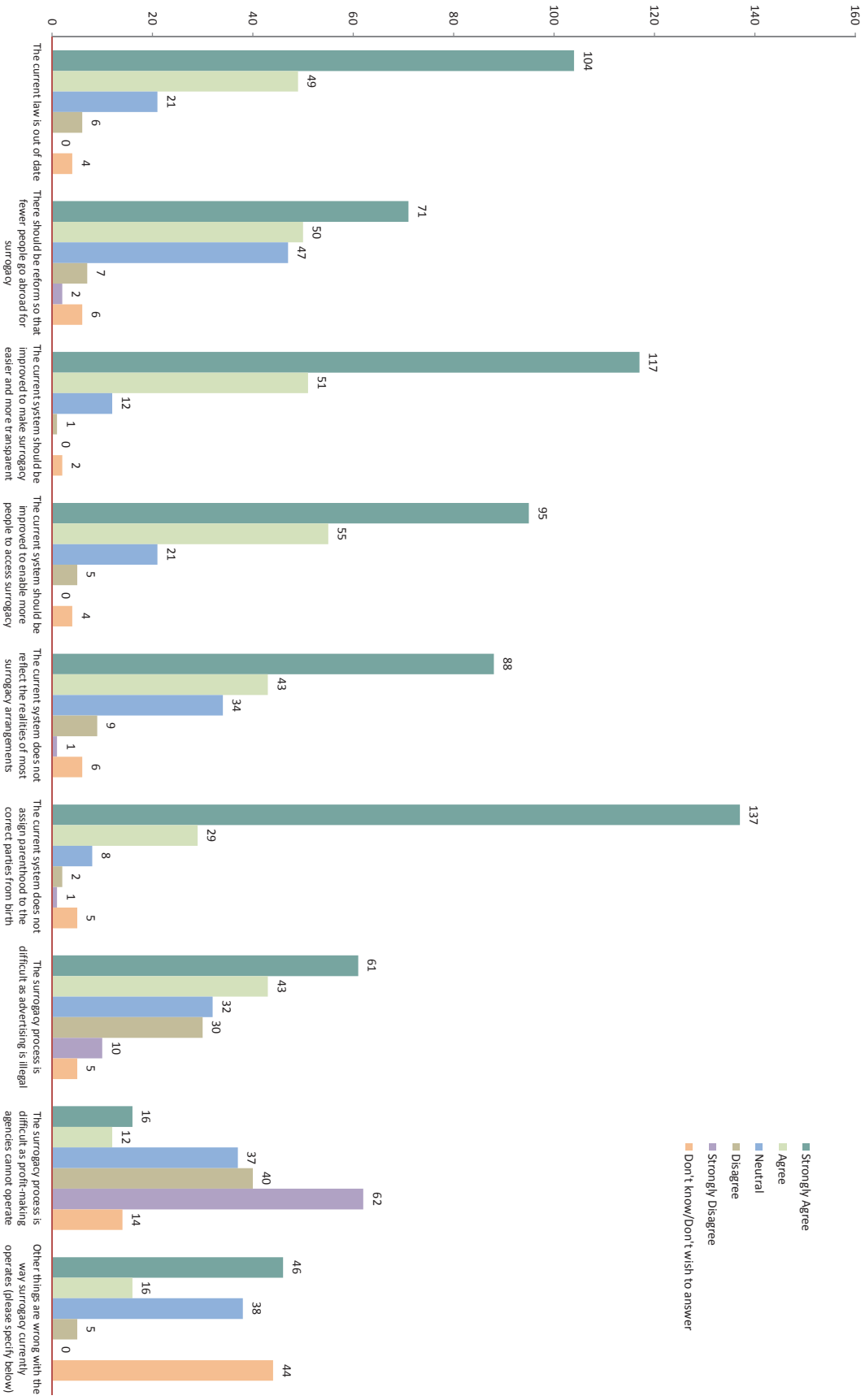
Questions on why reform is necessary (comparison by group) (Q53a)

b) Surrogate partners



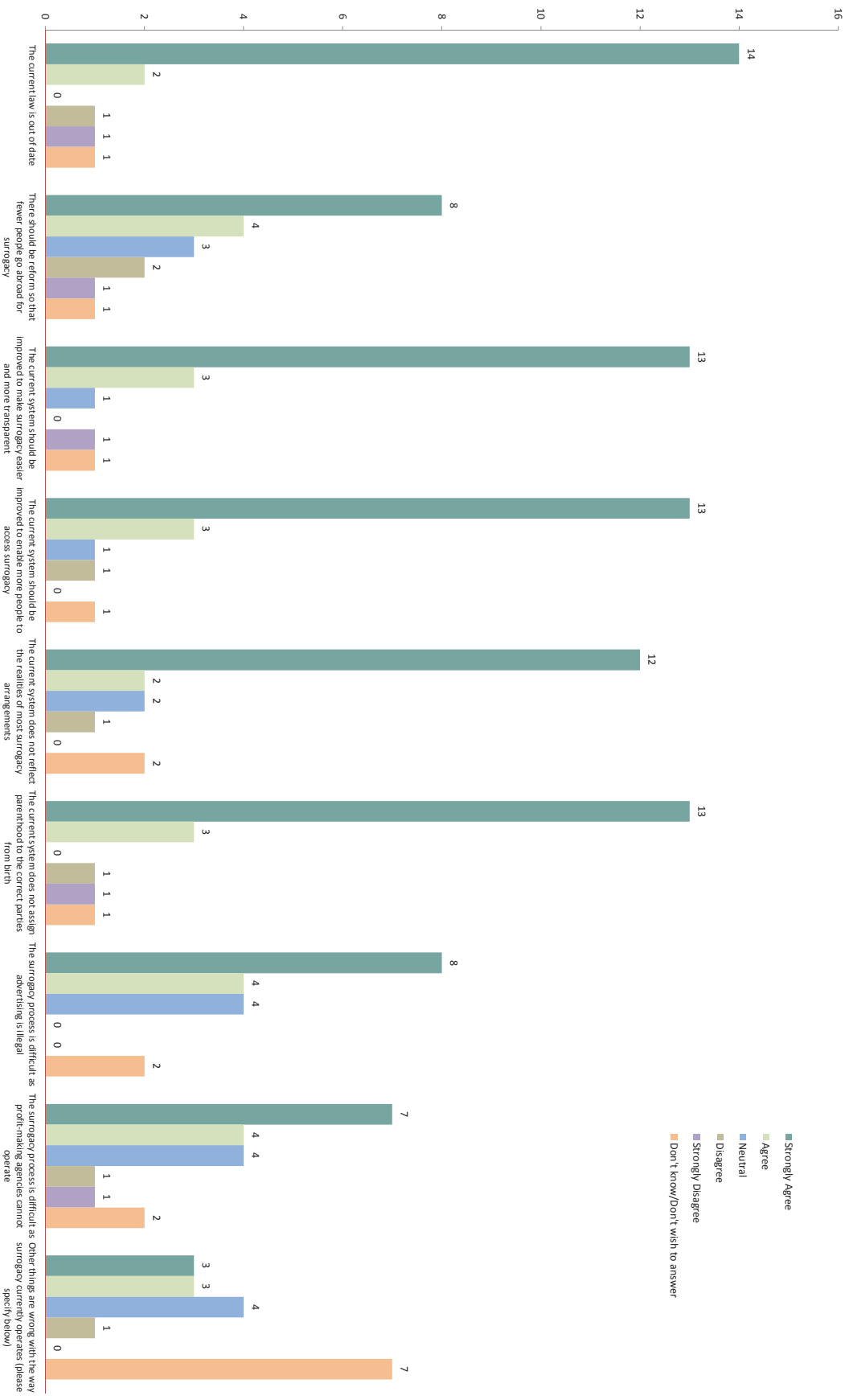
Questions on why reform is necessary (comparison by group) (Q53a)

c) IPs who used UK-based surrogates



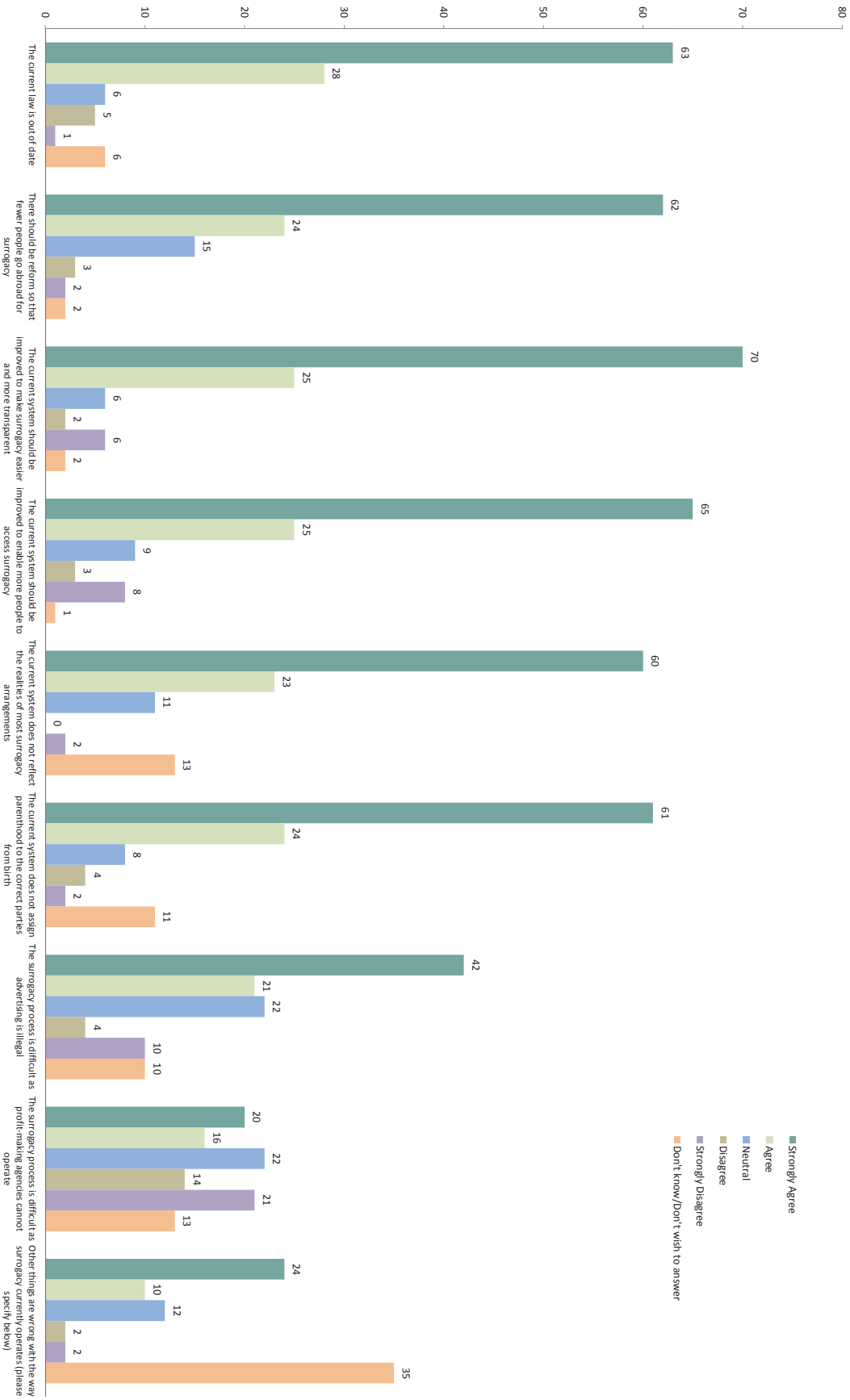
Questions on why reform is necessary (comparison by group) (Q53a)

d) IPs who used overseas surrogates



Questions on why reform is necessary (comparison by group) (Q53a)

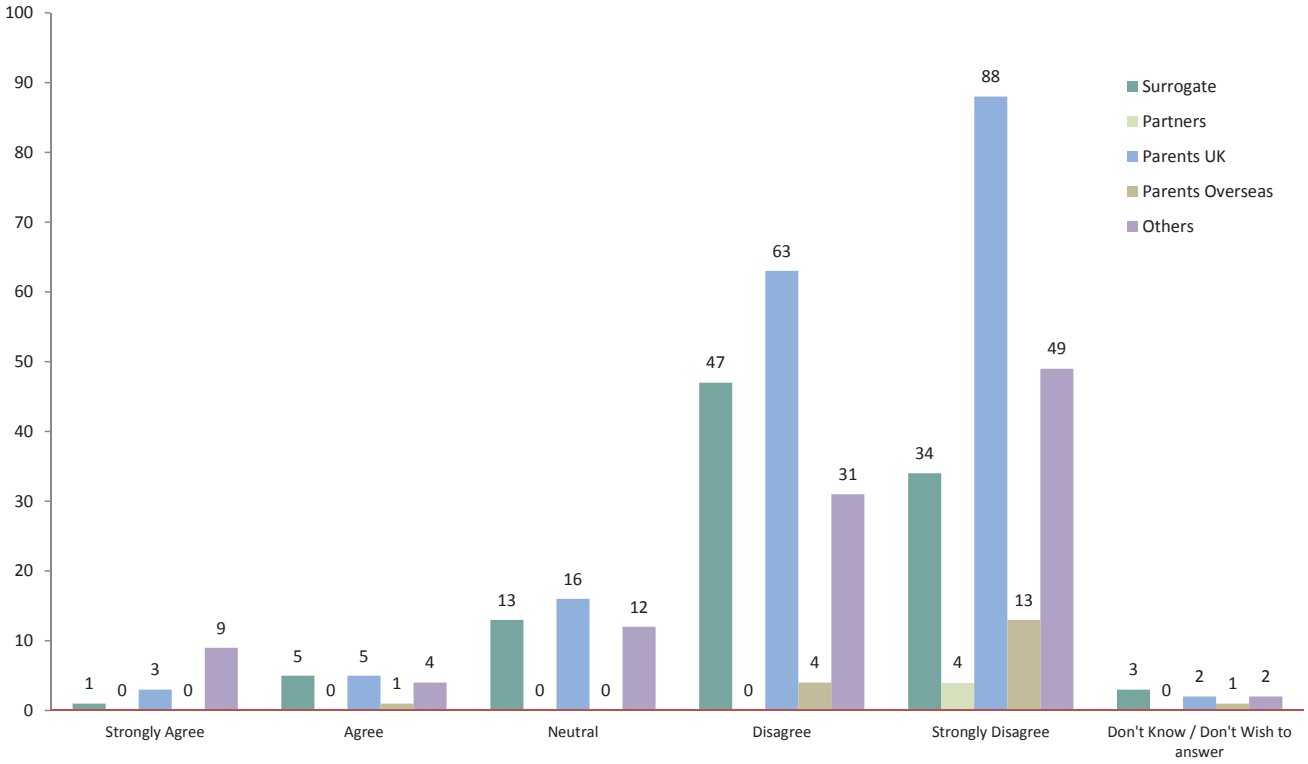
e) Other respondents



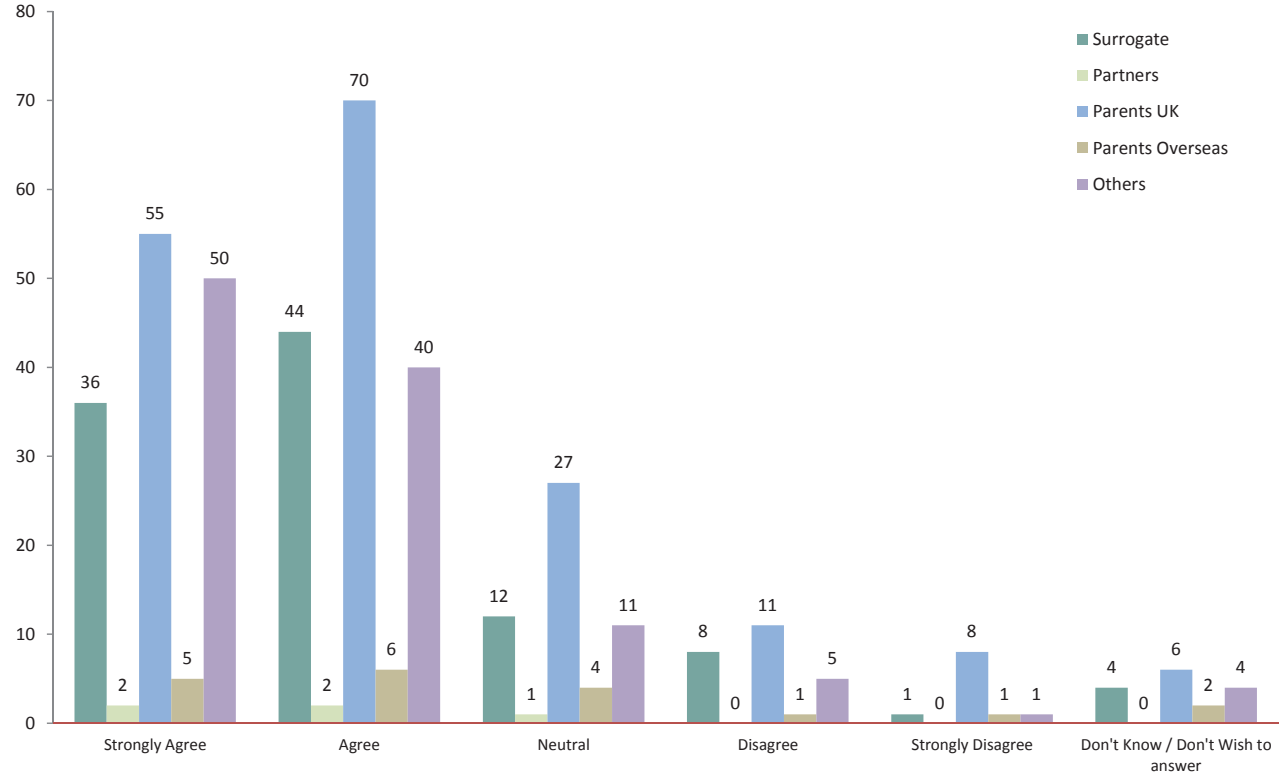
Appendix 3

Questions on Specifics Of Reform (Q53b)

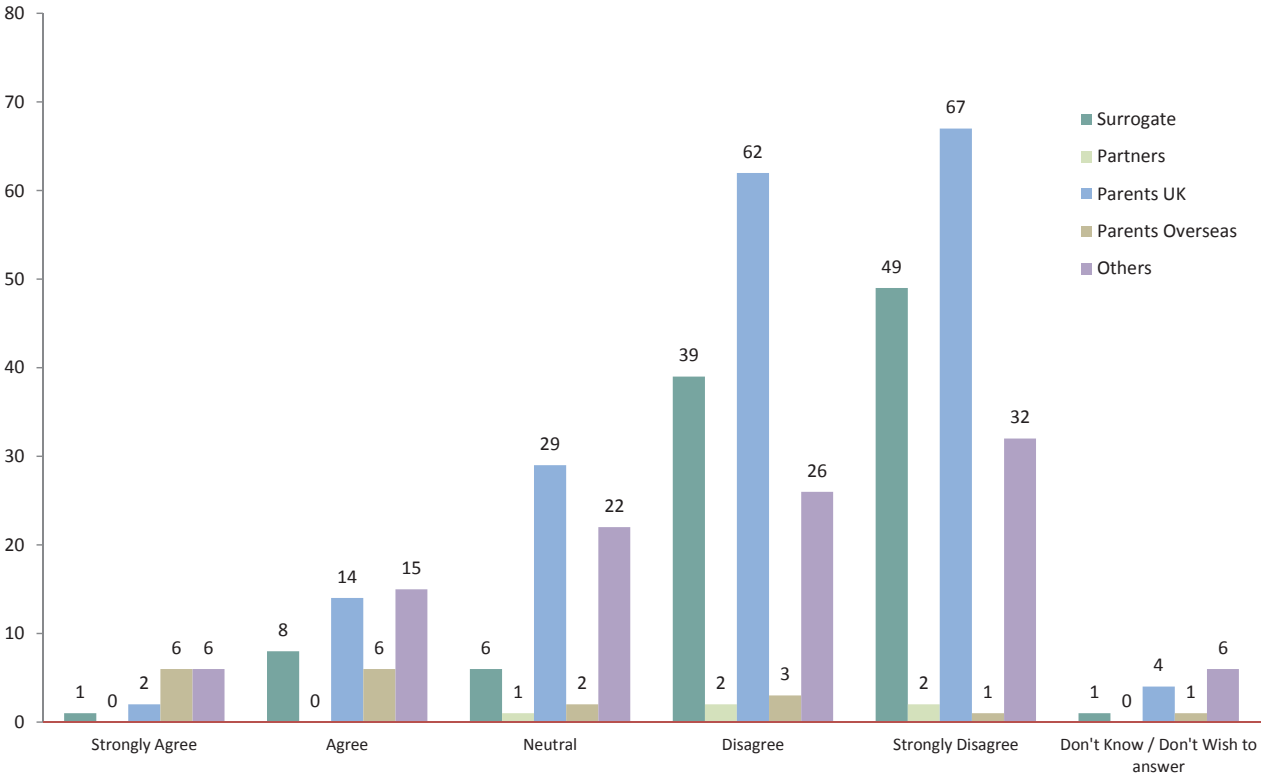
i) Surrogacy should be even more restricted than it is



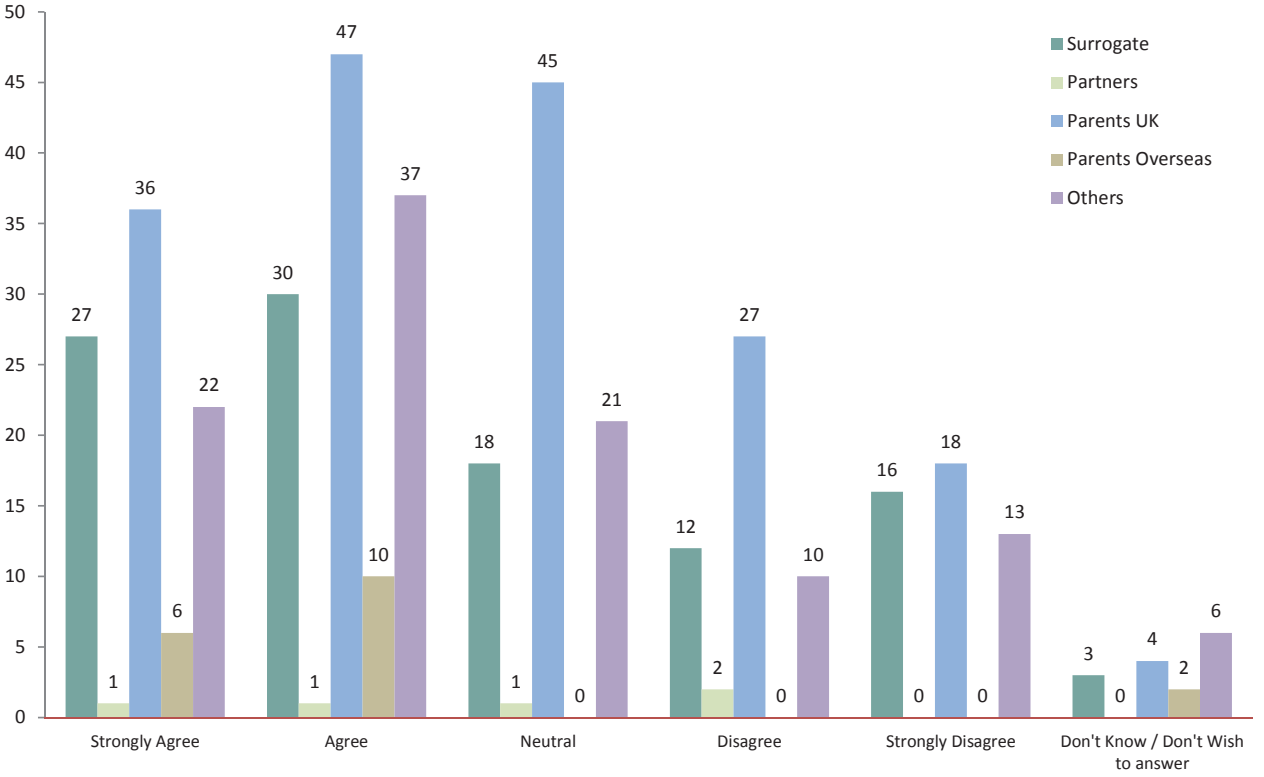
ii) There should be a regulatory body for UK surrogacy



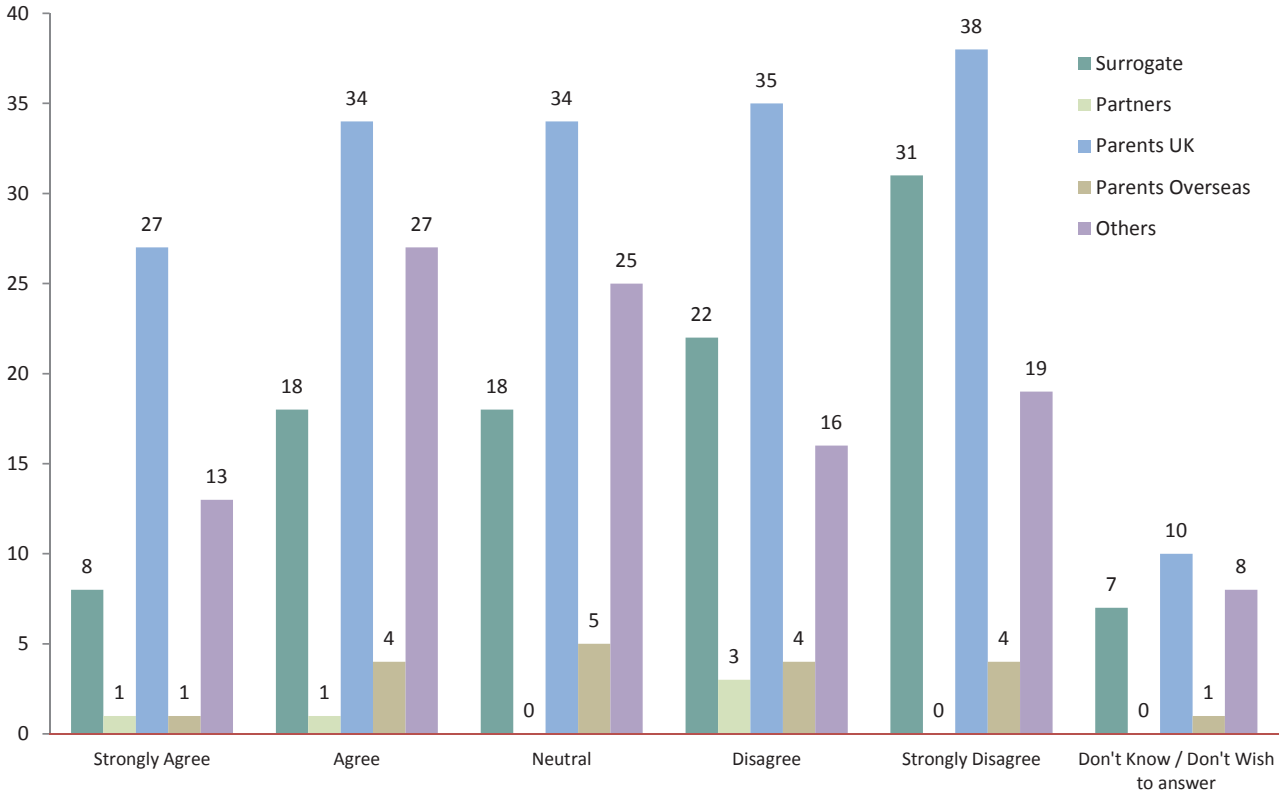
iii) Surrogacy agencies should be allowed to make profits



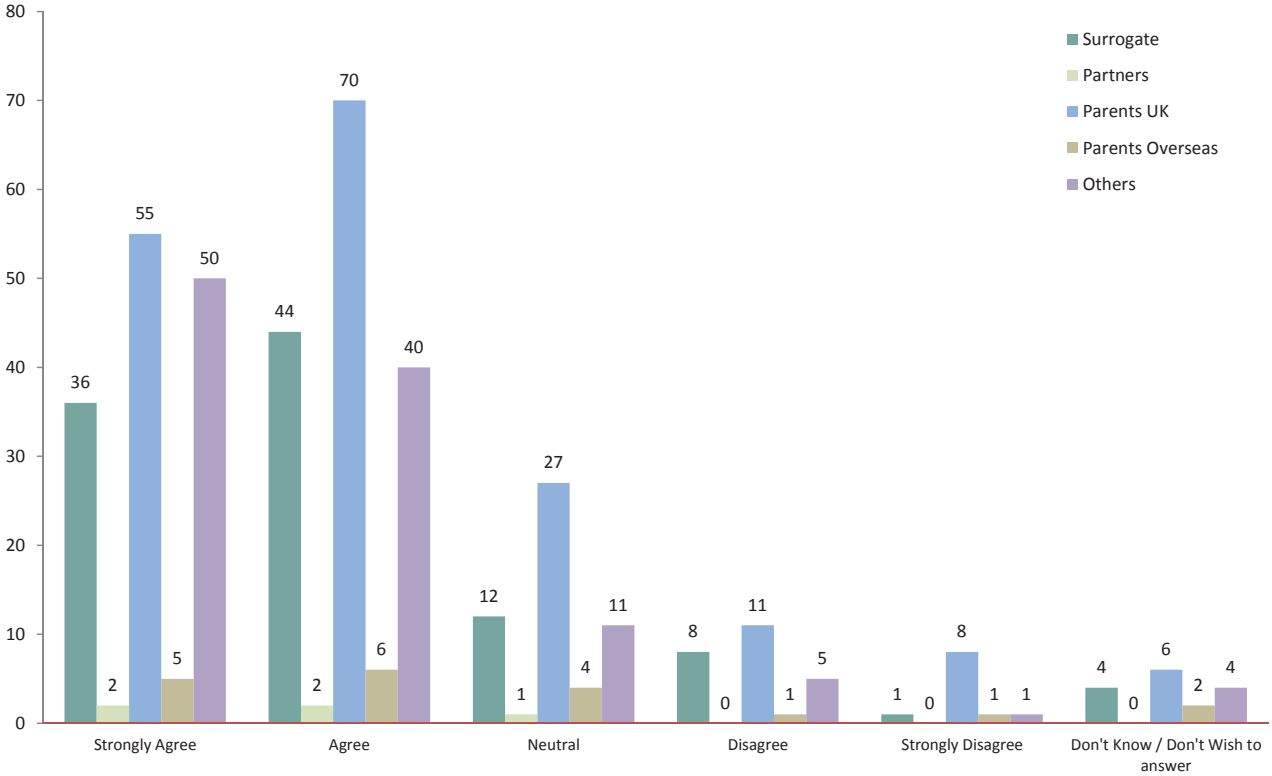
iv) People should be able to advertise for or as a surrogate



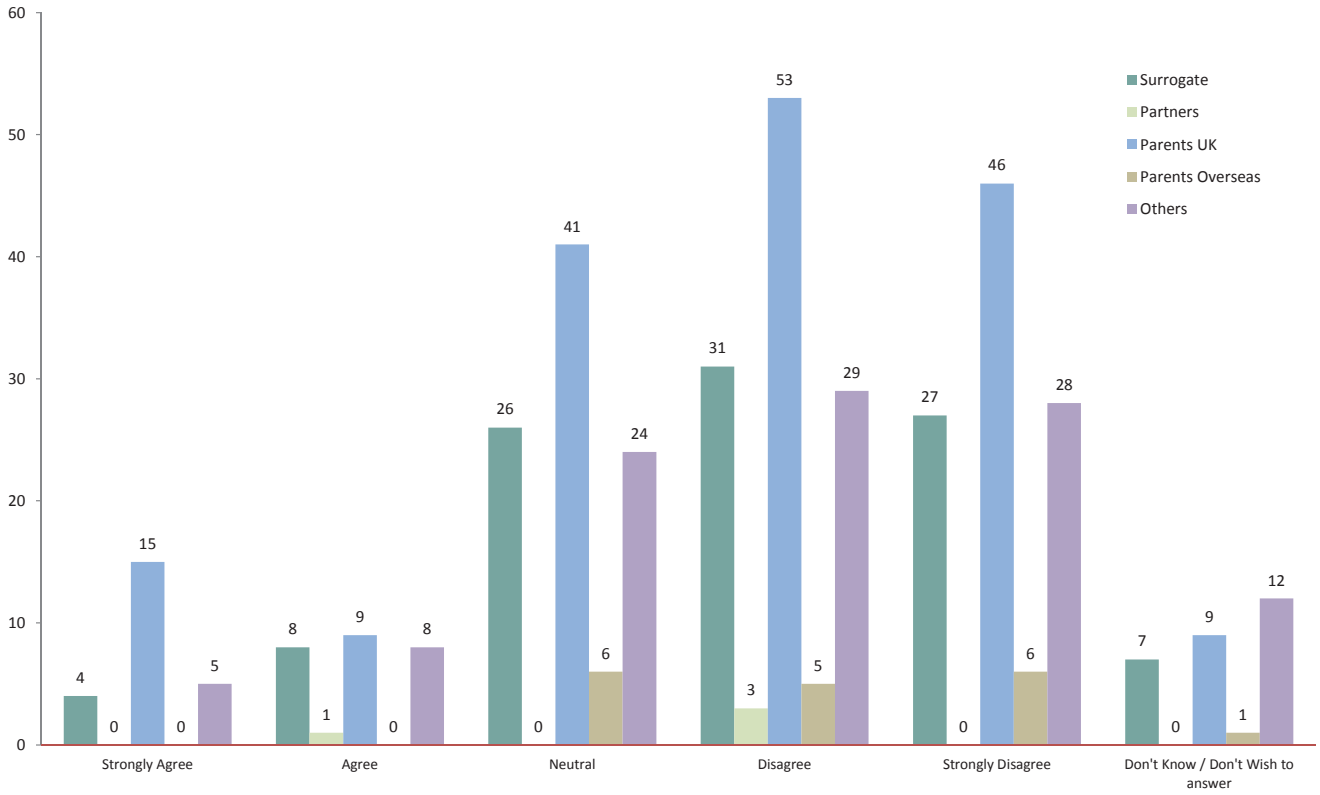
v) Agencies should be able to advertise their services, but individuals should not be able to



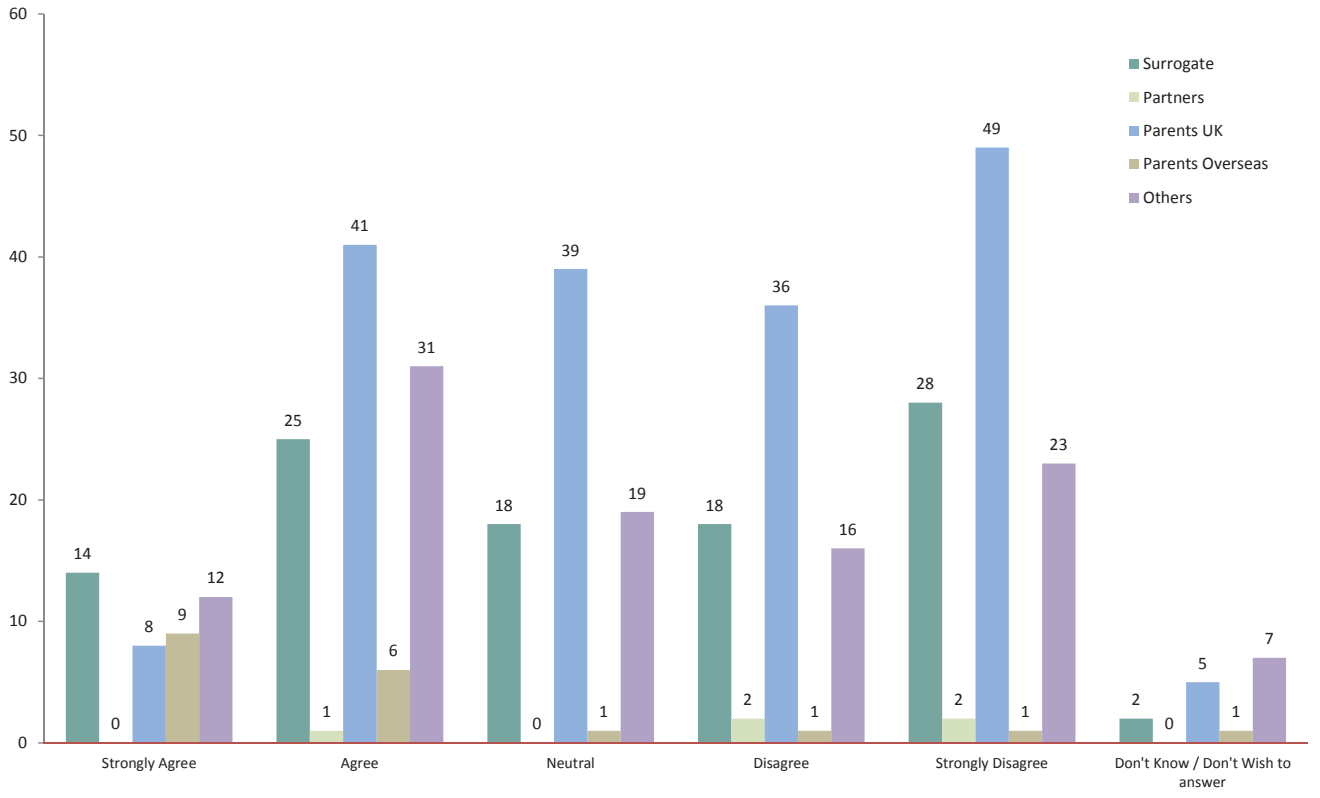
ii) There should be a regulatory body for UK surrogacy



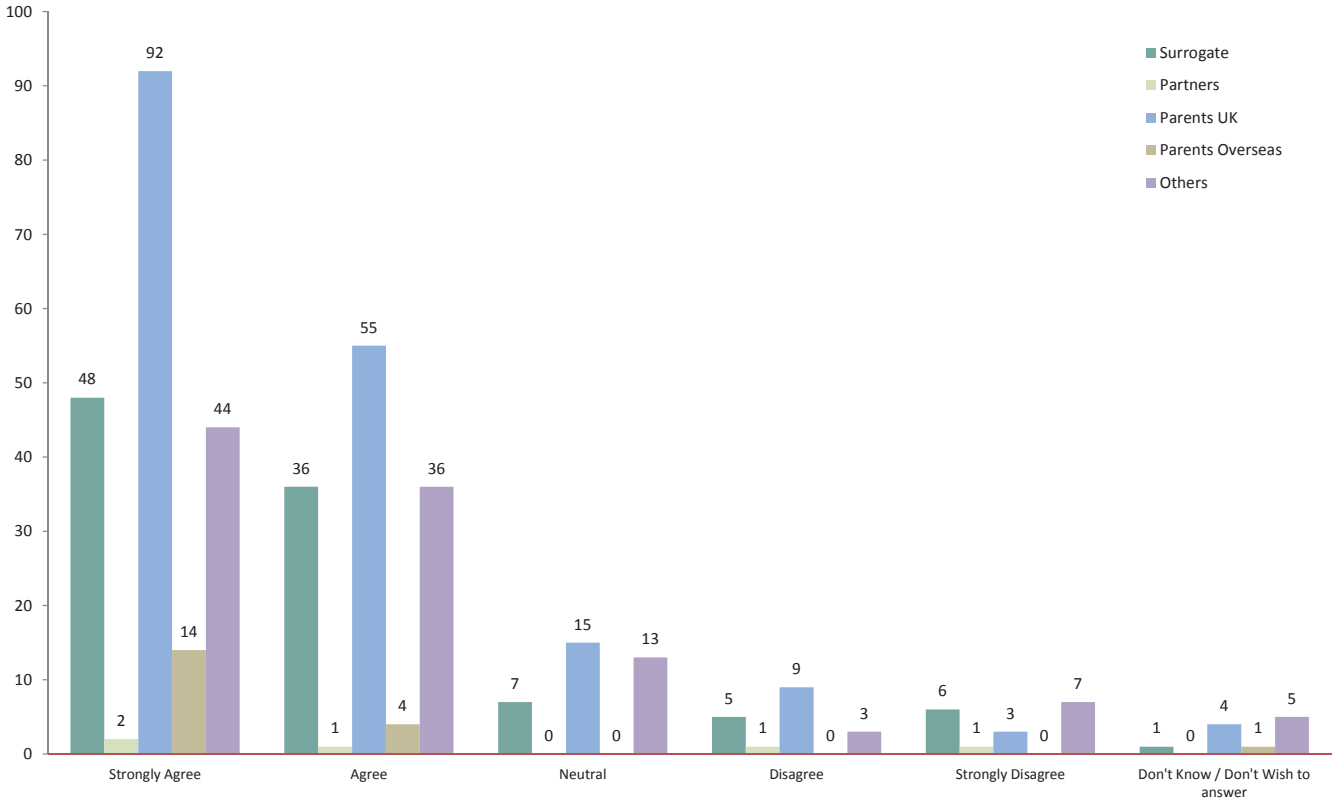
vi) Individuals should be able to advertise their services, but agencies should not be able to



vii) Surrogates should be allowed to receive payments, not just expenses



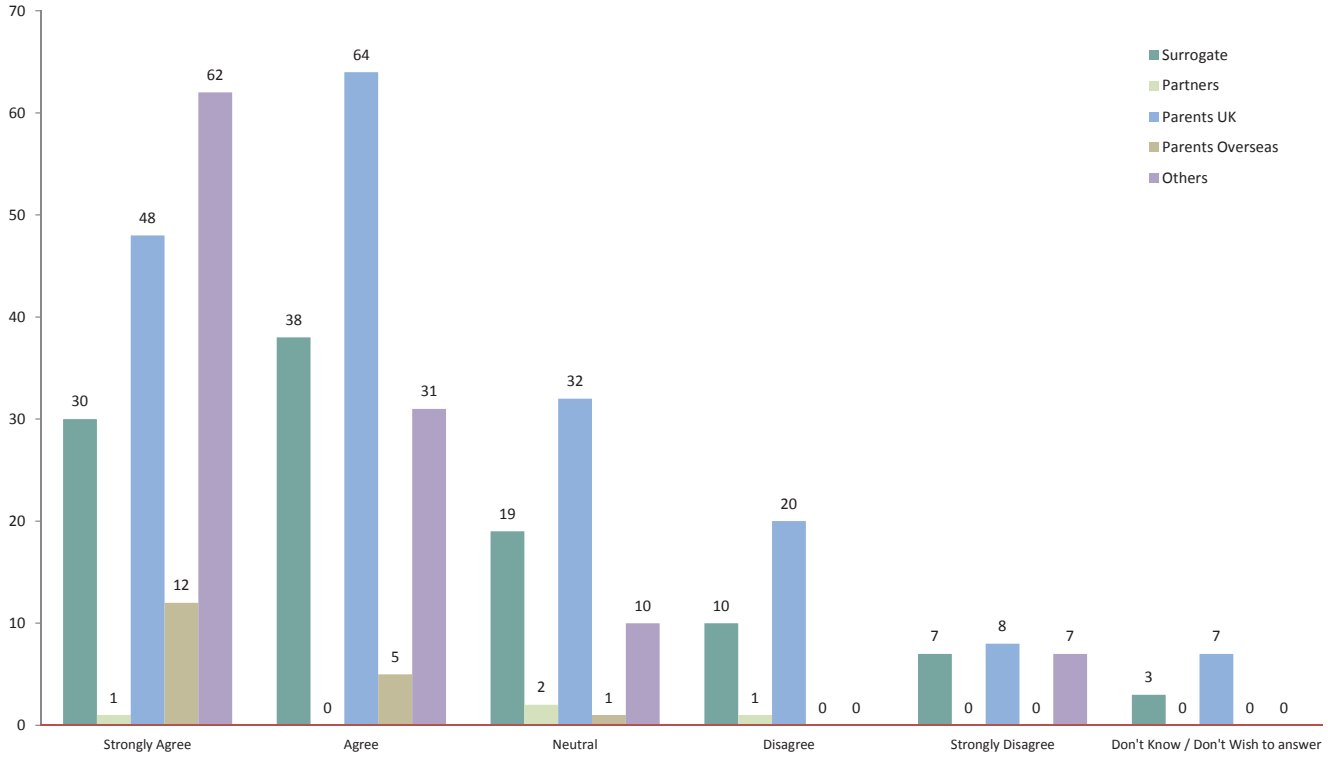
viii) Surrogacy contracts should be enforceable, except where the best interests of the child are not met



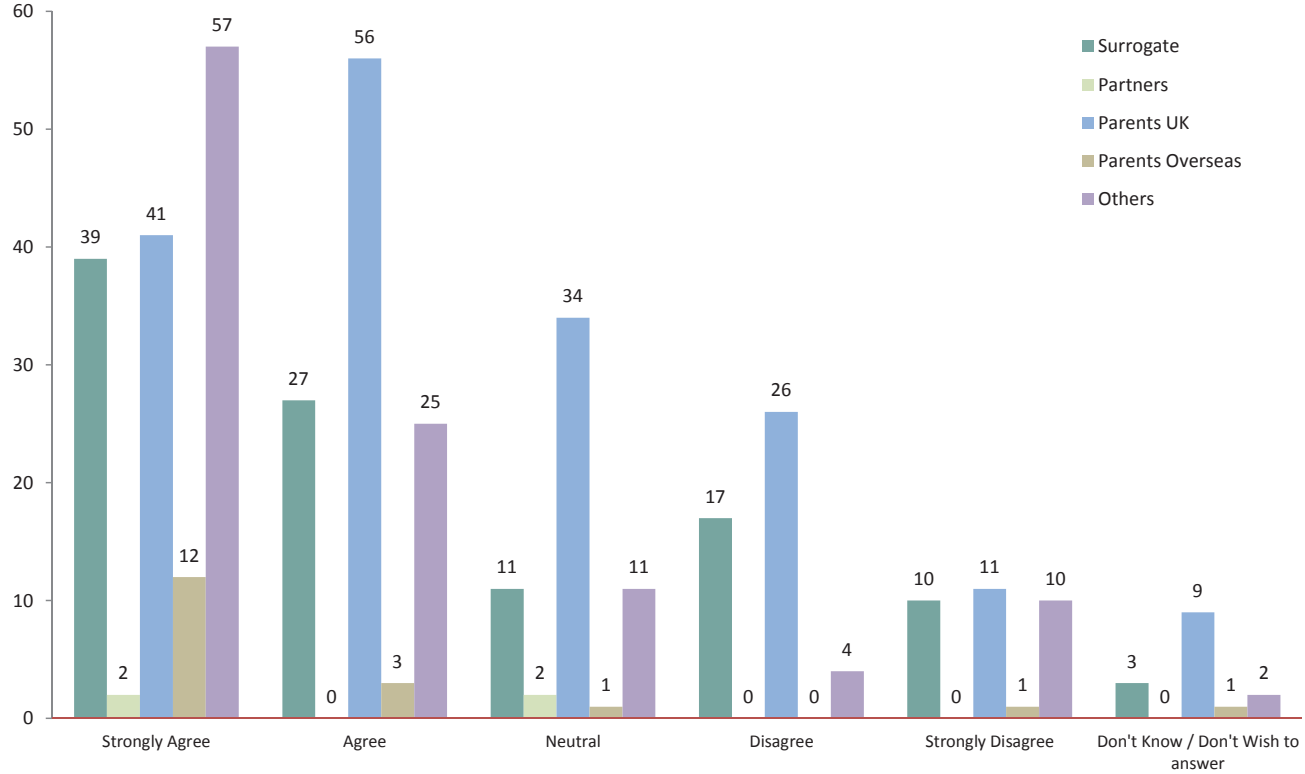
Appendix 4

Questions on Specifics of Reform (Q53c)

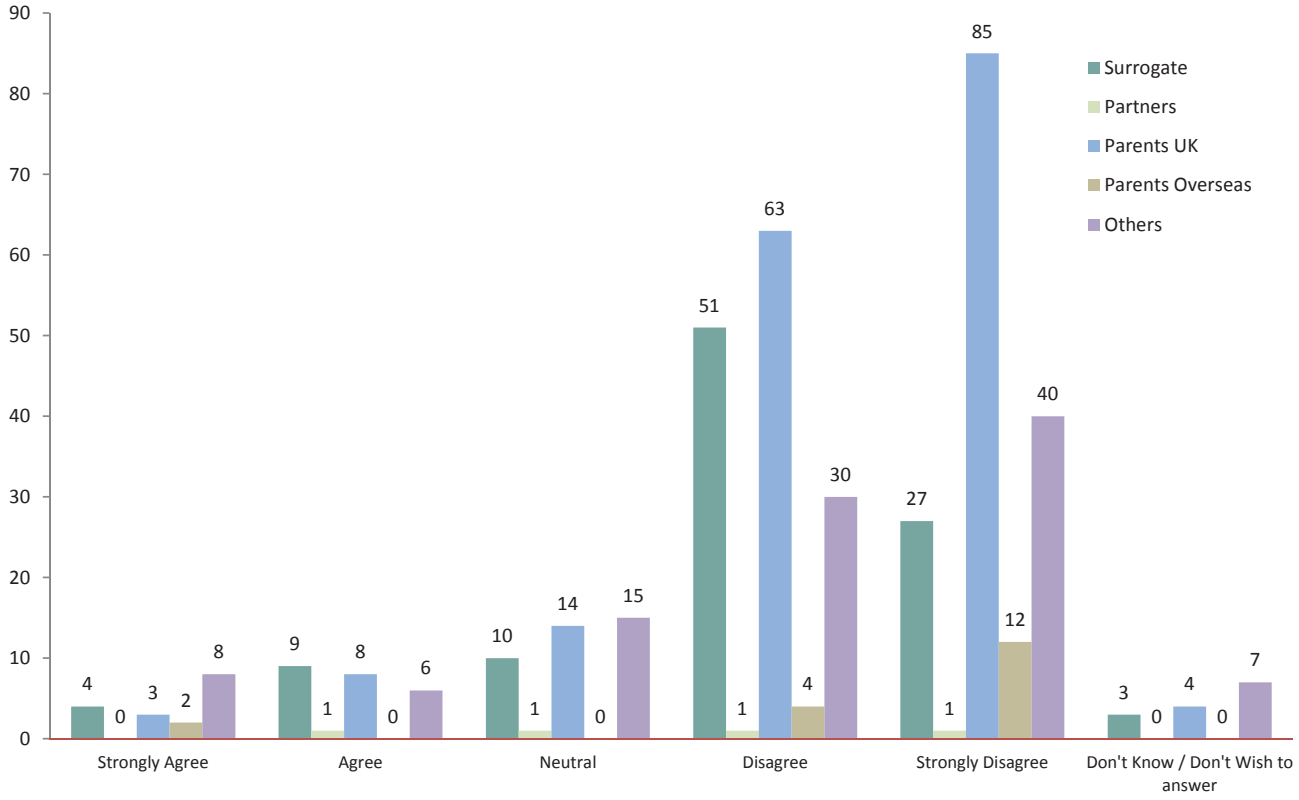
i) Single people should be allowed to become legal parents via surrogacy



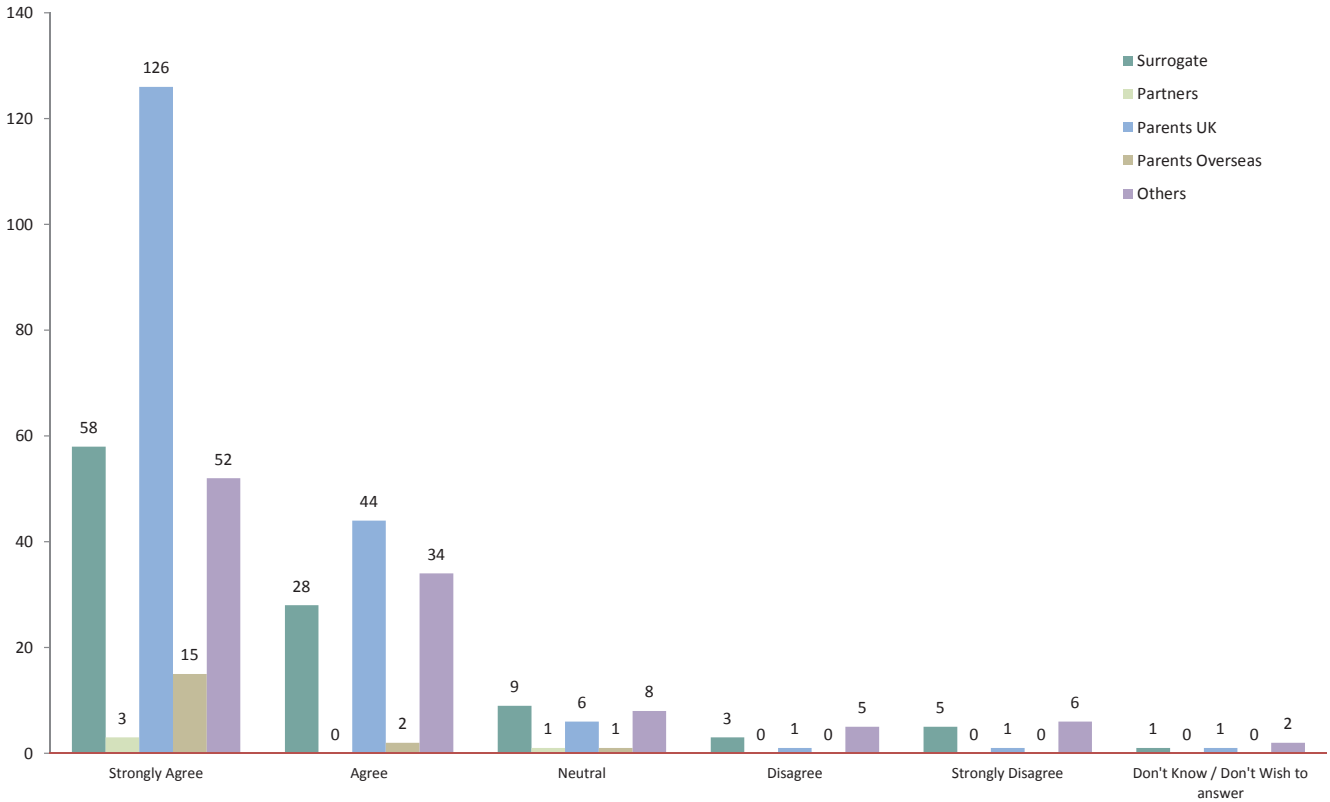
ii) Couples with no genetic link to the child should be allowed to become legal parents via surrogacy



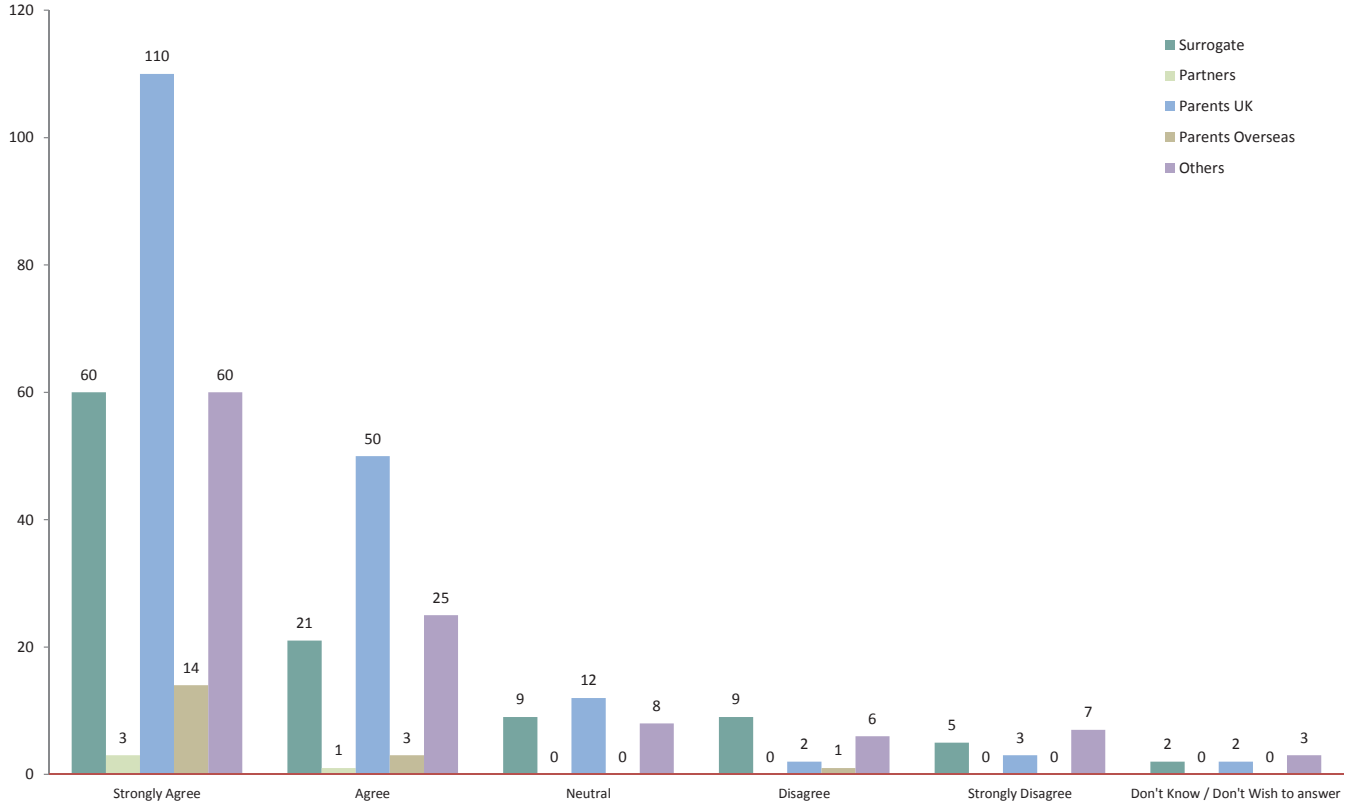
iii) Legal parenthood should rest with the surrogate (and her partner), as is the case now and should only change after a parental order is granted



iv) Parental orders should be able to be pre-authorised (by e.g. a court) so they are effective from birth



v) Legal parenthood should automatically rest with the intended parents at birth



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