



UNIVERSITY OF
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Children's Voices in Surrogacy Law

Phase Two
Preliminary Report

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Dr Katherine Wade

Lecturer in Law, University of Leicester
katherine.wade@leicester.ac.uk

Dr Kirsty Horsey

Senior Research Associate, London Women's Clinic
Reader in Law, University of Kent
kirsty.horsey@londonwomensclinic.com

Zaina Mahmoud

Postdoctoral Research Fellow, University of Birmingham
PhD Candidate, University of Exeter
z.mahmoud@birmingham.ac.uk

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TABLE OF CONTENTS

<u>Introduction</u>	- 1 -
Focus Group Information	- 1 -
Differences Between Phase One and Phase Two Focus Group Questions	- 5 -
<u>Topic One: Parenthood</u>	- 7 -
<u>Topic Two: Contributions to Surrogates</u>	- 15 -
<u>Topic Three: Origin Information</u>	- 19 -
Disclosure Debates	- 28 -
<u>Topic Four: Knowledge of Surrogacy</u>	- 30 -
<u>Preliminary Conclusions</u>	- 33 -
<u>References</u>	- 35 -
<u>Appendix</u>	- 36 -

INTRODUCTION

Children's Voices in Surrogacy Law (CVSL) is an empirical project that gathers and analyses children's views on surrogacy law. The goal is to ascertain their views about the current law and the extent to which law reform is required. **PHASE ONE** of the project involved children and young people aged 8-17 with experience of surrogacy. Three groups of children and young people were involved:

1. Children and young people born through surrogacy;
2. Children and young people whose mother had a child through surrogacy or is planning to do so;
3. Children and young people whose family member had a child through surrogacy.

The creative contributions from participants in **PHASE ONE** were gathered and digitised into a *Digital Wall* exhibition, first displayed at the *Future Directions in Surrogacy Law* conference in London on 30 November 2022, and published online in January 2023.

PHASE TWO involved children and young people aged 8-18 who did not have experience of surrogacy in their lives. This Report sets out the preliminary findings of the focus groups from **PHASE TWO**.

There were four topics chosen for consideration:

1. Parenthood;
2. Contributions to surrogates;
3. Origin information;
4. Knowledge about surrogacy.¹

Data were collected in two forms:

- a) focus groups;
- b) creative contributions (drawings, paintings, models) on the theme '*what I learned about surrogacy today*'.

Participants were recruited from two primary schools, one non-selective secondary school, and one secondary grammar school in England. The project was explained and when the schools agreed to participate, project information forms and joint consent forms for both parents and children were sent, including links to the project website.

FOCUS GROUP INFORMATION

Between December 2022 and January 2023, six focus groups were carried out with 24 children and young people aged 8-18. Fourteen girls and ten boys took part. All focus groups were held face-to-face. The focus groups lasted between 50-65 minutes. Table 1 presents the organisation and breakdown of the seven focus groups.

¹ The topics for **PHASE ONE** were: **TOPIC ONE: Parenthood**, **TOPIC TWO: Contributions to Surrogates**, **TOPIC THREE: Origin Information and Contact** and **TOPIC FOUR: Navigating Surrogacy in their Social Worlds**. The questions for **TOPIC ONE** and **TOPIC TWO** were the same between the two PHASES, while the questions for **TOPIC THREE** and **TOPIC FOUR** differed, as explained below.

	Age	No.	Gender
FOCUS GROUP ONE	10-11 yrs	5	4 boys, 1 girl
FOCUS GROUP TWO	8-10 yrs	4	3 boys, 1 girl
FOCUS GROUP THREE	11-13 yrs	4	3 girls, 1 boy
FOCUS GROUP FOUR	14-16 yrs	3	2 girls, 1 boy
FOCUS GROUP FIVE	13-14 yrs	4	4 girls
FOCUS GROUP SIX	16-18 yrs	4	3 girls, 1 boy

Table 1: Organisation and breakdown of focus groups

As seen in Table 1, participants were grouped together in focus groups to ensure that there was no greater than a two-year age difference present. This approach sought to ensure that each focus group was appropriately pitched to different levels of understanding, thereby allowing children to feel comfortable expressing their views.

A deck of playing cards was used to help with the activities, as seen in Table 2 (below). These cards had previously been designed for the children in **PHASE ONE** focus groups.² The deck included three types of cards:

1. Explanation cards: cards with pictures and definitions;
2. Illustration cards: cards with pictures only;
3. Question cards: cards with questions.

Explanation cards were used to define the following terms: *gestational surrogacy*, *traditional surrogacy*, *donor*, *Parental Order*, and *intended parents*. Illustration cards were used by children to choose different answers to questions. Question cards allowed children to follow the questions posed during the sessions. A sample of each type of card is presented in the **APPENDIX**.

Although a script was used by the facilitators, the wording of the questions differed slightly in each group; additional explanations were needed in some groups and, if the discussion developed, sometimes other questions were posed by the facilitators or the participants. For FOCUS GROUP ONE and FOCUS GROUP SIX, a teacher was in attendance.

Table 2 presents the questions posed to the focus groups and any accompanying activity conducted during the session.

	Question	Activity	Cards used
TOPIC ONE: Parenthood	What makes somebody a parent?	Children wrote and drew on post-it notes placed on a board, followed by a group discussion.	None

² The card content was developed by the team and the research assistant, Dr. Charlotte Mills. The illustrators and designers were Saria Digregario and Claudia Dagostino.

	When a child is born through surrogacy, who do you think the parents should be?	Children chose between <i>intended parents, surrogate, or surrogate and partner.</i>	<i>Illustration cards:</i> Intended parents, Surrogate, Surrogate and partner
	What do you think of Parental Orders?	Group discussion	<i>Explanation card:</i> Parental Order
	One of the reasons for the rules that we have is to allow the surrogate to change her mind. What do you think of that?	Group discussion	None
	In order to be able to apply to the judge to become the legal parents, one of the intended parents has to be genetically related to the child. What do you think of that?	Group discussion	<i>Illustration cards:</i> Egg, Sperm
TOPIC TWO: Contributions to Surrogates	What kinds of things do you think intended parents should be allowed to give surrogates?	Children sorted illustration cards under cards labelled <i>yes, no, and not sure.</i>	<i>Illustration cards:</i> Car, Holiday, Doctor's fees, Maternity clothes, Vitamins, Money, Spa voucher, Lost wages
	Should intended parents be able to pay a surrogate?	Children chose between cards labelled <i>yes, no, and not sure.</i>	<i>Illustration cards:</i> Yes No Not Sure
	Some people think that surrogates should not be paid because children born through surrogacy would not want to know that their surrogate had been paid. What do you think of that?	Group discussion	<i>Illustration cards:</i> Yes No Not Sure
TOPIC THREE: Origin Information	Should children born from surrogacy be told that they were born this way?	Children circled answers (yes, no, not sure), followed by group discussion.	<i>Question card</i>

	Should children born from surrogacy know who their surrogate was?	Children circled answers (yes, no, not sure), followed by group discussion.	<i>Question card</i>
	Should children born through surrogacy know whether the surrogacy was traditional or gestational?	Children circled answers (yes, no, not sure), followed by group discussion.	<i>Question card</i> <i>Explanation cards:</i> Traditional surrogacy, Gestational surrogacy
	If the surrogacy involves egg or sperm donation, should children born through surrogacy be told about this?	Children circled answers (yes, no, not sure), followed by group discussion.	<i>Question card</i>
			<i>Explanation card:</i> Donor
			<i>Illustration cards:</i> Egg, Sperm
	Should children know who the egg or sperm donor was?	Group discussion.	<i>Question card</i>
When/what age should children be told they were born through surrogacy and who should they be?	Group discussion.	<i>Question card</i>	

Table 2: Focus group protocol for children aged 8-14

For FOCUS GROUP FOUR and FOCUS GROUP SIX with young people aged 16-18, the questions were the same for **TOPIC ONE: Parenthood** and **TOPIC THREE: Origin Information**, with the same illustration and explanation cards used. For **TOPIC TWO: Contributions to Surrogates**, participants in FOCUS GROUP FOUR and FOCUS GROUP SIX were asked their views on the acceptability of the eight categories of contributions from the Law Commissions' Joint Consultation Paper infographic (see Figure 1, below).

These eight categories were:

1. Essential costs of pregnancy;
2. Additional costs of pregnancy;
3. Costs associated with a surrogate pregnancy;
4. Compensation for pain and inconvenience;
5. Compensation for loss of earnings;
6. Gifts;
7. Payment for being a surrogate;

8. Loss of welfare entitlement.³

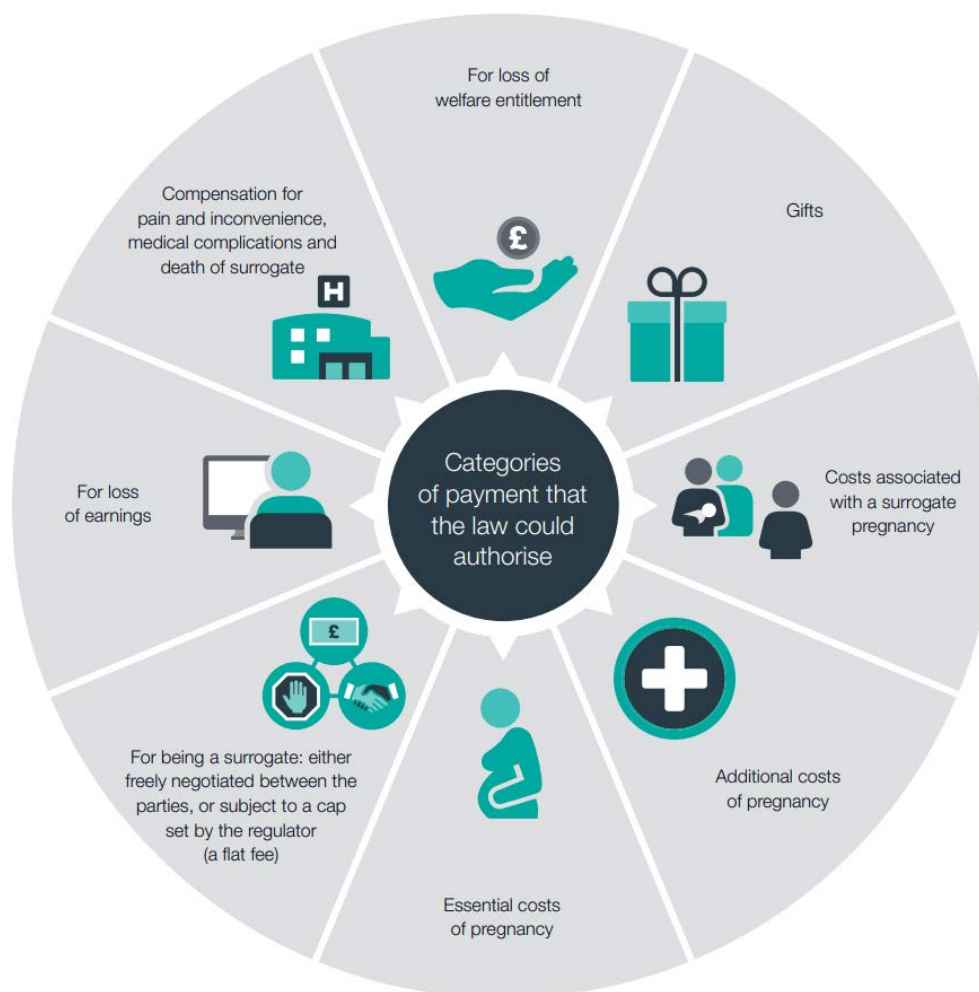


Figure 1: Law Commissions' infographic⁴

DIFFERENCES BETWEEN PHASE ONE AND PHASE TWO FOCUS GROUP QUESTIONS

PHASE ONE participants had experience of surrogacy, unlike **PHASE TWO** participants. This led to some differences in the focus group questions. The topics for **PHASE ONE** were **TOPIC ONE: Parenthood**, **TOPIC TWO: Contributions to Surrogates**, **TOPIC THREE: Origin Information and Contact** and **TOPIC FOUR: Navigating Surrogacy in their Social Worlds**. The questions for the first two topics were the same for both PHASES.

For **TOPIC THREE**, **PHASE ONE** participants were asked about origin information and contact, whereas **PHASE TWO** participants were only asked about origin information. **PHASE ONE** participants were asked whether they thought contact between families who used surrogacy and the surrogate's family was important. This topic addressed

³ **PHASE ONE** participants were not asked about welfare entitlement, as this was seen as being similar to loss of earnings. However, in **PHASE TWO**, we decided to ask about welfare entitlement to see if any differences were drawn.

⁴ Law Commission of England and Wales and the Scottish Law Commission, *Building Families Through Surrogacy: A New Law* (Law Com No 244, 2019) at para.15.4.

the level of contact deemed appropriate between families and participants drew on their own experiences. Their answers provided insight into the current model of surrogacy regulation and practice in the U.K. Questions surrounding contact were deemed inappropriate for **PHASE TWO** participants, as they had no experiences to draw on. **PHASE ONE** participants were asked whether children of surrogates should know whether the surrogacy was traditional or gestational; participants who were children of surrogates provided interesting insights, drawing on their own experiences. As **PHASE TWO** participants did not have similar experiences, this question was replaced with one related to identification of gamete donors. Additionally, contact and disclosure of the type of surrogacy to children of surrogates are not subject to legal regulation. Though the insights provided were interesting, **PHASE TWO** focused more squarely on issues which are subject to legal regulation.

TOPIC FOUR differed between **PHASE ONE** and **PHASE TWO**. As **PHASE ONE** participants had experience of surrogacy, they were asked questions about how this impacted them and how they navigated the issue of surrogacy in their lives.⁵ **PHASE TWO** participants were asked about their knowledge of surrogacy. Table 3 presents the questions for **TOPIC FOUR**.

PHASE ONE: Navigating Surrogacy in their Social Worlds	PHASE TWO: Knowledge about Surrogacy
Do you tell people you are born through surrogacy/your family member is or was involved in surrogacy?	Did you know anything about surrogacy before today?
Do you have to explain surrogacy?	Do you learn about surrogacy in school? If so, tell us about it. If not, do you think you should?
What do people think?	
Do you learn about surrogacy in school?	

Table 3: Questions for Topic Four

⁵ In **PHASE ONE, TOPIC FOUR: Navigating Surrogacy in their Social Worlds** emerged from the groups themselves and was included from FOCUS GROUP THREE onwards.

TOPIC ONE: PARENTHOOD

We asked participants to tell us what they thought makes someone a parent.

Participants were asked to write or draw their answers to this question on post-it notes, which were placed on a board, and a group discussion followed. Participants' answers focused on parents as caregivers and those who raise, protect, support, look after, and love a child. Some examples include:

A parent is someone who loves and takes care of their children and raises them. (Rose, 13)

Loving, caring, when I think of the word parent it makes me think about caring. (Ella, 14)

A person who is caring for that person. Kind, always there to help, doesn't need to be biological. (James, 11)

A parent is someone who raises a child, someone who looks after you until you are old enough to live by yourself. (Annabelle, 10)

What I think a parent is, is caring of a child, protective, can provide for the child, loving, supportive network, understanding, known since birth/a long time. (Ivy, 15)

People who care for and look after a child, person, people the child sees as their parental figures and the people who give birth to or adopted child. (Harry, 16)

Some participants thought deeply about what makes someone a parent. Not all answers were wedded to biological connections, and included other parenting relationships. Natalie (15) explained that '*you have different types of parents*', adding:

So, I was thinking about godparents and how those people who — even though the child might not be genetically related to them, or who haven't raised a child since birth — still promise to love and protect this child, and how parenting is about being accepting of this child, because it's someone you love deeply.

Similarly, Harry (16) said he thought parents are '*whoever the child sees as their parents*'. He explained:

Like a stepparent, or something like that, would play an important role. Because I think they do have a quite important view on it.

Tim (11) said that:

Either you have the baby or you adopt them and you have to care and love them, either way.

Figure 2 presents a word cloud depicting the most prevalent terms provided by participants, including '*care*' (17) and '*love*' (8). Some children mentioned '*birth*' or '*having*' a child/baby (4). Being '*biologically related*' (3) was mentioned, as was '*adoption*' (4).



Figure 2: Word cloud

We explained surrogacy using explanation cards, and described the difference between traditional and gestational surrogacy, and the fact that sperm or egg donors may also be involved. Once we were satisfied participants understood what was meant by surrogacy, we moved on to questions relating to specific aspects of surrogacy.

We asked: When a child is born through surrogacy who do you think the parents should be?

Participants were asked their views on who should be recognised as the parents following a surrogacy arrangement. They were asked to choose one of three choices depicted on illustration cards: *intended parents*, *surrogate*, or *surrogate and partner*.

As seen in Figure 3, **eighteen** participants said this should be the intended parents and **six** initially said this should be the surrogate and her partner.

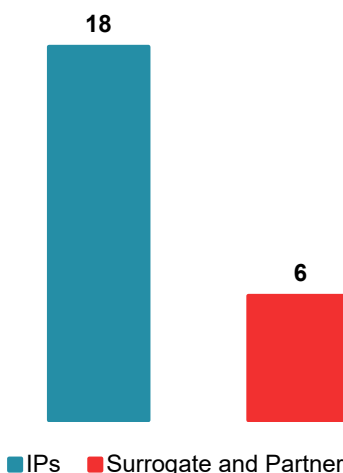


Figure 3: Participants’ views on parenthood following surrogacy

Some participants who said the intended parents should be recognised as the parents saw this as a matter of common sense. Lauren (16) explained her answer, saying that intended parents should be recognised as the parents ‘*because [they] would be the ones who would end up with the child*’. Similarly, Ivy (15) said:

Because they, like, intended to be the parent of the child. I don’t know how to describe it. It just kind of makes sense, if it is, like, the parents of the child that has been made.

Participants’ answers were based often on either the presence of an agreement or the emotional significance for the intended parents, as the following quotes reveal:

Because they were the people who wanted it to happen and, like, they were the ones the baby was supposed to go to, because it was agreed. (Tim, 11)

I think it's because the intended parents were the ones that wanted a surrogate and they decided they wanted to do it and then the surrogate was just someone that could help that happen and they know that was the part of the thing — they had to give up the baby after it was born. (Rose, 13)

It should be the intended parents, because if they're the people that want to be the parents, then they're obviously going to be emotionally hurt if they don't have the child that they want to look after. (Henry, 10)

Because if they're going through the process, I guess that's kind of been the agreement to it. And because they're the ones that originally want the children. (Liam, 18)

Because the surrogate is aware that the child won't be theirs after they've had the baby. So they know that the intended parents are going to look after them. So, the intended parents should be the ones to help the baby. (Cassie, 17)

Some participants gave reasons that focused on the act of social parenting, including:

They're going to be the parent of the child no matter what, even if it's traditional or gestational, because they're the ones that are going to actually raise and [shape] the child and how they're going to be in later life. So, I think just the intended parents. (Jasmine, 11)

Because if someone's wanted you to carry their baby, why would they get to keep it for themselves? It doesn't matter if you give birth to someone or not. As long as you raise them, then you count as being the parent. (Annabelle, 10)

I think it actually is the intended parents, because it's like when a child is adopted, the parents aren't...the child would feel more attached to the parents who adopted him, rather than the biological parents. (Leonard, 12)

Some of the six participants who believed the surrogate and her partner should be recognised as the parents clearly based this on biology. For example, Jax (8) said the surrogate and her partner should be recognised as the parents because *'they are the original ones who would...which actually had the eggs and stuff'*.

Some answers illustrated that not all participants fully understood the concept and purpose of surrogacy, more so in the younger groups. For example, Diego (10) said the surrogate and her partner should be recognised as the parents because:

It's only fair that they go through all that pain. What's the point of going through all that pain and then give it to another person?

Two participants who initially said that the surrogate and her partner should be recognised as the parents (Bella, 13; Alice, 13) later said that this might depend on whether the surrogacy was traditional or gestational. If the surrogacy was gestational, they changed their answers to say that the intended parents should be recognised as the legal parents. Bella (13) entertained the idea of *'all'* the parties being recognised as parents:

Well, I think it depends because if it's the gestational one, then I think the intended parents would be the actual parents. But then if it's the traditional one,

I think it should be both, because the child is still genetically connected to the surrogate.

We explained that surrogates are currently recognised in law as the parents at birth and that intended parents apply for a Parental Order to transfer parenthood to them, and asked: What do you think of Parental Orders?

The explanation card for the term *Parental Order*, presented in the **APPENDIX**, was used to aid participants' understanding of the process. Often, responses focused on '*fairness*', which was connected to biology and/or the fact that there was an agreement in place. For example, Liam (18) said:

It kind of makes sense why, but at the same time — especially if they've had no sperm or egg involved, if it was the intended parents' sperm and egg — then surely they should be the ones who are legal parents. And I suppose if you are becoming a surrogate mother, you kind of agree to the terms and conditions of the fact that you won't be their mother, like you won't be the caregiver of that child.

Ella (14) thought that:

If they wanted — the parents — if they wanted the child, and the surrogate knew and was fine with it, but then they have to go to court just to have a baby that they wanted, that they both wanted to do, then I just think it's wrong. It's not really a point if you have to go to court for a child.

Some participants' opinions were clearly affected by the potential genetic relationships involved, like Sienna (13):

I think it should be changed, because if it's gestational surrogacy then she's just carrying the baby, she's not like related to it in any way, so if the intended parents didn't win the court case, then she would have someone else's baby.

Following a group discussion about the difference between gestational and traditional surrogacy, Rose (13) said:

I get like, you don't have to be genetically [related] to a baby for it to be your child, but you agree to the fact that you wanted to do it to help someone else out. But I get more towards the court case for traditional.

Some participants (particularly from the older groups) had some very thoughtful responses:

I mean, I understand why it's in place, because the law wants to protect the person who is carrying the baby. But it's also making it harder for people who cannot have a baby the traditional way to go through surrogacy. Because if you want to be a parent, for people who are in a heterosexual relationship who just get pregnant and then give birth, you go home with your birth certificate and you are the parents. Whereas some people can't do that. It's a lot harder. I'm not sure I would want to go to court to prove that I was the parent after nine months of waiting and hoping. And then there's still potential that they say 'No, actually, you're not.' (Natalie, 15)

I don't really understand, I mean, I kind of understand an element of why the law is like that. But then again, if they've gone through surrogacy, so the

surrogate has agreed once, or what I know about it, is that the surrogate has agreed to then give the baby to the intended parents. I don't really understand why they have to go to court. (Ivy, 15)

I can understand why the law is there but it doesn't seem like it's particularly good. Because I think that if they've already made an agreement to give the child over to the intended parents, and they did it, they should continue with that. And it feels like if something were to go wrong halfway through, and the surrogate decided that they wanted to keep the child specifically to negatively impact the intended parents, then it feels like there's nothing protecting the intended parents as well. (Harry, 16)

We explained that one of the reasons for the current law was to allow the surrogate to change her mind. We then asked participants what they thought about this.

As seen in Figure 4, **eleven** participants said that the surrogate should not be able to change her mind, **seven** participants said that the surrogate should be able to change her mind, and **six** said 'it depends' (on the type of surrogacy arrangement).

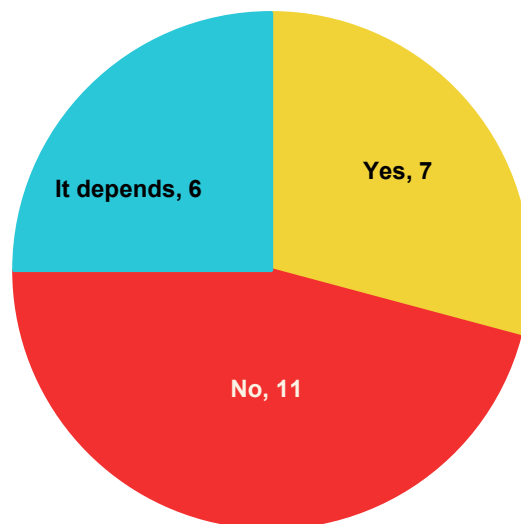


Figure 4: Participants' views on whether surrogates should be able to change their mind

Again, explanations tended to focus on concepts of what was 'fair'. Cassie (17) said that the surrogate should not be able to change her mind '*because they've agreed that it's not going to be their baby*', adding:

It's the intended parents'. So, for [surrogates] to change their minds, it's not very fair on the intended parents, because the intended parents could have picked someone else to be the surrogate knowing that they'd be the intended parents by the end of it. It's not fair.

Similar points were expressed by other participants:

It's just not very fair because it's kind of their child yet someone's sort of taking it and I feel like maybe they should — like, the surrogate should, like, they should have, like, not a contract, well, you know, like, sort of, write up like a

statement saying that they give it to the intended parents or something. (Alice, 13)

It's not really fair on the intended parents because they're having to wait, they're waiting nine months to get a child, I mean, it's the same, like, normal but, like, they're waiting nine months and then it's just to be told, 'Actually, no, I want to keep the baby. You're not going to get it.' (Leonard, 12)

I don't think that's fair for the intended parents because the surrogate obviously agreed before the process began, that she would give the baby to the intended parents. So, I'm not sure it's right, they're willing to change their mind when they're born. So, like, there should be, um, like, an agreement sort of thing before just to say like, 'Yes, I am going to give the baby to you.' (Jasmine, 11)

Other aspects of 'fairness' were associated with practicalities, such as costs incurred and preparation undertaken by intended parents. For example:

The intended parents have gone through all this and they've bought everything for this child, they really cared all through it and then the actual surrogate is just saying 'Scrap that, I'm keeping the baby.' (Diego, 10)

They'll probably be sad because that's wasted their time and basically, they could have got all the stuff ready, like the nappies and that, and the clothes, and they could have like wasted all their money and that. (Katie, 10)

Conversely, some participants thought that the surrogate should be able to change her mind. Honey (16) said that this could be '*because they might have a connection to the child*', later adding '*like carrying*'. This discussion prompted Liam (18) to contemplate whether surrogates should be able to change their mind up to '*a cut-off point within the pregnancy*'. He added:

Maybe after, because obviously once they actually feel more pregnant and can see a bump, that's when they could potentially have more of an attachment to it. So, maybe after 20, 25 weeks or something, that could be the real end cut-off point where they go, 'I now decide that I don't want to parent the child.'

Other participants' feelings were more nuanced:

I can understand wanting to protect someone to change their mind, because how you feel about something that hasn't happened to you yet can be different to how you feel after nine months of carrying a baby and then giving birth. But also, if you make an agreement to do something and you decided that that's what you're going to do, you should still be honouring that, in a way. But it's a very difficult kind of issue because how you feel is something you can't really police. You can't tell yourself not to feel that way. (Natalie, 15)

For some participants, the differences between gestational and traditional surrogacy prompted further discussion. Rose (13) thought that even if the surrogate used '*her egg for someone else*' then:

Surely she knew that, and the fact that it — I get it's genetically her baby — but she didn't really want her baby, she wanted to give up the, like, her egg so another family could have it.

Later, she said:

It's like she decided she wanted to give up an egg so someone else could have a family. I get you might change your mind because, like, once you have seen the baby and, like, you knew that anyway, you knew the fact that you were going to give, it was from the first place, so you can't really change your mind at the end, after you have promised this family that it would be their child.

In the same focus group, following this discussion, Sienna (13) said '*I think they should be two different laws because they are two different kinds of surrogacy. So, it's a different, like, situation*'. When asked about the difference, she said that '*with gestational you can't change your mind, and traditional you can*', adding:

Because gestational you are not, like, the genetic parents, so it would just make it more difficult for the other parents, because then if she keeps the baby, then she's got someone else's kid.

Additionally, in traditional surrogacy, because the surrogate is genetically related to the child, she said '*it should be, like, co-parents*'. This was another example of a participant entertaining the idea of parenthood shared by both the intended parents and the surrogate in that context.

We explained the requirement for the baby to be genetically related to at least one of the intended parents for a Parental Order to be granted. We then asked: What do you think of that rule?

Some of the younger participants struggled with this idea, and could see arguments on both sides:

Sometimes it will be right because it is genetically connected to them. But sometimes people can't have babies and two people may not be able to have babies, so it's kind of fair, but not, at the same time. (Tim, 11)

I think that it's fair, because it means they're actually related. But I think it's also not fair because maybe they're not able to give an egg or a sperm to the surrogate. (Annabelle, 10)

Thomas (8) did not think that it mattered, because the '*baby is related to both*' the surrogate and the intended parents, and therefore '*a judge*' should not be necessary:

The baby is like basically related to both now thinking of it, because like the baby was in the other person's womb, but the original mother and the father gave their egg and sperm to, like, to the surrogate.

Other participants clearly thought that requiring a genetic link was '*not fair*' or did not make sense, as the following quotes reveal:

I don't think that's really fair, because say you, like, they both wanted to, but they both couldn't donate, you know? I think they should like still be able to have it. (Leonard, 12)

I'm not sure actually they had to write that part of the Parental Order, because what if it was like just a single person and they couldn't donate because for some medical issue? (Jasmine, 11)

I don't think anyone should have to have a genetic involvement in it, because you could have instances where both partners are sterile or infertile. And they

could still want to have a child, it doesn't really make a huge amount of sense why it has to be genetic. (Harry, 16)

It's hard because if they can't then it's unfair to almost take that away from them again. (Liam, 18)

Natalie (15) said:

I don't think parenting is about genetics. You don't need to be related to someone to love them and to care for them.

Rose (13) explained that she thought 'it's okay even if they are not genetically related to them', adding:

Because I guess that if you didn't want to do, like, an adoption or something, and you wanted something more like a closer relationship and, like, see the baby growing and, like, kind of, I guess that is different.

On the other hand, some participants regarded a genetic link as a legitimate requirement because of similarities they saw to adoption, as the following quotes show:

If they are not genetically related then it's like an adoption because, like, it is a bit, because if you get adoption, like, the kid probably won't look like you. So, it's pretty much the same, if you are not the parent who donates an egg or sperm, because it's not going to look like you and you just, you are not really part of it, you are just waiting for the baby. (Sienna, 13)

The law should say how it is, because if they are related, it brings the parent and the child closer and then sort of like not being related, because then, even if they don't know, you are always going to know, you are not going to be as close as you want to be, and not look like each other or anything. (Ella, 14)

Cassie (17) saw this more starkly and said that 'if there's no genetic link, then they may as well just adopt'. Bella (13) also thought that there were potentially other options for the intended parents:

I think it's fair for the parents to get a Parental Order if — to not be able to get one — if the child isn't related to them, because it's not theirs and technically, they could resort to adoption.

She justified this by saying that as the child was in the early stages of life, they would not remember. She was also concerned by 'proof', saying:

I think they can't prove that the child is theirs unless they are related to it. So, if they can't prove it, then technically the court can't do much about it.

However, this idea was refuted by Leonard (12) in the same focus group, who saw the agreement between the parties as potentially more important:

But then, like, as it's surely [intent] if you only have an agreement. Like, say, it could be a contract, like, just even a simple one that says 'I, the undersigned, we are willing to hand over the child to you,' and then they both sign it. Then they would have an actual way to prove the point that actually it is what we have agreed on that being right, so that they can actually show that it is theirs, that they can, like, maybe bypass the system of needing a genetic requirement.

TOPIC TWO: CONTRIBUTIONS TO SURROGATES

In the focus groups with children aged 8-14, illustration cards depicting various potential contributions intended parents could give to surrogates during the pregnancy were provided. We asked them whether it should be acceptable for intended parents to give these items to surrogate by sorting them into the following categories: 'yes', 'no', or 'not sure'. Table 3 presents a summary of the answers provided by the children in these focus groups.

Contribution	Yes	No	Not sure
Car	3	6	8
Holiday	6	7	4
Doctors' fees	10	3	4
Maternity clothes	14	1	2
Vitamins	8	3	6
Money	12	1	4
Spa voucher	12	3	2
Lost wages	6	4	7

Table 4: Breakdown of participants' (n=17) views on the acceptability of various contributions

Some categories of contributions were uncontroversial, with participants recognising their link to the surrogate pregnancy, specifically how these expenses would not have been incurred but for the surrogacy. These included *maternity clothes* and *doctors' fees*. For example, Annabelle (10) explained:

They're things that the surrogate would have to pay for and I think it is not fair because they are carrying that baby for someone else.

Other categories, like *lost wages*, caused confusion for some participants. Facilitators provided explanations before participants decided whether it was an appropriate contribution. Where participants felt that time off work was directly related to the surrogate pregnancy, they thought it was an acceptable contribution.

Vitamins resulted in more discussion than anticipated in the focus groups. Some participants were concerned by the potential for vitamins to either disrupt the pregnancy, or be forced onto surrogates, as Rose (13) explained:

[Surrogates] should choose what they should have and if they want vitamins, or if they don't...I just think it is wrong for them to give them something that, I guess they are given to, the surrogate might not take them but, like, it's being forced upon them, but it's their choice if they take it.

As discussed in the INTRODUCTION, participants in FOCUS GROUP FOUR and FOCUS GROUP SIX were asked their views on the acceptability of the eight categories of contributions from the Law Commissions' Joint Consultation Paper infographic (see Figure 1, above). Like the younger participants, if expenses were clearly connected to the pregnancy, then they were seen as acceptable, as the following quotes reveal:

I think that they should be able to pay for the essential costs of pregnancy. Well, if you're a surrogate and you weren't considering getting pregnant before they approached you, then it's unlikely you would have to pay for those costs without the intended parents. (Natalie, 15)

Yes, I think they should have to, or they should be able to pay for the pregnancy. And I think in this case, it's something that they should probably pay for. Because if they're choosing to have a child, if they were to have it through a kind of more traditional way, then they would have to be paying for it anyway. (Harry, 16)

If the intended parents are asking the surrogate to do that, then they should pay for it, since they're not obligated to do it. (Cassie, 17)

FOCUS GROUP FOUR put forward the idea that intended parents' provision of any contribution not directly related to the pregnancy might make surrogates feel 'indebted', as Harry (16) explained:

I think there shouldn't be a reason why they wouldn't be able to give gifts. But, I also do kind of understand the idea of not wanting to have the intended parents make the surrogate feel indebted to them in some kind of way. But I still think it's a 'yes.'

All three participants in FOCUS GROUP FOUR mentioned the possibility of having specific laws in place protecting surrogates so that they are not in an economically worse off position than having not been involved in the surrogacy in the first place, as Harry (16) explained:

I don't think there's a reason why they shouldn't be able to give money, but there should be laws to protect the surrogate as well.

Participants in FOCUS GROUP SIX widely held the misconception that surrogates were always paid for their participation in arrangements and this impacted how they felt about various proposed categories of expenses.⁶ For example, participants felt that since surrogates were paid, they shouldered the risk of losing out on wages, or were aware of various expenses, and that as a result, they should not receive any reimbursement:

She knows what the terms of being pregnant are, and what she would have to give up for it in agreement to becoming pregnant. (Liam, 18)

Money was not seen as a controversial contribution, as shown in Figure 5. **Eighteen** participants said money was an acceptable potential contribution, **one** participant did not think money was acceptable, and **five** participants were unsure.

⁶ Though surrogates may receive payment for their involvement in surrogacy arrangements, there is a widespread misconception that it is legally prohibited due to the Parental Order requirement that only 'reasonable expenses' be paid unless retrospectively authorised, found at sections 54(8) and 54A(8) of the Human Fertilisation and Embryology Act 2008.

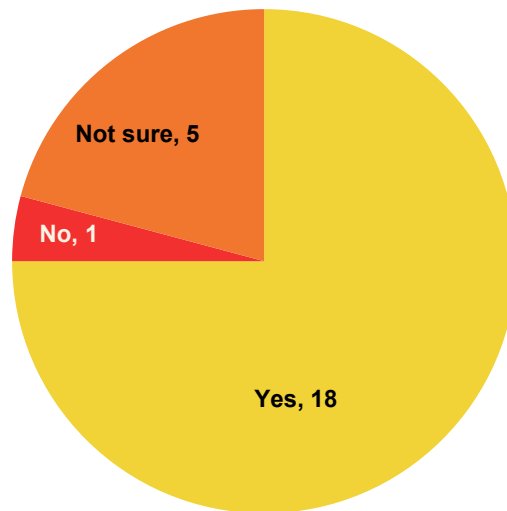


Figure 5: Participants' views on the acceptability of money as a contribution intended parents could give to surrogates

Some participants who felt money was an acceptable contribution explained that the decision to pay should be left up to intended parents as it was *'their money'*. However, they did not think it should be a strict requirement. For example, Jax (8) stated:

Well, it's their choice. The government can't stop them from using their money. So, it's their choice to use, do they want to do this. So, why would you block them when it's their choice? They are using their money, not your money.

Some participants voiced concerns over intended parents potentially facing financial stress, and the need for some limits to be put in place as a result, as Leonard (10) explained:

[Surrogates] shouldn't be getting paid something that would (a) break the intended parents' bank account or (b) be so much that you could get stupidly rich from doing it.

All three participants in FOCUS GROUP FOUR mentioned the possibility of having specific laws in place protecting surrogates so that they are not in an economically worse off position than having not been involved in the surrogacy in the first place, as Harry (16) explained:

I don't think there's a reason why they shouldn't be able to give money, but there should be laws to protect the surrogate as well.

Some participants reasoned that surrogates should not receive lost wages in addition to being paid for being a surrogate, as this would result in surrogates being paid twice, as Leonard (10) explained:

I think if you could get money from [being a surrogate] and that was your job, you could not be paid the lost wages, because then don't have a job. If [surrogacy] is your job, you're not really losing wages, are you?

Participants in FOCUS GROUP THREE compared payments to surrogates with payments to gamete donors,⁷ and reasoned that if the latter were able to receive payment, then surrogates should also be paid, as the following quotes show:

If you're like a sperm donor or something, you'd get paid for that, I think? So, like I suppose if you're going to be, you know, holding someone's baby for nine months, I kind of agree with Leonard that like maybe not pay their wages if this is their job. (Alice, 13)

I think they should be paid because pregnancy is long and it's hard and it's kind of like- because, as Alice said, you get paid for sperm donation which is much easier than pregnancy. (Bella, 13)

Others raised the issue of surrogates feeling potential financial coercion if there was no cap on the amount that could be paid or no limit on how much could be spent on gifts, as Natalie (10) explained:

It's certainly nice to give gifts and it's a nice idea. But it depends on exactly how much money you're spending, in terms of how indebted you make the surrogate feel towards you.

We were interested in participants' views on concerns raised in the Warnock Report and Brazier Review regarding the impact of payment on children born through surrogacy.⁸ **We asked participants: Some people think that surrogates should not be paid money because children who are born through surrogacy would not want to know that their surrogate had been paid. What do you think of that?**

The responses here varied in accordance with whether participants presumed surrogates were usually paid.⁹ Those who thought surrogates were paid felt like this meant that children born through surrogacy would always be aware of this, and so didn't have strong feelings on the topic, as illustrated in the following quotes:

I don't think it would bother me that, like I am not...and I don't know if I would be different if I was in that situation but I don't think it would bother me. (Rose, 13)

Because most surrogacies are through payment. So, surely they'd know if they were born by a surrogate then they'd know that they'd been paid. Unless it was a family member or a friend. But if it was a random person then... (Cassie, 17)

I think the same. I think that once they've grown up it would be common knowledge that you get paid to do it. So, yes. (Lauren, 16)

⁷ We explained that gamete donors are not paid, but receive compensation. (See Human Fertilisation and Embryology Authority, *Code of Practice* (9th ed, rev Jul 2022, 2022) Guidance Note 13A).

⁸ See Department of Health and Social Security, Report of the Committee of Inquiry into Human Fertilisation and Embryology (Her Majesty's Stationery Office, 1984) at para. 8.11; Surrogacy: Review for Health Ministers of Current Arrangements for Payments and Regulation, Report of the Review Team Cm 4068 (HMSO, London 1998) at para 4.14.

⁹ See fn 6.

TOPIC THREE: ORIGIN INFORMATION

The topic of origin information covered a broad range of questions which arise from the practice of surrogacy. We asked: **Should children born through surrogacy know they were born this way?**

As seen in Figure 6, **twenty** participants said 'yes', **three** said 'not sure', and **one** participant said 'no'.

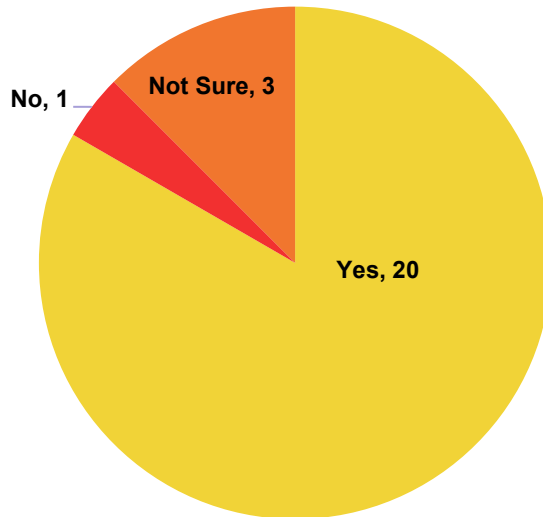


Figure 6: Participants' views on whether children should know if they were born through surrogacy

Participants said 'yes' for different reasons, as shown in the following quotes:

Because that's the person who created them, sort of. (Jax, 8)

They should know how they have been born. (Alan, 8)

Others talked about having 'a right to know how they were born' (Bella (13), with Jasmine (11) repeating Bella's wording). Harry (16) mentioned that 'being open with your child is quite good'. Rose (13) agreed and explained that, in her view, it did not change who the child's parents were:

I think they should be told the fact that they had a surrogate. I think they deserve to know that. I feel like it doesn't change, like, who their parents are or, like, where they came from. I just think they deserve to be told if there was one.

Some participants referred to the idea of 'real parents' when answering this question.¹⁰ For example, Ella (14) said:

I put 'yes,' because if you don't tell them at such a young age, but, say, when they grow up and they ask questions, like if you don't look alike or something,

¹⁰ The terms 'real parent' or 'real mother' were sometimes used by participants (see quotes on p. 20-21). 'Actual parent' was used by some participants (see quotes on pp. 22-23). The breakdown is as follows: 'real parent/s' (9 references), 'real mother' (2 references), 'actual parents' (5 references) and 'actual mother' (3 references). The meaning ascribed to this differed between participants. A full exploration of this issue is beyond the scope of this REPORT.

then I think you should tell them because they do deserve to know who their real parents are.

Other participants noted that children born through surrogacy should be told at an appropriate age. For example, Natalie (15) said:

Yes, I think that children should be told they were born from surrogacy, but at the right age... You wouldn't tell a four-year-old, 'Oh, by the way, you were born from surrogacy. You don't understand what that means, but live with it.' It's more, you kind of explain it to them, 'We love you very, very much.'

Leonard (12) also qualified his answer ('yes') by indicating a suitable age for disclosure, which he thought was '16 or 18', giving the following reason:

Because, like, if you tell them when they're young, (a) they're going to forget it and (b) they might start worrying about it and think it's a big thing.

Natalie (15) thought that the decision to know the surrogate and initiate contact with her should be made by the children themselves. She said:

But perhaps if this is something you want to know more about, or you want to meet your surrogate, then we could facilitate that. It's just more about letting the children make a decision.

Harry (16) agreed with Natalie (15) about being open in order to allow the child to decide whether to initiate contact with their surrogate, and stressed that this might be particularly important in the case of traditional surrogacy (where there is a genetic link to the surrogate). He said:

I think yes, again, because it's just being open with your child is quite good, and they might want to meet the surrogate or especially if it was through traditional surrogacy. I think it would be up to them as well. But if you are friends with the surrogate as well, it'd be nice for them to see the child throughout the childhood as well if they wanted to.

Some participants noted that children should have the opportunity to know this information because of the potential negative effects of finding out inadvertently. Katie (10) mentioned the idea of being 'angry' or 'upset' in such circumstances and said:

I mean, they should be able to, like, be able to know, because say if you never knew then you would find out in a difficult way and then you might be angry and start an argument when you're a bit older and you might find, like, it's like an adoption paper, but a bit different. You could find one of them or a paper that says their real mother and father, and then, like, they would probably like start crying and being upset because they'd know that they're not their real parents.¹¹

One participant, (Thomas, 8), said 'no' to this question. He said '*I think "no" because it might feel a bit sad for [the children]*'. He explained that his view was based on the idea of not knowing one's '*real mother*':

¹¹ When asked if she meant '*the surrogate and her partner*' when she referred to '*real parents*', Katie (10) said 'yes'.

They might like become sad, like, after they don't know who their real, like, mother is or something.

On the other hand, while Annabelle (10) also mentioned that knowing might make children sad, she still thought that they should know this information. She said:

I think they should, (...) because it might make them feel sad. But I think it's better you know, because they should know who actually gave birth to them.

When participants were asked why they thought it might make children sad, they explained this in different ways. For example, Annabelle (10) said:

They might be sad because they might be like, they might feel like they are different to everyone else. And they might feel like 'well they're not my real parents'. I feel that they might feel like 'they're not my real parents', because only, maybe only their mum donated her egg, or her dad donated the sperm, and it might only one of them donated it, so they might feel like 'well, only my dad's my parent, or 'only my mum is my parent'.

Four participants qualified their answer by saying '*it depends*'. For example, Ivy (15) said:

I put kind of 'not sure/yes'. It depends, I think that when children get to a certain age, maybe over 12 or over 15, then they should be told that they were born that way. Or maybe if the intended parents are friends with the surrogate or, like, things like that, then, I think if the child is kind of brought up knowing the surrogate, then that's fine, that's good.

Alice (13) was '*not sure*' and said '*it depends what their carer wants to tell them I think*'.

Lauren (16) said:

I said 'yes', but I think it depends on the relationship between the surrogate and the child. If they don't have a very strong relationship, then telling them something like that might make them drift apart even more. But if they have a strong relationship and they're close to each other, then I think that they'd be able to take it well. So, I think it's dependent on the relationship.

Liam (18) said '*not sure*' to this question and explained:

I think it depends on the situation, because obviously if the intended parents are either single or same sex, it's kind of obvious to them. So, I guess being honest in that sense. But, then if it's a man and a female who are the parents then possibly no, because they could find, well the child could then find it hard to form an attachment with them, and that could be quite difficult for them. Does that make sense?

Participants were asked about **whether the child should know the identity of their surrogate**. As seen in Figure 7, **thirteen** participants said 'yes,' **nine** were '*not sure*', and **two** participants said '*no*.'

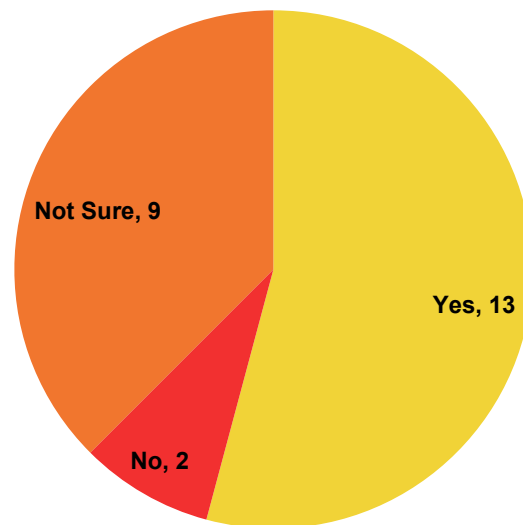


Figure 7: Participants' views on whether children should know their surrogate's identity

Some participants focused on '*birth*', saying:

You would want to know who actually birthed you. (Tim, 11)

It is kind of true or fair, to know who your actual person that, like, gave birth to you, and that. (Katie, 10).

While some participants talked about a '*right to know*' (Jasmine (11), others were less rights focused. For example, Annabelle (10) said '*[it] just might feel good.*' Alan (8) referred to the idea of children knowing their '*actual*' parent and said:

I think 'yes', because if they don't know, if you tell them that they were born through surrogacy, they should — they'll want to know who their actual parent is.

Other participants considered that children should be told about the identity of the surrogate when their parents thought it was the right time. For example, Jasmine (11) said:

I put 'yes', because I think they just need to know because that's just how they were born, and I think they just have a right to know at whatever age their intended parents want them to. They should know who the surrogate was.

Participants were asked about their views on gestational and genetic links. We asked: **Should children born through surrogacy know whether the surrogacy was traditional or gestational?**

As seen in Figure 8, **sixteen** participants said 'yes,' **six** said 'not sure', and **two** participants said 'no.'

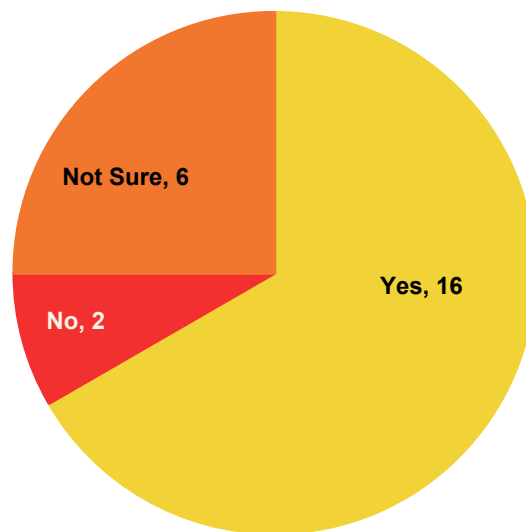


Figure 8: Participants' views on whether children born through surrogacy should know the type of surrogacy arrangement

Some participants thought that this information should be known. For example, Rose (13) said:

I think they would deserve to know where they came from. Or, like, who they came from.

Here the issue of biological links and '*relatedness*' came up. Annabelle (10) and Bella (13) said that children would want to or probably want to know whether they are '*related*' to their parents. Tim (11) mentioned '*biological*' connectedness and said:

Probably because, like, you'd want to know if you were biologically connected to your carers.

Other participants made the point that children should know, as they may want to meet the surrogate. For example, Ella (14) mentioned how they should know because they may to '*want to find out who they are*', and Bella (13) said:

Yes, because then they'll know if they're fully related to their parents or if they are related to someone else who they don't know about. Then it brings up this whole other question of: do they want to meet their actual mother?¹²

Another opinion expressed by two participants in FOCUS GROUP ONE was that they thought children should know this information in order to understand the nature and level of the intended parents' contribution, which they described as '*work*' or '*care*', as illustrated in the following quotes:

I think yes because, well, I think you should know, if it was traditional, like, 'Oh, so, my intended parents didn't really work that hard to help me be born.' Or if it was a gestational, I think they'd be, like, very happy because, 'Oh, my intended parents really cared for me. They really wanted me to be in their lives. They

¹² See Harry (16) who commented that knowing the surrogate's identity would allow children to initiate contact with the surrogate, particularly in the case of traditional surrogacy (p. 20).

actually physically really, really wanted me so much that they actually went through that process.' (Diego, 10)

Like what Diego said, I would like to know if my parents actually cared about me that much to give them their own egg or sperm for me to be born. I wouldn't just, like, want to figure out that that's been kept a secret from me all my life. (Henry, 10)

Three participants from FOCUS GROUP THREE said 'not sure' and one said 'no' to this question, with this group saying it may not be 'necessary', as the following quotes reveal:

I said 'no', because I don't think it's necessary, because the child's being brought up with the intended parents. So, I don't think it would really matter. So I think it's not necessary. (Lauren, 16)

I put 'not sure', because it might not be necessary if they come from the parent's egg or somebody else's. (Honey, 16)

I think I'm still not sure, but I kind of understand the point, and it could be an unnecessary thing to tell them almost. So, yes. (Liam, 18)

The idea of children having control over the release of information came up again with this question, with Katie (10) saying:

But to be honest, if you didn't know — say if you didn't want to know — you don't have to know, but if you really wanted to know then maybe ask your [intended parents].

This idea was also expressed by Alice (13), who said:

I put 'not sure', because they might not be sure if they really want to know, because if they want to know, then 'yes', but if they don't, then they don't need to know. They won't know.

Two participants from different focus groups took a similar view and also mentioned not 'forcing' children to know this information, as illustrated by Leonard (12):

Yes, I said 'Yes' but only if they want to know. So, not, like, forcing somebody to know so that. They might not want to.

Ivy (15) answered 'no' and clarified her answer was 'yes' if children asked about it:

I put 'no', because I think that if the child would ask the parent, their parents — the intended parents — if they wanted to know more about the surrogacy, then yes, but I don't think that the surrogacy, the different types of surrogacy is that important to specify to the child. I think that if the child does want to know more about the surrogacy, then it can be mentioned, but they're not forced to tell the child about it.

Natalie (15) thought that children should be told the information so that they could decide whether to meet the surrogate, mentioning that some children could feel that the intended parents are not their 'real parents', due to a lack of a genetic link with one of them.

I said 'yes', so that the child could make an informed decision about whether or not perhaps they want to meet surrogate, whether or not they care about it. It could be different for them if they feel that maybe that the intended parents aren't their real parents because one of them is not genetically related to them. It's just so that they know everything about the surrogacy.

We asked participants their views about whether children born through surrogacy should know whether sperm or egg donation was used.

As seen in Figure 9, **ten** participants said 'yes', **eleven** participants said 'not sure', and **three** participants said 'no'.

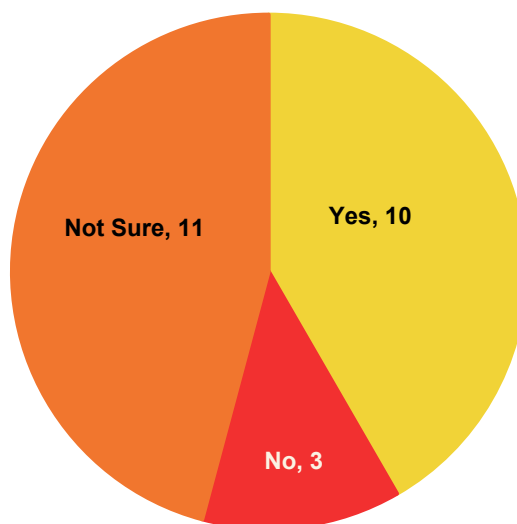


Figure 9: Participants' views on whether children born through surrogacy should know whether gamete donation was used

Three participants said 'no'. For example, Lauren (16) said:

I said that no, I don't think it's necessary, unless it's obvious. If it's a lone parent or a same-sex couple. But then if it's a male female couple, then I don't think it's necessary, because I don't think that it would change anything.

Liam (18) also said 'no' and pointed out the difficulties he thought disclosure could raise for the child in terms of attachment to the intended parents. He said:

I put 'no' because, like I was saying, it could be hard for the child to see their intended parent or parents as their real parents, if that makes sense, especially if it's like a male and a female intended parent, then I think it could be hard for them to have that attachment with them if they know that they're almost not, they've not been involved in it.

On the other hand, some of the younger participants brought up the idea that knowledge of donor conception could be a positive experience for children, as it might make them feel that there is a person who cares about them. Annabelle (10) brought up the idea of feeling special that came up before in the previous question in FOCUS GROUP ONE. She said:

They might feel like special because they might be like, 'Wow somebody was, somebody actually donated an egg or sperm to make me.'

Similarly, Henry (10) said:

I put 'yes' because you would know them if they actually, like, cared about you, so much so that they...like what I said for [the second question], because I would want to know if they cared about me so much so they gave up their sperm or egg to actually have me be born.

The idea that information about donation should be disclosed to children only in circumstances where they wanted to know came up again in the answers to this question:

I put 'not sure', I guess, because, just like my last answer, it's only if they really want to know because if they're perfectly happy as they are, then only if they want to know. But, I'm not sure they need to be told. (Jasmine, 11)

I think, if the child asks about it, and they're of perhaps an older age, so maybe 12, 13 or older, then yes. But, I don't think that perhaps it's something you would tell them in the same kind of conversation you'd tell them that they're a product of surrogacy, because it feels like something more that the child would rather choose to know, than something they need to know. (Natalie, 15)

I put 'yes' and 'no'. I think they should, I think they should be able to be told, but I think they shouldn't be able to find out who it is if they didn't want to. So, not really sure. (Rose, 13)

We asked participants: Should children know who the egg or sperm donor is?

As seen in Figure 10, **eight** participants said 'yes', **thirteen** participants said 'not sure', and the remaining **three** participants said 'no'.

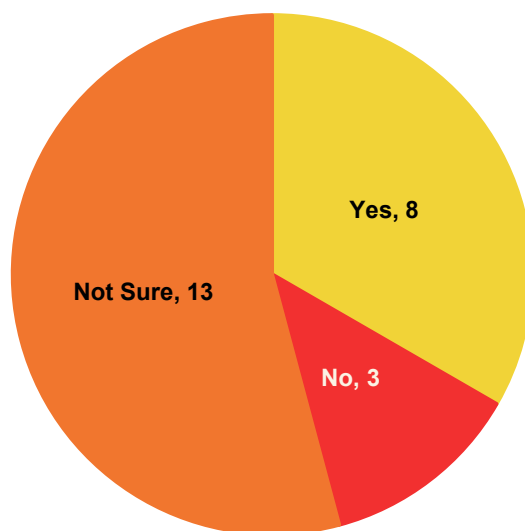


Figure 10: Participants' views on whether children should know who the egg or sperm donor is

Some younger participants were 'not sure', like Tim (11), who said:

I put 'not sure', because it could be, like, someone you completely don't know, or it could be someone that you could know, so you could go through emotional stages.

Some participants thought that children should know. For example, Annabelle (10) said:

I think 'yes', because the same reason of question two, because they might want to, like, find out who actually donated it, and who they were, who they have been, like, made of. Yes.

Henry (10) reiterated the idea he expressed in the last two questions, that it would be positive for children to know this as they would know that there was an individual who 'cared' about them:

For [this question] I also put 'yes', because then I would actually know who was willing enough to give up the egg or sperm, so then I would know who sort of cared about me more, basically.

Some participants said that children did not 'need to know'. For example, Sienna (13) said:

I don't feel like there has been really any need, because if they hadn't been part of the parenting, then why would they need to know who it was?

Liam (18) said 'no' and gave a similar reason as he gave to the last question regarding concerns about the child's attachment to their intended parents. He said:

I put 'no', because, especially if it could be a non-family member, it's quite similar to the other one. They could just not form an attachment with their parents because they know that said donor's been, like, more involved and is more genetically compatible — could that be a word? — with the child than the intended parent. So, yes. The child could find it hard to have that attachment and have that kind of love for their parents, because they know that this person is more involved with how they were born and made.

Cassie (17) gave a similar reason for saying 'no' to this question, but was more focused on unwanted attachment from the perspective of the donor. She said:

I put 'no', because I just think that the donor didn't, because the child might try and form an attachment with the donor, but the donor didn't sign up for that, if that makes sense? They donated their sperm or egg, but they didn't want to have the child. I don't know how to describe it.

Two participants said they were 'not sure' for similar reasons to do with the donor's intentions. They raised concerns about how the donor might react to disclosure. For example, Rose (13) said:

I put 'not sure', because it's...I guess if the child didn't want to know then they didn't have to know, but if they did want to know and the donor didn't want to be found or they just did it so someone could have a child and not to have a child, so someone else can have a child, I think that is unfair on the donor. So, not really sure.

As was the case for many questions on this topic, participants qualified their answers with the idea of the child themselves 'wanting to know' this information, as expressed in the following quotes:

I think if the child wants to know, and the parents themselves know the identity of the donor, then that's certainly something you could discuss with them. But I

don't think it's something you would just tell them without them wanting to know. There are sort of things that, as a child, you just might not want to know, because it might change your perception of people you care about. (Natalie, 15)

I put 'no'. But, like, with a lot of these questions, I think that if the child asks, if they do find out about the donor, if they do ask about it, then I don't see why they shouldn't know about it. (Ivy, 15)

DISCLOSURE DEBATES

The issue of disclosing the above information to children caused debate in some focus groups. There was a debate in FOCUS GROUP THREE around the idea of '*wanting to know*', with the group split into those who thought children should know (Alice, 13; Bella, 13) and those who thought they should know '*if they want to know*' (Leonard, 12) or if they '*show curiosity*' (Jasmine, 11). Regarding the latter approach, Alice and Bella questioned how it could be known if children want to know without telling them, since they would not know to ask about surrogacy, unless they knew they were born this way. Bella (13) said:

Yes, but they wouldn't...know...they're a part of that, you know, they wouldn't know that they were made like that.

In FOCUS GROUP FOUR, Ivy (15) offered the following explanation for how a child's choice to know information about sperm or egg donation could be respected. She said:

I think that, so, when the parent tells the child, if the child asked more questions about it, maybe when they are an older age, like 12 or above that, then the parents can tell them, if they ask questions about specifically, like, who was involved in the surrogacy, if the child asked questions similar to that, then yes, they can be told about it.

Some participants brought up certain ages they thought were suitable for disclosure of certain information. In response to whether children should know the identity of the surrogate, the following was proposed:

I think that they should be told at a young age, because when they're older then it will have a greater impact on them but then if they're younger, they know, then they can kind of grow up knowing. (Bella, 13)

In response to whether children should know about egg or sperm donation, Jasmine (11) suggested the age at which this information should be disclosed should be four or five. Bella (13) also suggested that children should be told at a young age, such as five years old. She then qualified this, saying:

Yes, maximum or even younger, because then they can grow up knowing that instead of giving them the big shock when they're like 16. They're thinking their whole life that, you know, the parent, and then you being like, 'Actually, no, that's your parent, sorry.'

Responding to the same question, Alice (13) suggested that:

I think when they're mature enough to comprehend that information. Six or seven maybe.

Leonard (12) also thought that children should be told about donor conception when young, if they wanted to know and their parents agreed. He added that '*when they get to 16/18*', children should be able to find out the information without parental permission. He explained:

Like, if they want to and the parents didn't want to, I think that's when they should be told. But if they wanted to and the parents were okay with it, I think they should be told at like 7, 8, 9.

However, some mentioned telling children at an older age. As noted above, Ivy (15) considered 12 to be an appropriate age to tell children about egg or sperm donation if children asked about it. One of the younger participants, Diego (10), was opposed to telling children young in case it confused them. When answering whether children should know the donor's identity, he said:

Well, no, because, well, I just think, well, not when they're a child. Maybe when they're a teenager and they're more understanding of it. I think a child would take it, one, not understanding and, two, a bit like confused, like, why has this happened? How has this happened?

TOPIC FOUR: KNOWLEDGE OF SURROGACY

We asked participants if they had learned about surrogacy before they took part in the focus groups. These questions aimed to discover the exposure that children without direct experience of surrogacy had about surrogacy from school and in their daily lives.

Some participants learned about surrogacy from TV and radio shows (*Friends*, *Fuller House*, *It's Always Sunny in Philadelphia*, *The Archers*). Some mentioned they learned about it '*through their own means*' (Leonard, 12) or through '*conversations*' (Rose, 13). Some younger participants had been told about surrogacy by their parents or teachers before participating in the focus groups (James, 11; Katie, 10; Thomas, 8; Alan, 8; Jax, 8). Participants stated that they knew the '*basics*' (Liam, 18), or '*didn't really know a huge amount about it until now*' (Harry, 16) and had '*assumed a lot of things*' (Ivy, 15). Ivy expanded on this:

Like, I understood bits and pieces. But I didn't really understand as a whole topic. I just kind of understood that it was a difficult one to ascribe laws and rules to, because every situation can be different.

There was general agreement that very little was included in the school curriculum about surrogacy. If it was covered in school, participants were vague about the content covered. For example, Harry (16) said:

I think we covered it slightly in Biology, but, mainly it was brought up when we were talking about cloning.

Ivy (15) noted that it was covered in passing and said:

In Biology, they kind just go, 'Oh by the way, yes, these are some options you can have. Now, let's talk about IVF, in more detail.'

One participant mentioned how it might be covered in 'Philosophy and Religious Studies'. Two participants brought up the subject 'Childcare' (Rose, 13; Charlotte, 14). Charlotte (14) also mentioned 'Health and Social Care'. Rose (13) noted that surrogacy would not be covered if students did not take these subjects. However, it seemed as though the contents of the subject in the 'Childcare' curriculum were limited. Sienna (13) stated:

We did types of families, and so we just looked a little into each to know what they are.

Participants in FOCUS GROUP FOUR and FOCUS GROUP SIX were asked about whether they thought that surrogacy should be covered in schools, and all seven participants said yes.¹³ Ivy (15) said:

I think so. I think I'd quite like to learn more about surrogacy in schools. And in primary, we didn't learn anything about it. So, I think in primary school, it's kind of difficult, because younger years may not understand it completely and be respectful about it. So, maybe like Year Six and Year Five, the top two years of primary school, if they maybe learn more about it, and then secondary schools, learn more about it, I think that'd be good.

¹³ This arose naturally from the discussion on **TOPIC FOUR** in FOCUS GROUP FOUR and FOCUS GROUP SIX.

Natalie (15) thought that surrogacy should be part of the national curriculum, and mentioned that it could be incorporated into 'Personal, Social, Health and Economic Education'. She said:

Yes, I think it would be a very interesting part to add to the national curriculum, perhaps as part of PSHE? Especially to educate people on that there are other kind of methods of having children. Obviously, when you kind of get to 15, 16, you do know that they're there. But it's not something you're explicitly taught.

She explained that it was important to cover surrogacy, because of opposing views on the subject:

And it can be difficult because you form an opinion based on, perhaps media or things you've seen, and you don't really have all the facts available to you, or someone with expert knowledge who can tell you about it. You might see one thing that says surrogacy is awful, and another thing which says surrogacy is great. And it's difficult to know who to believe. And there's no one there to tell you 'Actually, these are some of the benefits, and these are some of the disadvantages.'

Harry (16) agreed that more could be done in schools in surrogacy, stating:

*It does seem like something that should be brought up as well, because there are plenty people that may have heard of surrogacy but don't know a huge amount about it. And if you're making laws and things, then I feel like it would be good for people to know a bit more about it, so they can at least have the conversation and discuss. Because the more people know about it, the more you **actually** get to actually discussing it.¹⁴*

Three participants focused on the idea that surrogacy should be covered in schools because people may need to use surrogacy and it would be good to understand the process, as the following quotes reveal:

If we're not learning about it in school, then we're not really going to know how it works, and if you'd want to do it, you wouldn't have an idea. I think it's quite important. (Honey, 16)

Because a lot of people will go through — or could go through — surrogacy. So, it would be good to have a little bit of knowledge of it, I guess. (Liam, 18)

Liam (18) noted that more people needed to learn about surrogacy, because they may be intended parents in the future or they may want to become surrogates. He said:

I suppose, because a lot of people, when they get to about 20, could possibly become surrogates. So it's quite good to [know] the impact on the law that could affect what their situation is if they do become a surrogate or are going to be parents from having a surrogate mother. It would be good to know the laws and have an impact, possibly how it impacts them when they're going through that process.

¹⁴ Emphasis in original.

FOCUS GROUP FOUR were asked whether it is important to include young people's views in law reform.¹⁵ All three agreed that it was important. Natalie (15) made the point that children's views are important because it is they who would be impacted by any change of the law. She said:

I think young people's opinions are really important, because the law changing might not necessarily impact someone who's an adult in the same way it might impact someone who wants to have child through surrogacy in the future or who wants to become a surrogate.

She explained further:

Yes, because if it changes, and in ten years' time I say to myself 'I'd like a child,' and I go to a doctor and they're like, 'You can't have a child traditionally,' then, I might think that I want to find a surrogate and have a child.

This is an interesting finding from **PHASE TWO**. It was important to gather the views of children and young people from **PHASE ONE** on law reform due to their experience of surrogacy. The last quote reveals the importance of asking young people in general about surrogacy law reform: future changes to the law in this area may impact them.

¹⁵ This arose naturally from the on discussion on **TOPIC FOUR** in FOCUS GROUP FOUR.

PRELIMINARY CONCLUSIONS

TOPIC ONE: Parenthood

- When defining what makes someone a parent, participants focused on ideas of 'care', 'love', 'support' or 'raising' a child.
- Some participants included step-parents, adoptive parents, and godparents in their definitions of parenthood.
- The majority of participants (**n=18**) thought that when a child is born through surrogacy the intended parents should be recognised as the parents.
- Some participants' views on parenthood depended on the type of surrogacy, with some stating that the surrogate should be the parent if it was a traditional surrogacy arrangement.
- Many participants did not see why a Parental Order was needed to transfer parenthood to the intended parents, viewing the input of a court as unnecessary.
- Some participants (**n=11**) did not think that a surrogate should be able to change her mind, with a further six saying 'it depends'. There was a strong sense of it being 'unfair' to do so.
- Many participants did not view the genetic link requirement as essential to becoming the child's parent.

TOPIC TWO: Contributions to Surrogates

- Whether certain contributions to surrogates were deemed acceptable was determined by their connection with the pregnancy.
- Most participants (**n=18**) felt that money was an acceptable contribution to surrogates, but it was thought that the decision to pay should be left up to the intended parents and should not be mandatory.
- Many older participants held the misconception that surrogates were always paid for their participation in arrangements, and this impacted whether they deemed certain contributions acceptable.
- Some participants expressed the view that limits on potential contributions were necessary so that intended parents were not under financial stress, and to ensure that surrogates were not 'overpaid'.
- Some participants compared the approach to "paying" gamete donors with surrogates. They thought that if gamete donors were able to receive "payment", then surrogates should also be paid.¹⁶

TOPIC THREE: Origin Information

- Most participants (**n=20**) were in favour of children knowing they were born through surrogacy.
- There were varying views on whether children should know their surrogate's identity, with some (**n=13**) thinking that children should know this.

¹⁶ See fn. 7

- Two thirds of participants (**n=16**) were in favour of children knowing the type of surrogacy arrangement involved.
- There were varying views on whether children should know if donated gametes were used in surrogacy arrangements.
- Two thirds of participants (**n=16**) said 'no' or 'not sure' when asked if children should know the donor's identity.
- Some participants thought that children knowing information about their surrogate and/or donor might raise challenges in terms of feeling sadness, decreased attachment to their parents, and donors not wanting children to contact them.
- For many questions, some participants said that children should know information about their conception and birth 'if they want to know'.
- There was some discussion of a suitable age for disclosure of origins information, with some participants saying that children should be told information at a young age (5-8 years old), and others viewing adolescence as more suitable.

TOPIC FOUR: Knowledge of Surrogacy

- Participants did not have much exposure to surrogacy, and did not know much about it before participating in the focus groups.
- Some had learned something about surrogacy from TV and radio shows.
- Some younger participants aged 8-12 had been told what surrogacy was by parents and teachers before participating in the focus groups.
- Some older participants aged 16-18 had encountered the issue of surrogacy in subjects at school. However, there was general agreement that the topic was not covered in detail.
- All of the participants asked (**n=7**) said that they thought the topic of surrogacy should be covered in schools.
- Three older participants noted the importance of young people's views being considered in law reform relating to surrogacy, with one participant noting that since they may need to use surrogacy in the future, or may wish to be a surrogate, the law would therefore impact them.

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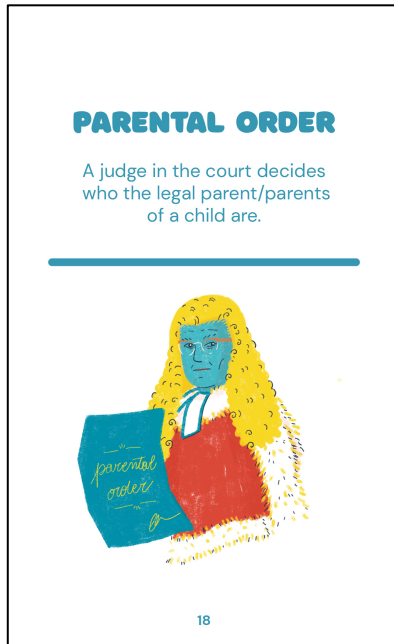
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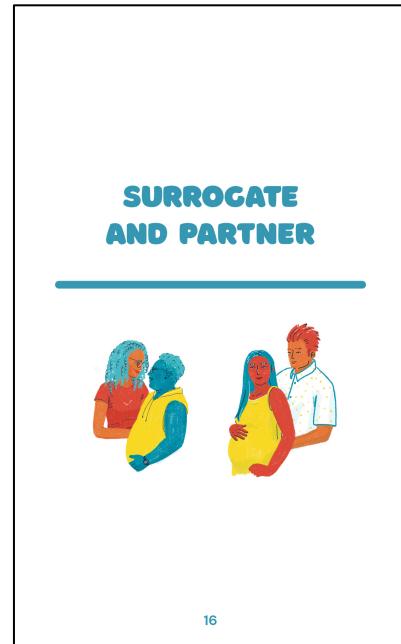
APPENDIX

A deck of playing cards was commissioned and designed to help with the activities. As discussed in the **INTRODUCTION**, there were three types of cards within the deck.

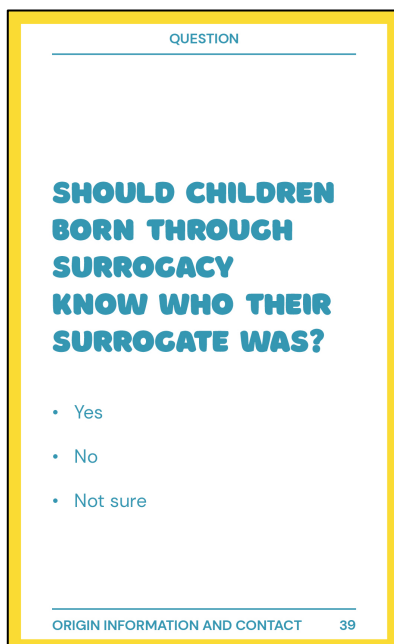
Sample explanation card:



Sample illustration card



Sample question card:





UNIVERSITY OF
LEICESTER

Leicester Law School
University of Leicester
University Road
Leicester, LE1 7RH, UK



/uniofleicester



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