

# Response ID ANON-ZSVD-G94H-3

Submitted to **Human Fertilisation and Embryology (Parental Order) Regulations consultation**

Submitted on **2018-03-23 12:09:00**

## Introduction

### 1 What is your name?

**Name:**

PROGAR Chair, Marilyn Crawshaw

### 2 What is your email address?

**Email:**

marilyn.crawshaw@york.ac.uk

### 3 Are you responding as an individual or as part of an organisation?

Organisation

**Individual or organisation:**

PROGAR

**What is the role of your organisation:**

The British Association of Social Workers (BASW) Project Group on Assisted Reproduction, PROGAR (<https://www.basw.co.uk/progar/>) has since the 1980s campaigned in the UK and overseas on matters concerning assisted reproduction, including surrogacy. We have variously worked in partnership with donor-conceived adults, Barnardo's, Children's Society, Donor Conception Network, British Infertility Counselling Association (BICA), British Association for Adoption and Fostering (BAAF), National Association of Guardians ad Litem and Reporting Officers (NAGALRO), Children and Family Court Advisory and Support Service (CAFCASS), Children and Families Across Borders (CFAB) and UK DonorLink.

other

**where are you or your organisation based.:**

We cover all four nations

## Individual Response

### 4 What is your ethnicity? Choose one option that best describes your ethnic group or background

Not Answered

**If other, please describe your ethnic origin:**

We are an organisation so this question is not applicable

Not Answered

**If other, please give details of your ethnic background.:**

We are an organisation so this question is not applicable

Not Answered

**If other, please enter details of your ethnic background:**

We are an organisation so this question is not applicable

Not Answered

**If other, please give details of your ethnic origin.:**

We are an organisation so this question is not applicable

Not Answered

**If other, please provide details of your ethnic background:**

We are an organisation so this question is not applicable

Not Answered

### 5 Which of these best describes you/your profession?

Not Answered

**If other, please state:**

We are an organisation so this question is not applicable

**The consultation**

**8 Do you think the draft regulations are correct and accurate?**

No

**Add any additional comments here::**

It is outside our capacity to be able to comment on the detail of these Regulations. We therefore instead offer the following comments on the Overview in particular where there are some omissions and some inaccuracies:

- PROGAR welcomes the Government's response and supports the decision to revise the Regulations to reflect changes needed to enable single people to apply for a Parental Order in respect of a child born as a result of surrogacy arrangements to whom they are genetically related.
- We welcome the intention of these Regulations to ensure compatibility to child and family law across the four nations. Indeed we would welcome a requirement of greater scrutiny and preparation of intended parents and surrogates ahead of surrogacy agreements being entered into which we believe would reflect other aspects of child and family law where the route to family life involves third parties.
- We are surprised and concerned that the Target Audience for this consultation does not include agencies concerned with children's rights, children's welfare or Cafcass, the organisation with responsibility for Parental Order Reporters who prepare reports for courts in relation to Parental Order applications.
- The implication in the wording of para 1.2 of the Overview is that it is only relatives and friends who act as surrogates. To our knowledge, there are no robust data collected by any of the agencies involved to support such a statement. In our own practice and research experience, the majority of surrogacy arrangements involve people coming together for the specific purpose of entering into a surrogacy arrangement. To imply, as this does, that surrogates are [only] relatives and friends misses out a significant aspect of surrogacy arrangements, whether the intended parents are couples or single people.
- In the final line of this para 2.9 it states that 'no-one else will have PR for that child'. However this cannot be the case for the rest of their childhood because the child could later become subject to a Child Arrangements Order, Care Order, Special Guardianship Order, Adoption Order etc which would/could confer PR upon other persons or bodies . So our suggested amendment is: 'no-one else will have PR for that child at the point at which the Parental Order is made'.
- We understand that there is a proposal to '... allow a six-month period where an existing single parent through surrogacy can retrospectively apply for a parental order'. We welcome that proposal and strongly urge that, if this is agreed, there should be an extensive publicity campaign around this together with the collection of information about these applicants in order to better understand why they had not sought to rectify their legal status in other ways.
- We have raised elsewhere our concerns that intended parents can state their intention to apply for a Parental Order and then not do so and that there is no follow up. This can be especially problematic should there be future difficulties that require court or other state involvement with the family.

**9 Do you think that there any consequential modifications that are missing from the draft regulations?**

Not Answered

**Add any additional comments here::**

Please see our comments above

**10 Are there any impacts on business that you think have not been covered in the accompanying impact assessment documentation?**

Not Answered

**Add any additional comments here::**

We are unable to comment on the detail of the Impact Assessment but as far as we could see, it appeared comprehensive

**Your feedback**

**11 We will be producing a report after the consultation closes. Let us know if what we can include from the options below:**

Your response, Your organisation's name

**12 Help us improve how the department runs consultations by answering the following questions:**

Somewhat satisfied

**Further comments::**

The section that asks for ethnicity and professional is inappropriate for organisational responses. It is also our view that the consultation should invite response to the Overview as well as the Regulations themselves

Somewhat satisfied

**Further comments::**

The section that asks for ethnicity and professional is inappropriate for organisational responses.

**13 Are you happy for the Department of Health and Social Care to use your email address to send you updates about other Department of Health and Social Care consultations?**

Yes