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 The 30-year old law regulating surrogacy in the UK is out of date and in dire need of reform.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.