



Commissioner for Children and Young People
Western Australia

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The Honourable Dr Sally Talbot
Chair
Standing Committee on Legislation
4 Harvest Terrace
WEST PERTH WA 6005

Dear Hon. Dr Talbot

Human Reproductive Technology and Surrogacy Legislation Amendment Bill 2018

As Commissioner for Children and Young People in Western Australia I have a statutory responsibility under the *Commissioner for Children and Young People Act 2006* (WA) to monitor and review draft laws affecting the wellbeing of children and young people under the age of 18 years. It is also a statutory function of my office to advocate for the views of children and young people to be heard in decision making that affects them. In undertaking these responsibilities I must give priority to Aboriginal children and young people and those who are vulnerable or disadvantaged for any reason. I must also have regard for the United Nations Convention on the Rights of the Child (the UNCRC).

It is within the context of my role as an independent, statutory office and the functions outlined above that I provide the following comments in relation to the Human Reproductive Technology and Surrogacy Legislation Amendment Bill 2018 (the Bill).

I note the primary purpose of the Bill is to extend access to surrogacy to male same-sex couples and single men who wish to have children. I support the effect of the amendments in removing discriminatory provisions from the *Human Reproductive Technology Act 1991* and the *Surrogacy Act 2008*, as recommended by Dr Sonia Allan in her recent review of these two pieces of legislation. Such a change to our State's laws is not contrary to the best interests of children. It is a positive step that will allow more Western Australians to raise children in a caring and supportive environment.

The UNCRC recognises that children should grow up "in a family environment, in an atmosphere of happiness, love and understanding". The UNCRC goes on to state at Article 3 that in all actions concerning children undertaken by legislative bodies the best interests of the child shall be a primary consideration. To this end, I would like to draw your attention to the Australian

Institute of Family Studies Factsheet 'Same-sex couple families in Australia'¹ which references Australian and international research concluding children in same-sex parented families do as well emotionally, socially and educationally as those in opposite-sex parented families. Furthermore, consultations conducted by my office have consistently seen children and young people report that a supporting and loving family is fundamental to their wellbeing, and that a good family provides them with a sense of belonging, support, safety and guidance.

To ensure all children are provided with a strong foundation for their wellbeing from birth through to their transition into adulthood, it is important to support parents in the crucial role they play during their child's development. The formal and informal supports available to parents are significant factors in their capacity to parent. It is particularly important in the context of same-sex and single parents that such supports are inclusive and non-stigmatising. Support needs to be universally available and ongoing, and any information and advice relevant to the parent's child or circumstances need to be credible, non-judgmental, and made available to them in a flexible and timely manner. Supportive community attitudes, practical and social support from extended family, friends and the community, and access to quality programs, services and facilities are all vital.

Irrespective of whether the Bill is passed, there are a number of issues regarding surrogacy in Western Australia in need of Parliamentary attention. Of particular concern to me is ensuring a child's right to know and preserve their biological heritage (both familial and cultural) is protected, and addressing the uncertain legal status of children born as a result of international commercial surrogacy arrangements. I would welcome the opportunity to provide input into any discussions you may have on these topics and any other matters you may discuss related to surrogacy.

Thank you for the opportunity to provide comment on the Bill. I am happy to discuss any aspects of these views with you in further detail if required.

Yours sincerely,



COLIN PETTIT

Commissioner for Children and Young People WA

1 May 2019

¹ Australian Institute of Family Studies, *Same-sex couple families in Australia*, viewed 24 April 2019, <https://aifs.gov.au/publications/same-sex-couple-families-Australia>