



## Reproductive Technology Council

Your ref: A751543

4 June 2019

Mark Warner  
Committee Clerk  
Standing Committee on Legislation  
Legislative Council Parliament House  
4 Harvest Terrace  
WEST PERTH WA 6005

Dear Mr Warner

### **Human Reproductive Technology and Surrogacy Legislation Amendment Bill 2018**

I refer to the evidence given by me, in my capacity as Chair of the Reproductive Technology Council (**RTC / Council**), on 20 May 2019 in connection with the above Bill, at which I took six questions on notice.

I received an uncorrected transcript (**Transcript**) of that evidence by email on 23 May 2019, and returned a corrected transcript to you by email the same day.

The questions taken on notice regarded matters in respect of which I considered I needed to confer with Council and/or seek information and records from the Department of Health (**Department**). I did not receive written confirmation of the questions on notice, other than by way of the Transcript. Accordingly, I sought and obtained permission to disclose those parts of the Transcript to the RTC and the Department as necessary. I also advised that there was an error of fact in my evidence that I would need to correct by letter.

The answers to the questions on notice and the foreshadowed correction appear below, with references where appropriate to the relevant pages of the Transcript.

#### **Information and Records**

1. Most of the questions taken on notice regarded factual matters requiring recourse to information and records held by the Department. Each of the following responses are based on information provided to me by the Department, which I believe to be true.
2. As to the first question on notice (page 6 of the Transcript), to the effect: *Did the Council receive advice on how the current Acts could be amended to comply with the SD Act, without expanding the categories of persons able to make a surrogacy arrangement?*  
Answer: No.
3. As to the second question on notice (page 10 of the Transcript), to the effect: *Are you aware of any historical cases of transgender or intersex people seeking and being refused IVF and/or a surrogacy arrangement?* Answer: No.
4. As to the third and fourth questions on notice (pages 10-11 of the Transcript), to the effect: *Regarding the inspection, search and seize powers, currently in the HRT Act, the purpose of this bill is to mirror them to some extent, or to provide them under the Surrogacy Act. Under the Human Reproductive Technology Act such powers are subject*

to the obtaining of a warrant first, and this bill would allow those powers without the provision of a warrant.

4.1. *Were any of those matters brought to the attention of the Council and discussed prior to the bill being before parliament?* Answer: No

4.2. *Does the Reproductive Technology Council, under the existing powers under the Human Reproductive Technology Act, direct authorised officers to enter, inspect, search and seize? Under the existing powers, who directs that those things be undertaken? Is that the Reproductive Technology Council or somebody else?*  
Answer: The Reproductive Technology Council (Council) does not direct authorised officers to enter, inspect, search and seize.

Subject to the Minister, the Chief Executive Officer of Department of Health (CEO), the Director General, may appoint authorised officers to exercise powers under the HRT Act which include: the entry and inspection of premises; examination and possession of records; and/or requiring persons to provide records or other information and to answer relevant questions.

5. As to the sixth question on notice (page 12 of the Transcript), to the effect: *How many approvals and applications for surrogacy arrangements in 2017–18, and in total (over the life of the scheme)?* Answer:

5.1. The number of surrogacy applications received by the Council in the financial year 2017-18 was six. The number of surrogacy applications approved by the Council in the financial year 2017-18 was six.

5.2. The number of surrogacy applications received by the Council in the financial years 2009-10 to 2017-18 was 35. The number of surrogacy applications approved by the Council in the financial years 2009-10 to 2017-18 was 34.

#### **Views of Council**

6. The fifth question on notice (page 11 of the Transcript) required conferral with Council - it was to the effect: *What is Council's view of the requirements in the Surrogacy Act, section 17(c) for counselling and advice prior to the Council approving a surrogacy arrangement?* Answer:

6.1. Council considers that it is necessary and appropriate for participants in a proposed surrogacy arrangement to receive counselling and advice in respect of the matters covered by s 17(c) of the Surrogacy Act prior to the arrangement being approved;

6.2. while Council considers that there may be some merit in adding a further joint counselling session between the participants to the requirements, it:

- (a) considers that any further requirements should be a matter of broader consideration and consultation;
- (b) does not consider that any legislative change in this regard is immediately necessary;
- (c) reiterates its earlier submission that any broader amendments to the HRT and Surrogacy Acts be dealt with in a later (and foreshadowed) tranche of legislative review, which will provide a better opportunity to engage with the wider and more complex policy and regulatory considerations they involve; and

- (d) reiterates the view that the scope of the current Bill is sufficiently discrete and, in light of the regulatory concerns raised in Council's earlier submission, sufficiently urgent to warrant separate and immediate attention.

**Correction of Fact**

7. Finally, I was in error in a response to the Committee and seek to make a correction of fact. That response appears at page 13 of the Transcript as is to the effect the Reproductive Technology Unit manages the Reproductive Technology Register. That was, but is no longer, the case. The Register is currently managed by the Data Collections Statutory Registers Branch within the Purchasing & System Performance Division of the Department.

Thank you again for the opportunity to participate in this important process.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Brenda McGivern', with a long horizontal stroke extending to the right.

Brenda McGivern  
Chair, Reproductive Technology Council

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