

BUILDING FAMILIES THROUGH SURROGACY: A NEW LAW

STATISTICAL ANALYSIS OF RESPONSES

Introduction

- 1.1 This is a statistical analysis of the responses received to the Law Commission's Consultation Paper *Building families through surrogacy: a new law* (Law Commission Consultation Paper No 244; Scottish Law Commission Discussion Paper No 167) ("the Consultation Paper").
- 1.2 The purpose of this analysis is to give a statistical overview of consultees' views in respect of the questions we asked in the Consultation Paper. We received 681 responses. The majority of consultees provided their responses on Citizen Space, our online response platform. Some consultees provided answers via email or letters. Most consultees answered at least one question in the Consultation Paper, and their responses are reflected in this statistical analysis.
- 1.3 This analysis is structured by consultation question (and therefore by chapter of the Consultation Paper). Where a question invited consultees' views, the number of consultees who responded to the question is provided. Some questions, for instance those containing a provisional proposal, asked whether consultees agreed, disagreed or had other views – for these questions, the following information is provided:
 - (1) a pie chart, to demonstrate the proportion of consultees who agreed, disagreed, or who had other views;
 - (2) a table showing the number of consultees (broken down by category) who agreed, disagreed, or who had other views; and
 - (3) the number of consultees who provided substantive comments in response to the question.

Some questions contained multiple parts. Where a question contained multiple parts, the above information is provided for each part.
- 1.4 Confidential responses have been excluded from this statistical analysis. Such responses are not included within the 644 responses, some of which are redacted, which we have published on our website.
- 1.5 In carrying out this analysis, we have categorised consultees as best we could, based on the information they have provided to us.
- 1.6 Our categorisation is based primarily on information provided by consultees, when responding on Citizen Space. We asked consultees to indicate whether they were providing a personal response or one on behalf of an organisation. Consultees were asked to select the term which best described them from the following list, if they were responding to the consultation in a personal capacity:
 - (1) academic;
 - (2) family member of a surrogate;

- (3) family member of an intended parent;
 - (4) intended parent;
 - (5) legal practitioner;
 - (6) medical practitioner or counsellor;
 - (7) other individual;
 - (8) person born of a surrogacy arrangement;
 - (9) social worker; or
 - (10) surrogate.
- 1.7 Where individual consultees did not respond using Citizen Space, we have assigned them to the category that we consider most appropriate based on the information provided by the consultee.
- 1.8 We did not ask consultees responding on Citizen Space on behalf of an organisation to select a term that best described that organisation. We have therefore added organisations which clearly fit into one of the existing categories to that category – for example, law firms and the Law Society are categorised as legal organisations, and placed within the expanded “legal practitioners and organisations” category, and the Human Fertilisation and Embryology Authority (HFEA) is categorised as a medical organisation and placed within the “medical practitioners / organisations and counsellors / counselling organisations” category. We have created a new category for surrogacy organisations, which includes NGA Law / Brilliant Beginnings, COTS and SurrogacyUK. The majority of organisations did not fit within one of these categories, and are classed as “other organisations”.
- 1.9 The categories used in this analysis (after addition of organisations to appropriate categories, as described at 1.8 above) are the following:
- (1) academics;
 - (2) intended parents;
 - (3) family members of intended parents;
 - (4) legal professionals / organisations;
 - (5) medical practitioners / organisations and counsellors / counselling organisations;
 - (6) other individual;
 - (7) other organisations;
 - (8) person born of a surrogacy arrangement;

- (9) social workers and organisations;
 - (10) surrogates;
 - (11) family members of surrogates;
 - (12) surrogacy organisations
- 1.10 As these categorisations are based on our own inferences, they are not definitive and may not reflect how particular consultees would self-identify. We have not therefore relied on these categorisations in our decision-making.
- 1.11 Consultees' responses have helped inform the recommendations we make in our Report.¹ However, the Law Commissions have never determined our recommendations for reform simply on the basis of a numerical count of consultees who favour, or oppose, a particular approach. We take into account the views of all individuals who engaged with the topic and sent in a response. We also take into account that some responses, for example those received from representative bodies, represent the views of the members of that organisation, who may be numerous, and who have relied on their organisation's response to convey their views, rather than sending in individual responses. Responses from representative organisations therefore represent more than just a single consultee. Our recommendations for reform take into account a careful analysis of the arguments made by all consultees, along with other evidence available to the Commissions, including academic research.
- 1.12 As we note in the Report,² over half of the responses we received were from consultees who opposed most or all of our provisional proposals for reform, and advocated instead for surrogacy to be prohibited; a matter that is not within the scope of the Commissions' project. These responses came from individuals and groups. The majority of these responses were based wholly or partly on a template produced by Nordic Model Now!. The preponderance of consultation responses we received based on this template mean that numerically most of our provisional proposals for reforms were opposed by a majority of consultees. It was often the case, however, that our provisional proposals were supported by a majority of those consultees who were not opposed to surrogacy. The percentage of consultees agreeing and disagreeing with each provisional proposal is shown in this analysis.

Accuracy of the statistics

- 1.13 It is important to note that the statistics provided below reflect which boxes were ticked by consultees in entering their consultation responses on Citizen Space.
- 1.14 Where consultees have used Citizen Space but in response to any given question did not tick "yes", "no", or "other" but gave written responses, we categorised them as "other" in order for their comments to be counted in the number of consultees in total who responded. Where consultees did not use Citizen Space to submit their answers, we interpreted their responses (those expressly to the question or comments which

¹ *Building families through surrogacy – a new law* (2023) Law Commission No. 411; Scottish Law Commission No. 262 ("the Report").

² Report, paragraphs 1.43 to 1.49.

we interpreted as relevant to the question) to attribute “yes”, “no” or “other”, to those responses to the best of our ability.

- 1.15 As a result, while these statistics are a useful guide, they are not necessarily a definitive reflection of consultees’ views.

ANALYSIS OF RESPONSES BY CHAPTER

Chapters 1 to 5

- 1.16 There were no consultation questions in chapters 1 to 5.

Chapter 6

Consultation Question 1

Consultation Question 1.

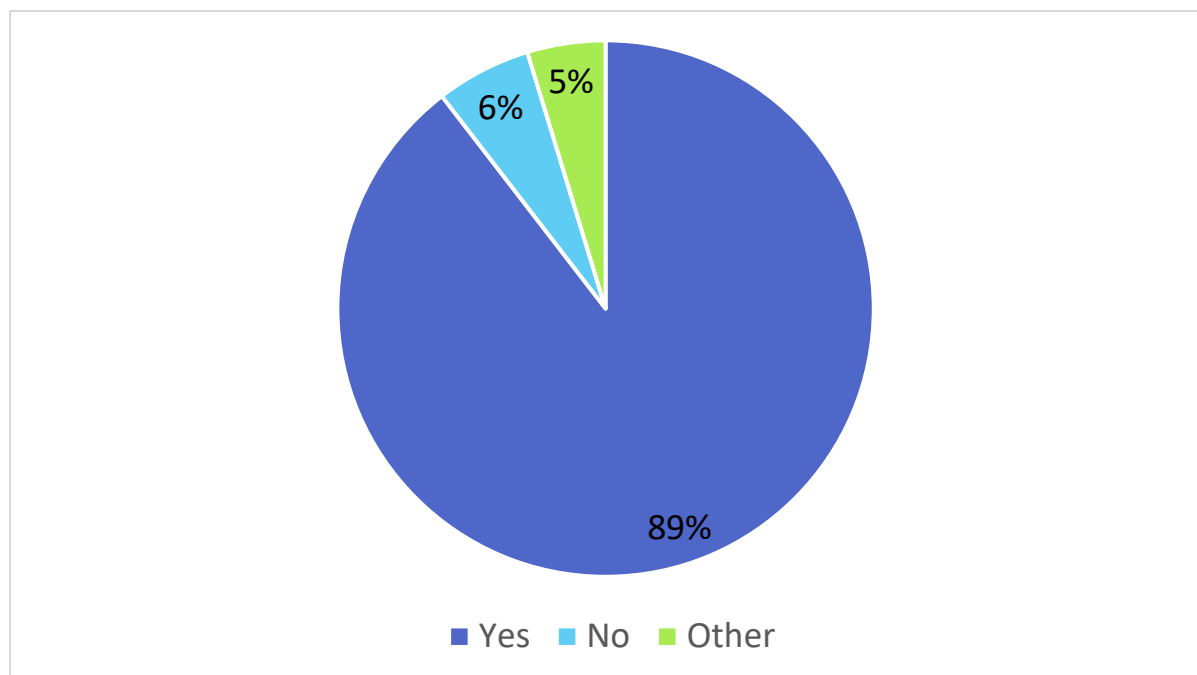
6.42 We invite consultees’ views as to whether, in England and Wales:

- (1) all international surrogacy arrangements should continue to be automatically allocated to a judge of the High Court; and
- (2) if international surrogacy arrangements are not automatically allocated to a judge of the High Court, circuit judges should be ticketed to hear such cases.

- 1.17 Consultation Question 1 was divided into two sub-parts – paras 6.42(1) and (2).

Sub-part 1

- 1.18 In response to the first part (para 6.42(1)), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	25	2	2	29
Intended parent	16	9	6	31
Family member of intended parent	2	1	0	3
Legal professional or organisation	14	5	5	24
Medical practitioner or organisation / counsellor or counselling organisation	22	1	0	23
Other individual	325	4	6	335
Other organisation	17	0	2	19
Person born of a surrogacy arrangement	0	1	0	1
Social worker or social work organisation	9	0	0	9
Surrogate	2	4	1	7
Family member of a surrogate	3	1	0	4
Surrogacy organisation	2	0	1	3
Grand total	437	28	23	488

1.19 445 consultees provided comments with their answers.

Sub-part 2

1.20 100 consultees responded to the second sub-part (para 6.42(2)).

Consultation Question 2

Consultation Question 2.

- 6.51 We invite consultees' views as to whether, in respect of England and Wales
- (1) domestic surrogacy cases which continue to require a post-birth parental order should continue to be heard by lay justices, or whether they should be allocated to another level of the judiciary; and
 - (2) If consultees consider that such cases should be allocated to another level of the judiciary, which level of the judiciary would be appropriate.

1.21 434 consultees responded to Consultation Question 2.

Consultation Question 3

Consultation Question 3.

- 6.53 We invite consultees to provide any evidence that would support either the retention of the current allocation rules, or their reform along the lines that we discuss in Consultation Questions 1 and 2.

1.22 55 consultees responded to Consultation Question 3.

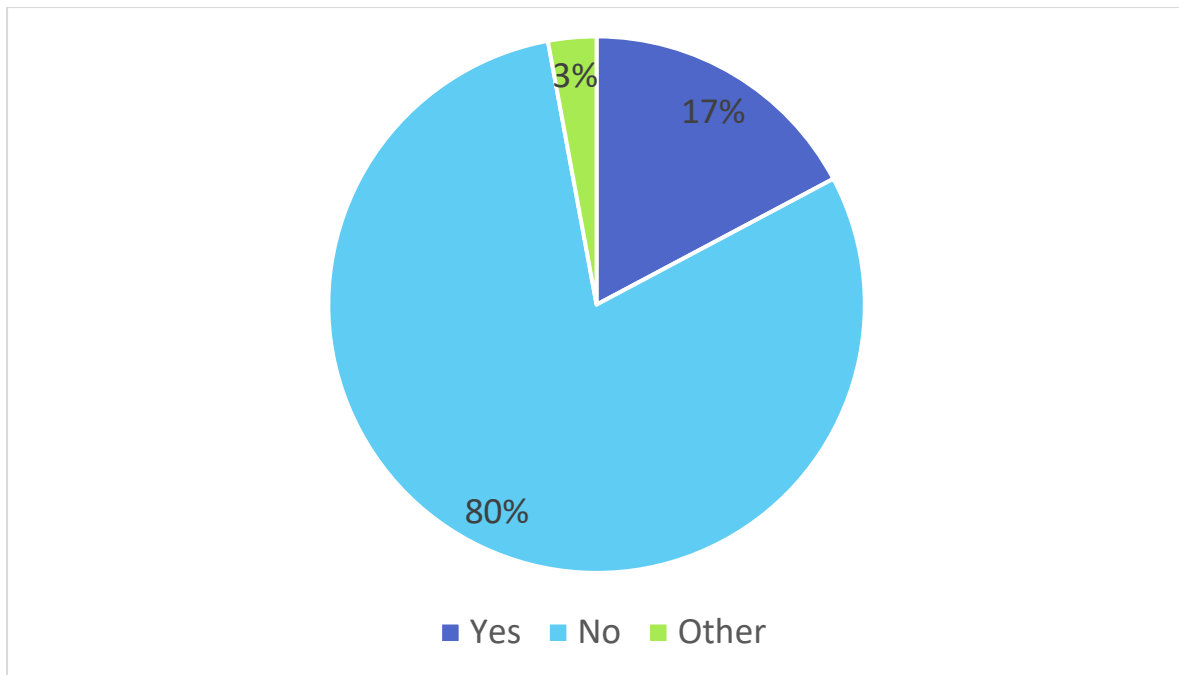
Consultation Question 4

Consultation Question 4.

- 6.58 We provisionally propose that, in England and Wales, the court should be placed under a duty to consider whether to make an order awarding the intended parents parental responsibility at the first directions hearing in the proceedings.

Do consultees agree?

(Note that this provisional proposal would be necessary only if our provisional proposal in Chapter 8 that all intended parents (whether in the new pathway or not) automatically acquire parental responsibility if the child is living with or being cared for by them is not supported by consultees).



	Yes	No	Other	TOTAL
Academic	5	22	0	27
Intended parent	31	1	3	35
Family member of intended parent	1	2	0	3
Legal professional or organisation	14	7	1	22
Medical practitioner or organisation / counsellor or counselling organisation	4	13	1	18
Other individual	10	287	3	300
Other organisation	1	15	1	17
Person born of a surrogacy arrangement	1	0	0	1
Social worker or social work organisation	2	7	0	9
Surrogate	6	1	1	8
Family member of a surrogate	0	2	2	4
Surrogacy organisation	2	0	1	3
Grand total	77	357	13	447

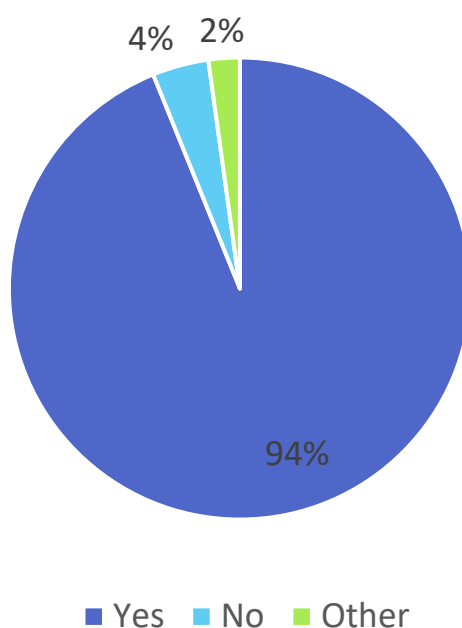
1.23 403 consultees provided comments with their answers.

Consultation Question 5

Consultation Question 5.

6.72 We provisionally propose that the rule currently contained in rule 16.35(5) of the FPR 2010 should be reversed, so that a parental order report is released to the parties in the proceedings by default, unless the court directs otherwise.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	26	0	0	26
Intended parent	33	0	3	36
Family member of intended parent	3	0	0	3
Legal professional or organisation	17	3	2	22
Medical practitioner or organisation / counsellor or counselling organisation	20	0	0	20
Other individual	293	13	3	309
Other organisation	17	1	0	18
Person born of a surrogacy arrangement	0	0	0	0

Social worker or social work organisation	8	0	0	8
Surrogate	7	1	0	8
Family member of a surrogate	2	0	1	3
Surrogacy organisation	3	0	1	4
Grand total	429	18	10	457

1.24 63 consultees provided comments with their answers.

Consultation Question 6

Consultation Question 6.

6.110 We invite consultees' views as to whether they are of the view that, in Scotland:

- (1) there is a need for greater consistency and clarity in provisions relating to the expenses of curators *ad litem* and reporting officers and, if so, how this should be addressed;
- (2) it should be provided by statute that, at the initial hearing or any subsequent hearing for a parental order, the court may make any such interim order or orders for parental responsibilities and parental rights as it sees fit; and/or
- (3) further procedural reform is needed and, if so, what that reform should be.

1.25 61 consultees responded to Consultation Question 6.

Chapter 7

1.26 There were no consultation questions in chapter 7.

Chapter 8

Consultation Question 7

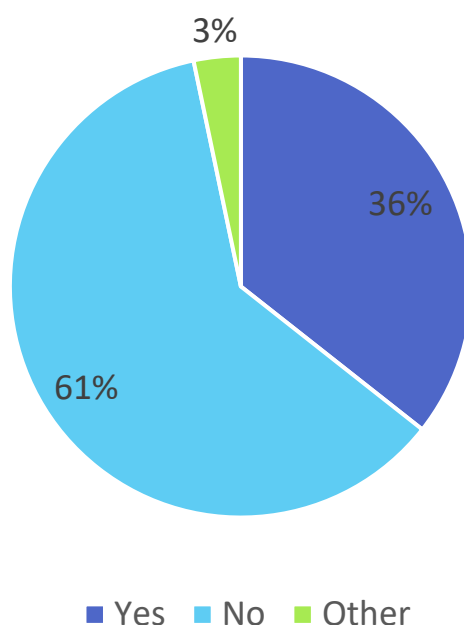
Consultation Question 7.

8.13 In respect of a domestic surrogacy arrangement, we provisionally propose that, before the child is conceived, where the intended parents and surrogate have:

- (1) entered into an agreement including the prescribed information, which will include a statement as to legal parenthood on birth,
- (2) complied with procedural safeguards for the agreement, and
- (3) met eligibility requirements,

on the birth of the child the intended parents should be the legal parents of the child, subject to the surrogate's right to object.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	9	22	3	34
Intended parent	74	4	6	84
Family member of intended parent	1	2	0	3
Legal professional or organisation	18	9	2	29

Medical practitioner or organisation / counsellor or counselling organisation	7	16	2	25
Other individual	12	328	5	345
Other organisation	6	25	1	32
Person born of a surrogacy arrangement	1	0	0	1
Social worker or social work organisation	0	7	2	9
Surrogate	17	0	2	19
Family member of a surrogate	1	3	0	4
Surrogacy organisation	3	1	0	4
Grand total	149	417	23	589

1.27 531 consultees provided comments with their answers.

Consultation Question 8

Consultation Question 8.

8.14 We provisionally propose that regulated surrogacy organisations and licensed clinics should be under a duty to keep a record of surrogacy arrangements under the new pathway to which they are a party, with such records being retained for a specified minimum period.

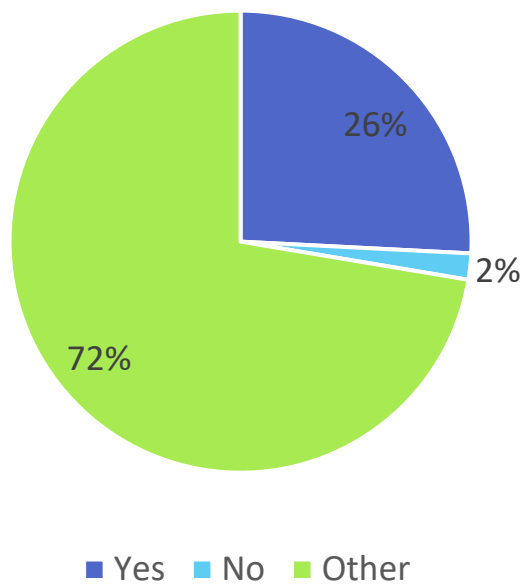
Do consultees agree?

8.15 We invite consultees' views as to what the length of that period should be: whether 100 years or another period.

1.28 Consultation Question 8 was divided into two parts – paras 8.14 and 8.15.

Part 1

1.29 In response to the first part (para 8.14), the statistics were as follows:

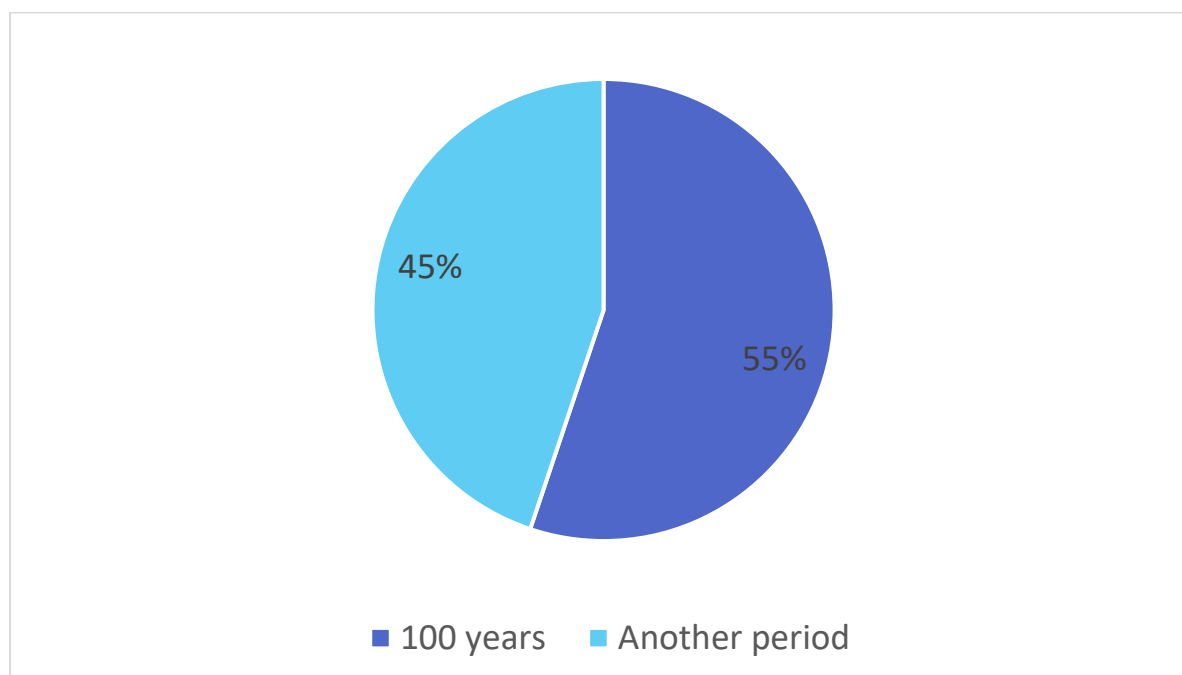


	Yes	No	Other	TOTAL
Academic	6	1	21	28
Intended parent	42	1	3	46
Family member of intended parent	1	0	2	3
Legal professional or organisation	17	2	8	27
Medical practitioner or organisation / counsellor or counselling organisation	10	1	14	25
Other individual	31	4	280	315
Other organisation	5	0	17	22
Person born of a surrogacy arrangement	1	0	0	1
Social worker or social work organisation	3	0	6	9
Surrogate	8	0	0	8
Family member of a surrogate	1	0	3	4
Surrogacy organisation	2	0	2	4
Grand total	127	9	356	492

1.30 419 consultees provided comments with their answers.

Part 2

1.31 In response to the second part (para 8.15), the statistics were as follows:



	100 years	Another period	TOTAL
Academic	4	3	7
Intended parent	22	9	31
Family member of intended parent	0	1	1
Legal professional or organisation	7	10	17
Medical practitioner or organisation / counsellor or counselling organisation	7	6	13
Other individual	23	21	44
Other organisation	2	4	6
Person born of a surrogacy arrangement	0	1	1
Social worker or social work organisation	3	0	3
Surrogate	7	1	8
Family member of a surrogate	0	1	1

Surrogacy organisation	0	4	4
Grand total	75	61	136

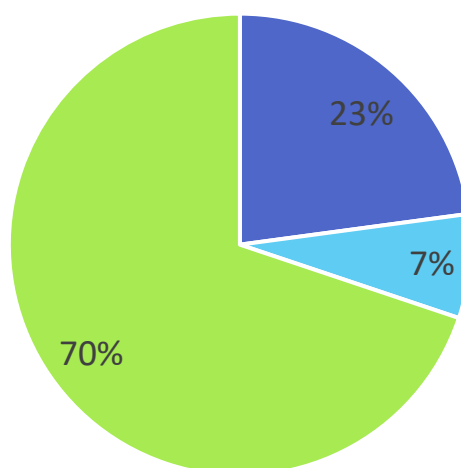
1.32 84 consultees provided comments with their answers.

Consultation Question 9

Consultation Question 9.

8.21 We provisionally propose that the prohibition on the use of anonymously donated gametes should apply to traditional surrogacy arrangements with which a regulated surrogacy organisation is involved.

Do consultees agree?



■ Yes ■ No ■ Other

	Yes	No	Other	TOTAL
Academic	10	2	18	30
Intended parent	16	14	2	32
Family member of intended parent	0	0	1	1
Legal professional or organisation	11	7	5	23

Medical practitioner or organisation / counsellor or counselling organisation	11	2	13	26
Other individual	44	7	274	325
Other organisation	7	1	14	22
Person born of a surrogacy arrangement	1	0	0	1
Social worker or social work organisation	2	0	6	8
Surrogate	6	0	0	6
Family member of a surrogate	0	1	2	3
Surrogacy organisation	2	1	1	4
Grand total	110	35	336	481

1.33 436 consultees provided comments with their answers.

Consultation Question 10

Consultation Question 10.

8.22 We invite consultees' views as to whether the use of anonymously donated sperm in a traditional, domestic surrogacy arrangement should prevent that arrangement from entering into the new pathway.

1.34 450 consultees responded to Consultation Question 10.

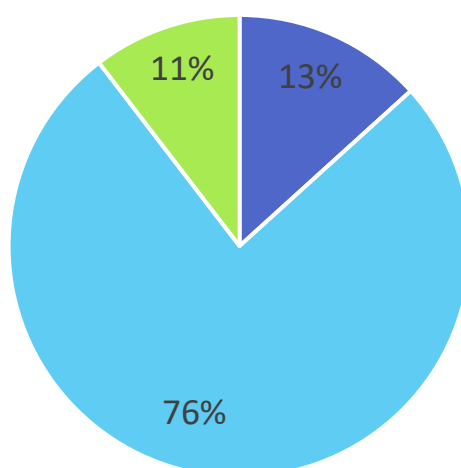
Consultation Question 11

Consultation Question 11.

8.35 We provisionally propose that:

- (1) the surrogate should have the right to object to the acquisition of legal parenthood by the intended parents, for a fixed period after the birth of the child;
- (2) this right to object should operate by the surrogate making her objection in writing within a defined period, with the objection being sent to both the intended parents and the body responsible for the regulation of surrogacy; and
- (3) the defined period should be the applicable period for birth registration less one week.

Do consultees agree?



■ Yes ■ No ■ Other

	Yes	No	Other	TOTAL
Academic	3	23	7	33
Intended parent	33	32	12	77
Family member of intended parent	0	3	0	3
Legal professional or organisation	7	12	10	29

Medical practitioner or organisation / counsellor or counselling organisation	4	18	4	26
Other individual	13	293	18	324
Other organisation	4	24	2	30
Person born of a surrogacy arrangement	1	0	0	1
Social worker or social work organisation	0	7	2	9
Surrogate	7	8	2	17
Family member of a surrogate	1	3	0	4
Surrogacy organisation	1	2	1	4
Grand total	74	425	58	557

1.35 519 consultees provided comments with their answers.

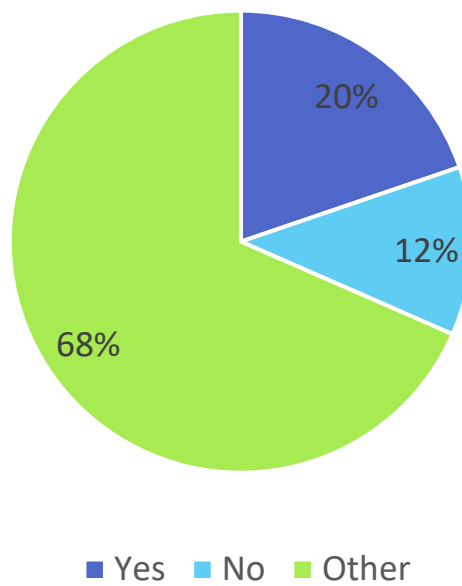
Consultation Question 12

Consultation Question 12.

8.36 We provisionally propose that, where the surrogate objects to the intended parents acquiring legal parenthood within the period fixed after birth, the surrogacy arrangement should no longer be able to proceed in the new pathway, with the result that:

- (1) the surrogate will be the legal parent of the child;
- (2) if one of the intended parents would, under the current law, be a legal parent of the child, then he or she will continue to be a legal parent in these circumstances; and
- (3) the intended parents would be able to make an application for a parental order to obtain legal parenthood.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	8	2	20	30
Intended parent	36	23	12	71
Family member of intended parent	0	0	2	2
Legal professional or organisation	14	5	9	28
Medical practitioner or organisation / counsellor or counselling organisation	4	4	14	22
Other individual	17	16	279	312
Other organisation	12	1	14	27
Person born of a surrogacy arrangement	1	0	0	1
Social worker or social work organisation	2	1	6	9
Surrogate	9	5	2	16
Family member of a surrogate	0	2	2	4
Surrogacy organisation	1	3	0	4
Grand total	104	62	360	526

1.36 458 consultees provided comments with their answers.

Consultation Question 13

Consultation Question 13.

8.37 We provisionally propose that, in the new pathway:

(1)

the intended parents should be required to make a declaration on registering the birth of the child that they have no reason to believe that the surrogate has lacked capacity at any time during the period in which she had the right to object to the intended parents acquiring legal parenthood;

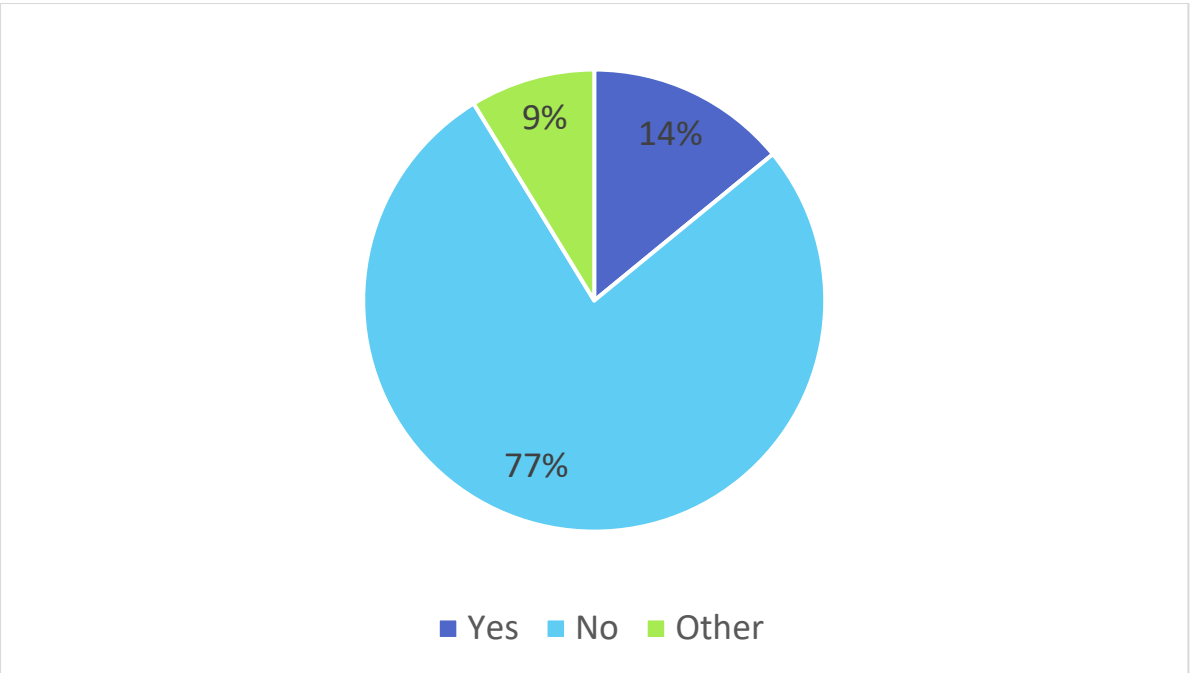
(2)

if the intended parents cannot provide this declaration then, during the period in which she has the right to object to the intended parents acquiring legal parenthood, the surrogate should be able to provide a positive consent to such acquisition; and

(3)

if the intended parents are unable to make this declaration and the surrogate is unable to provide the positive consent within the relevant period, the surrogacy arrangement should exit the new pathway and the intended parents should be able to make an application for a parental order.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	4	23	4	31
Intended parent	28	6	6	40

Family member of intended parent	0	2	0	2
Legal professional or organisation	11	11	4	26
Medical practitioner or organisation / counsellor or counselling organisation	7	13	1	21
Other individual	9	276	17	302
Other organisation	0	18	5	23
Person born of a surrogacy arrangement	0	0	1	1
Social worker or social work organisation	0	7	2	9
Surrogate	5	1	0	6
Family member of a surrogate	1	2	1	4
Surrogacy organisation	1	3	0	4
Grand total	66	362	41	469

1.37 413 consultees provided comments with their answers.

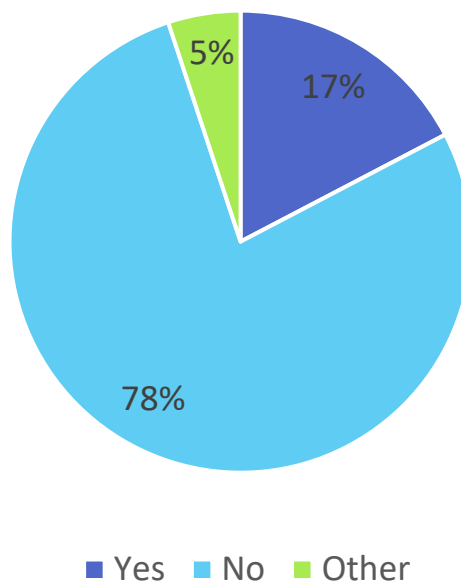
Consultation Question 14

Consultation Question 14.

8.51 We provisionally propose that, in the new pathway, the welfare of the child to be born as a result of the surrogacy arrangement:

- (1) should be assessed in the way set out in Chapter 8 of the current Code of Practice;
- (2) either the regulated surrogacy organisation or regulated clinic, as appropriate, should be responsible for ensuring that this procedure is followed; and
- (3) there should be no requirement for any welfare assessment of the child after his or her birth.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	4	21	2	27
Intended parent	39	1	3	43
Family member of intended parent	0	2	0	2
Legal professional or organisation	12	12	3	27
Medical practitioner or organisation / counsellor or counselling organisation	8	12	2	22
Other individual	4	293	9	306
Other organisation	3	16	1	20
Person born of a surrogacy arrangement	1	0	0	1
Social worker or social work organisation	0	7	2	9
Surrogate	6	0	2	8
Family member of a surrogate	1	3	0	4
Surrogacy organisation	4	0	0	4
Grand total	82	367	24	473

1.38 424 consultees provided comments with their answers.

Consultation Question 15

Consultation Question 15.

8.57 We provisionally propose that, for a child born as a result of a surrogacy arrangement under the new pathway, where the surrogate has exercised her right to object to the intended parents’ acquisition of legal parenthood at birth, the surrogate’s spouse or civil partner, if any, should not be a legal parent of the child.

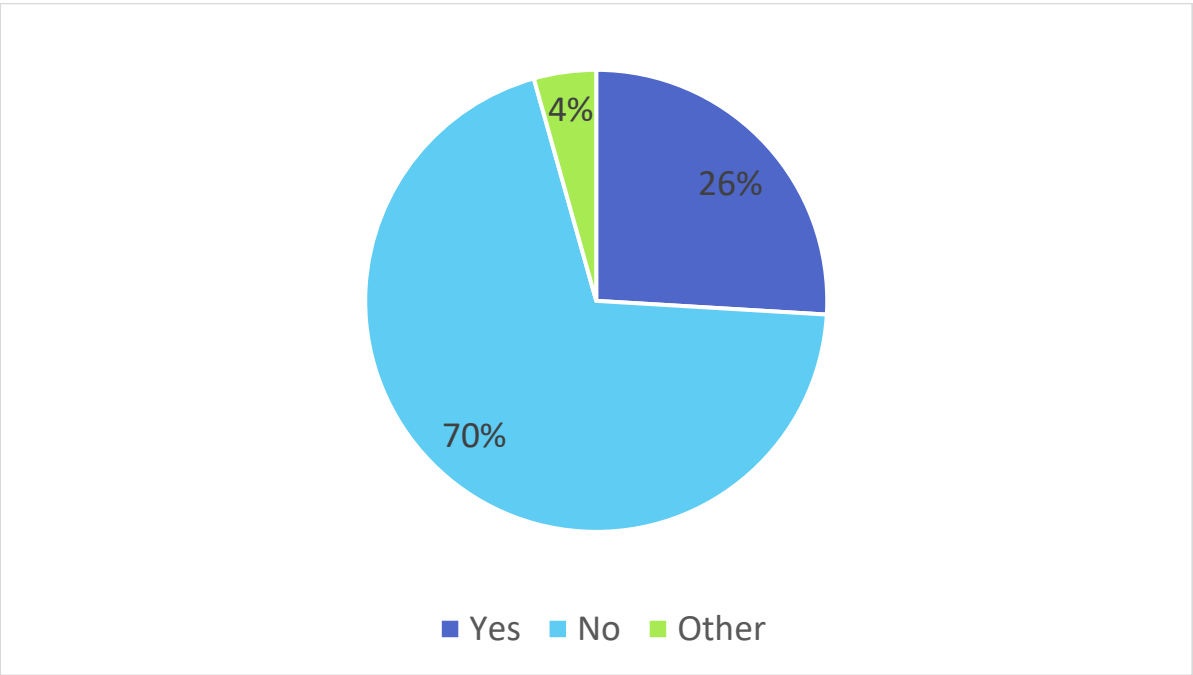
Do consultees agree?

8.58 We invite consultees’ views as to whether, in the case of a surrogacy arrangement outside the new pathway, the surrogate’s spouse or civil partner should continue to be a legal parent of the child born as a result of the arrangement.

1.39 Consultation Question 15 was divided into two parts – paras 8.57 and 8.58.

Part 1

1.40 In response to the first part (8.57), the statistics were as follows:



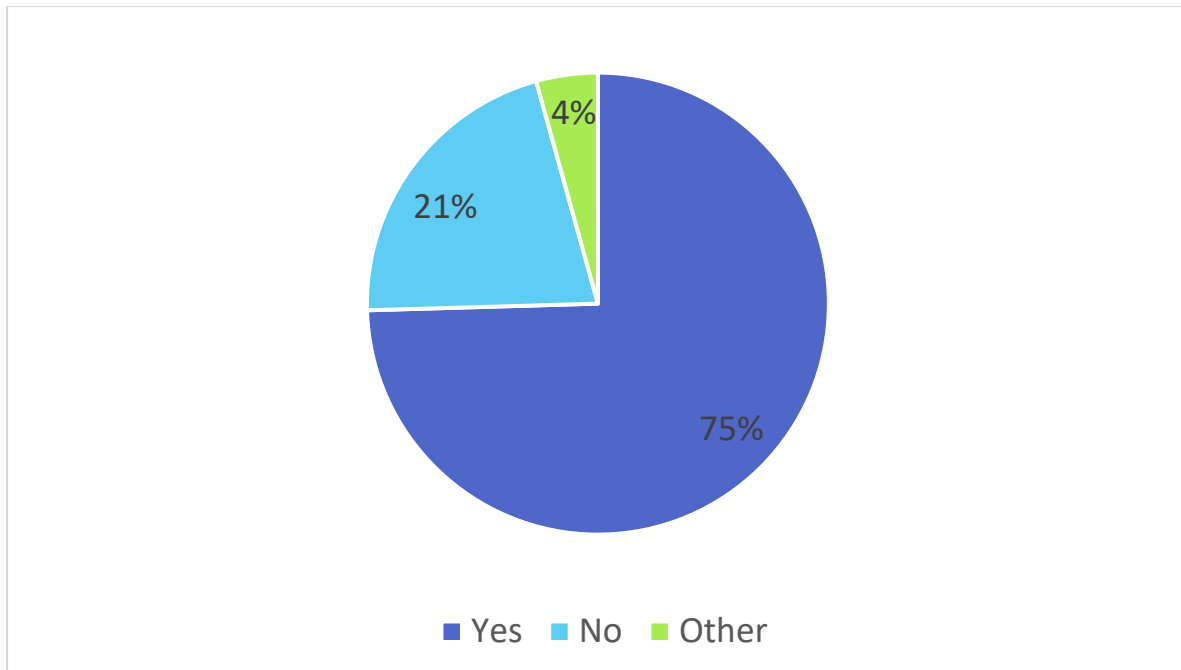
	Yes	No	Other	TOTAL
Academic	9	21	1	31
Intended parent	67	3	4	74
Family member of intended parent	1	2	0	3

Legal professional or organisation	15	10	2	27
Medical practitioner or organisation / counsellor or counselling organisation	8	14	1	23
Other individual	15	291	4	310
Other organisation	3	17	4	24
Person born of a surrogacy arrangement	1	0	0	1
Social worker or social work organisation	2	7	0	9
Surrogate	14	0	3	17
Family member of a surrogate	0	2	2	4
Surrogacy organisation	2	1	2	5
Grand total	137	368	23	528

1.41 450 consultees provided comments with their answers.

Part 2

1.42 In response to the second part (para 8.58), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	21	6	3	30
Intended parent	10	48	2	60
Family member of intended parent	2	1	0	3
Legal professional or organisation	11	11	3	25
Medical practitioner or organisation / counsellor or counselling organisation	13	7	1	21
Other individual	281	9	7	297
Other organisation	16	2	0	18
Person born of a surrogacy arrangement	0	1	0	1
Social worker or social work organisation	7	0	2	9
Surrogate	0	12	2	14
Family member of a surrogate	2	1	1	4
Surrogacy organisation	0	5	0	5
Grand total	363	103	21	487

1.43 427 consultees provided comments with their answers.

Consultation Question 16

Consultation Question 16.

- 8.77 We provisionally propose that, in the new pathway, where a child born of a surrogacy arrangement is stillborn:
- (1) the intended parents should be the legal parents of the child unless the surrogate exercises her right to object; and
 - (2) the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period of the right to object.

Do consultees agree?

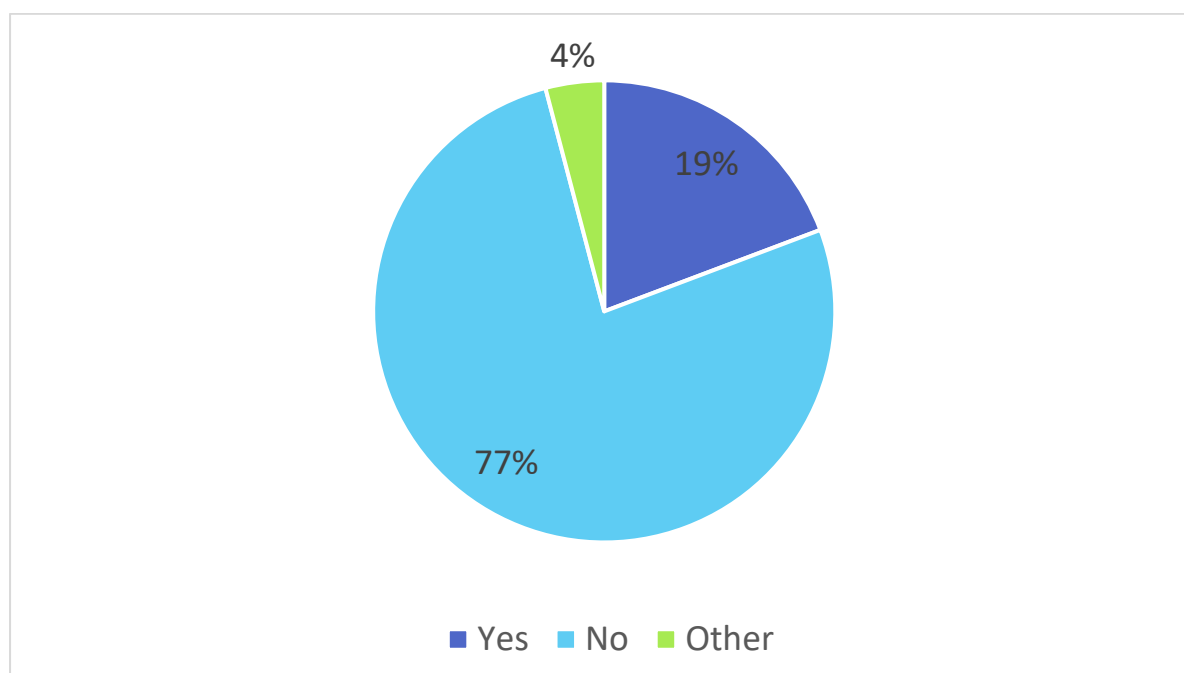
- 8.78 We provisionally propose that, outside the new pathway, where a child born of a surrogacy arrangement is stillborn, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the stillbirth.

Do consultees agree?

1.44 Consultation Question 16 was divided into two parts – paras 8.77 and 8.78.

Part 1

1.45 In response to the first part (para 8.77), the statistics were as follows:

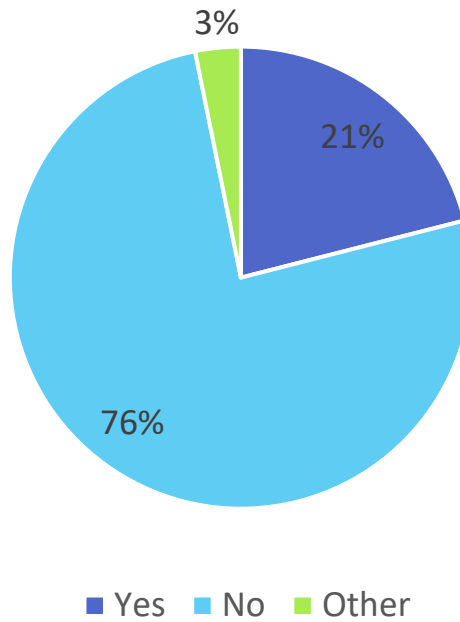


	Yes	No	Other	TOTAL
Academic	6	23	1	30
Intended parent	40	2	1	43
Family member of intended parent	1	2	0	3
Legal professional or organisation	13	8	4	25
Medical practitioner or organisation / counsellor or counselling organisation	7	12	4	23
Other individual	10	302	4	316
Other organisation	4	17	0	21
Person born of a surrogacy arrangement	1	0	0	1
Social worker or social work organisation	0	6	3	9
Surrogate	9	0	0	9
Family member of a surrogate	1	2	1	4
Surrogacy organisation	2	0	2	4
Grand total	94	374	20	488

1.46 422 consultees provided comments with their answers.

Part 2

1.47 In response to the second part (para 8.78), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	7	22	0	29
Intended parent	40	1	0	41
Family member of intended parent	1	2	0	3
Legal professional or organisation	14	10	2	26
Medical practitioner or organisation / counsellor or counselling organisation	6	13	2	21
Other individual	13	285	7	305
Other organisation	4	16	0	20
Person born of a surrogacy arrangement	1	0	0	1
Social worker or social work organisation	1	6	2	9
Surrogate	8	0	0	8
Family member of a surrogate	1	2	1	4
Surrogacy organisation	3	0	1	4
Grand total	99	357	15	471

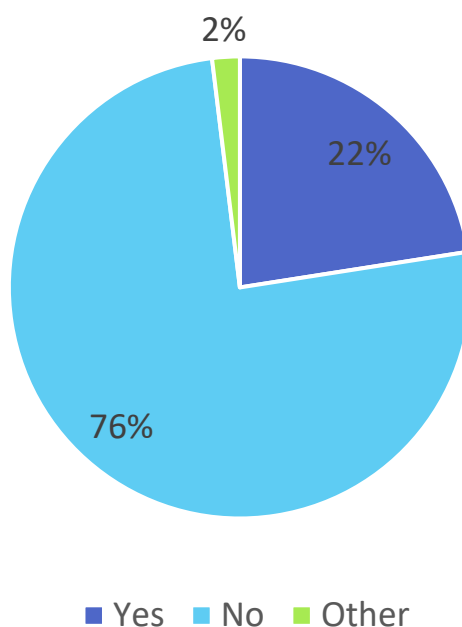
1.48 380 consultees provided comments with their answers.

Consultation Question 17

Consultation Question 17.

8.79 We provisionally propose that, for surrogacy arrangements outside the new pathway, where the child dies before the making of the parental order, the surrogate should be able to consent to the intended parents being registered as the parents before the expiry of the period allowed for the registration of the birth, provided that the intended parents have made a declaration to the effect that the relevant criteria for the making of a parental order are satisfied, on registration of the birth.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	8	23	0	31
Intended parent	41	1	1	43
Family member of intended parent	0	2	0	2
Legal professional or organisation	14	10	2	26
Medical practitioner or organisation / counsellor or counselling organisation	8	11	2	21
Other individual	15	281	2	298

Other organisation	4	16	0	20
Person born of a surrogacy arrangement	1	0	0	1
Social worker or social work organisation	1	6	2	9
Surrogate	8	0	0	8
Family member of a surrogate	1	2	0	3
Surrogacy organisation	4	0	0	4
Grand total	105	352	9	466

1.49 380 consultees provided comments with their answers.

Consultation Question 18

Consultation Question 18.

8.80 For surrogacy arrangements in the new pathway, we invite consultees' views as to whether, where the surrogate dies in childbirth or before the end of the period during which she can exercise her right to object, the arrangement should not proceed in the new pathway and the intended parents should be required to make an application for a parental order.

1.50 444 consultees responded to Consultation Question 18.

Consultation Question 19

Consultation Question 19.

- 8.81 We provisionally propose that, for surrogacy arrangements in the new pathway, where both intended parents die during the surrogate's pregnancy, the intended parents should be registered as the child's parents on birth, subject to the surrogate not exercising her right to object within the defined period.

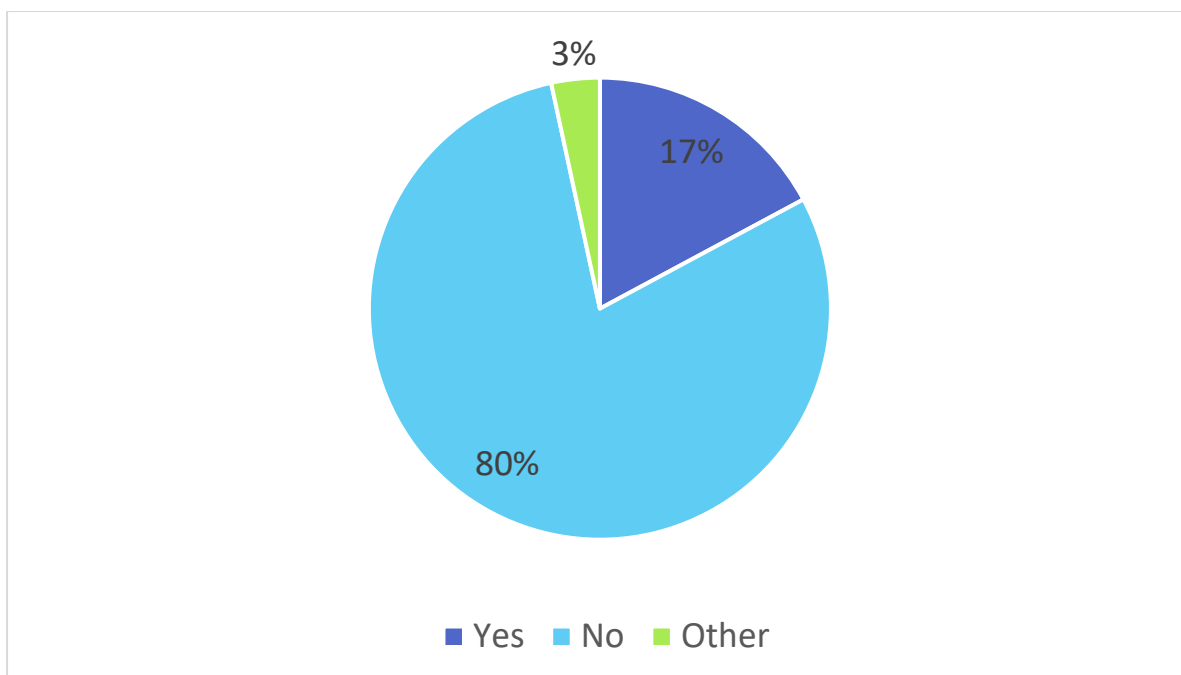
Do consultees agree?

- 8.82 We invite consultees' views as to whether, for surrogacy arrangements outside the new pathway, where both intended parents die during the surrogate's pregnancy or before a parental order is made:
- (1) it should be competent for an application to be made, by a person who claims an interest under section 11(3)(a) of the Children (Scotland) Act 1995, or who would be permitted to apply for an order under section 8 of the Children Act 1989:
 - (a) For an order for appointment as guardian of the child, and
 - (b) for a parental order in the name of the intended parents, subject to the surrogate's consent; or
 - (2) the surrogate should be registered as the child's mother and it should not be possible for the intended parents to be registered as the child's parents, but that there should be a procedure for the surrogate to provide details of the intended parents, and, if relevant, gamete donors, for entry onto the register of surrogacy arrangements.

1.51 Consultation Question 19 was divided into two parts – paras 8.81 and 8.82.

Part 1

1.52 In response to the first part (para 8.81), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	5	22	2	29
Intended parent	36	4	2	42
Family member of intended parent	1	2	0	3
Legal professional or organisation	14	10	2	26
Medical practitioner or organisation / counsellor or counselling organisation	5	16	0	21
Other individual	7	294	4	305
Other organisation	3	17	0	20
Person born of a surrogacy arrangement	1	0	0	1
Social worker or social work organisation	0	7	2	9
Surrogate	7	0	1	8
Family member of a surrogate	1	2	1	4
Surrogacy organisation	1	1	2	4
Grand total	81	375	16	472

1.53 412 consultees provided comments with their answers.

Part 2

1.54 In respect of the second part of the question (para 8.82), 416 consultees responded.

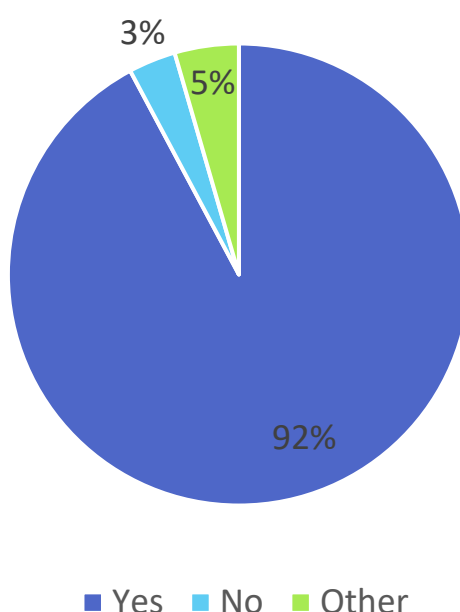
Consultation Question 20

Consultation Question 20.

8.86 We provisionally propose that, where an application is made for a parental order by a sole applicant under section 54A:

- (1) the applicant should have to make a declaration that it was always intended that there would only be a single applicant for a parental order in respect of the child concerned or to supply the name and contact details of the other intended parent;
- (2) if details of another intended parent are supplied, a provision should be made for notice to be given to the potential second intended parent of the application and an opportunity given to that party to provide notice of opposition within a brief period (of, say, 14 to 21 days); and
- (3) if the second intended parent gives notice of his or her intention to oppose, he or she should be required to make his or her own application within a brief period (say 14 days), otherwise the application of the first intended parent will be determined by the court.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	27	0	0	27
Intended parent	18	3	4	25
Family member of intended parent	2	0	0	2
Legal professional or organisation	22	1	1	24
Medical practitioner or organisation / counsellor or counselling organisation	15	2	1	18
Other individual	275	5	10	290
Other organisation	14	2	1	17
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	8	0	0	8
Surrogate	5	0	0	5
Family member of a surrogate	3	0	0	3
Surrogacy organisation	1	1	2	4
Grand total	390	14	19	423

1.55 58 consultees provided comments with their answers.

Consultation Question 21

Consultation Question 21.

8.91 We invite consultees' views as to:

- (1) a temporary three-parent model of legal parenthood in surrogacy cases; and
- (2) how the legal parenthood of the surrogate should be extinguished in this model.

1.56 428 consultees responded to Consultation Question 21.

Consultation Question 22

Consultation Question 22.

8.93 We invite consultees' views:

- (1) as to whether there should be any additional oversight in the new pathway that we have proposed, leading to the acquisition of legal parenthood by the intended parents at birth; and
- (2) if so, as to whether should this oversight be:
 - (a) administrative, or
 - (b) judicial.

1.57 446 consultees responded to Consultation Question 22.

Consultation Question 23

Consultation Question 23.

8.120 In respect of England and Wales, we invite consultees' views as to:

- (1) whether the welfare checklist, contained in section 1(3) of the Children Act 1989, should be amended to provide for the court to have regard to additional specific factors in the situation where it is considering the arrangements for a child in the context of a dispute about a surrogacy arrangement; and
- (2) if so, as to what those additional factors should be.

1.58 385 consultees responded to Consultation Question 23.

Consultation Question 24

Consultation Question 24.

8.121 In respect of England and Wales, we invite consultees' views:

- (1) as to whether the checklist, contained in section 1(4) of the ACA 2002 (as applied and modified by regulation 2 and paragraph 1 of Schedule 1 of the 2018 Regulations) should be further amended to provide for the court to have regard to additional specific factors in the situation where it is considering whether to make a parental order; and
- (2) what those additional factors should be.

1.59 392 consultees responded to Consultation Question 24.

Consultation Question 25

Consultation Question 25.

8.123 We invite consultees' view as to whether section 10 of the Children Act 1989 should be amended to add the intended parents to the category of those who can apply for a section 8 order without leave.

1.60 388 consultees responded to Consultation Question 25.

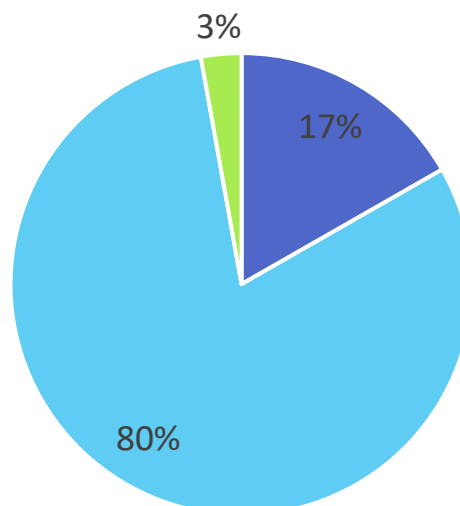
Consultation Question 26

Consultation Question 26.

8.132 We provisionally propose that, where a child is born as a result of a surrogacy arrangement outside the new pathway, the intended parents should acquire parental responsibility automatically where:

- (1) the child is living with them or being cared for by them; and
- (2) they intend to apply for a parental order.

Do consultees agree?



■ Yes ■ No ■ Other

	Yes	No	Other	TOTAL
Academic	6	23	3	32
Intended parent	34	2	0	36
Family member of intended parent	1	2	0	3
Legal professional or organisation	13	11	3	27
Medical practitioner or organisation / counsellor or counselling organisation	3	15	1	19
Other individual	4	292	4	300
Other organisation	3	16	0	19
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	0	6	2	8
Surrogate	8	0	0	8
Family member of a surrogate	1	3	0	4
Surrogacy organisation	4	0	0	4
Grand total	77	370	13	460

1.61 396 consultees provided comments with their answers.

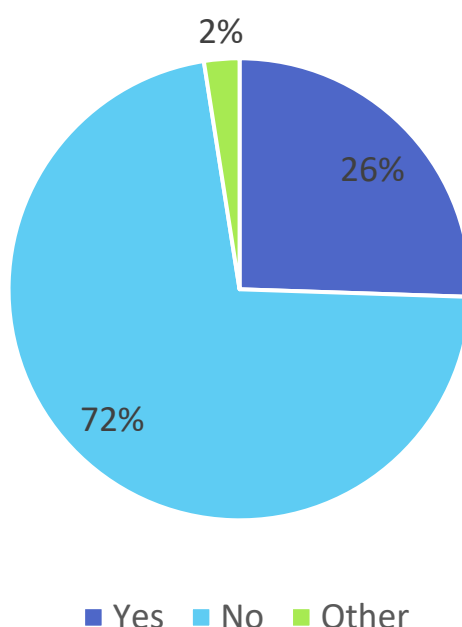
Consultation Question 27

Consultation Question 27.

8.134 We provisionally propose that, where a child is born as a result of a surrogacy arrangement in the new pathway:

- (1) the intended parents should acquire parental responsibility on the birth of the child; and
- (2) if the surrogate exercises her right to object, the intended parents should continue to have parental responsibility for the child where the child is living with, or being cared for by, them, and they intend to apply for a parental order.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	10	21	0	31
Intended parent	66	3	2	71
Family member of intended parent	1	2	0	3
Legal professional or organisation	17	9	2	28
Medical practitioner or organisation / counsellor or counselling organisation	5	13	2	20

Other individual	9	303	3	315
Other organisation	4	18	2	24
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	2	6	0	8
Surrogate	17	0	0	17
Family member of a surrogate	1	3	0	4
Surrogacy organisation	2	0	2	4
Grand total	134	378	13	525

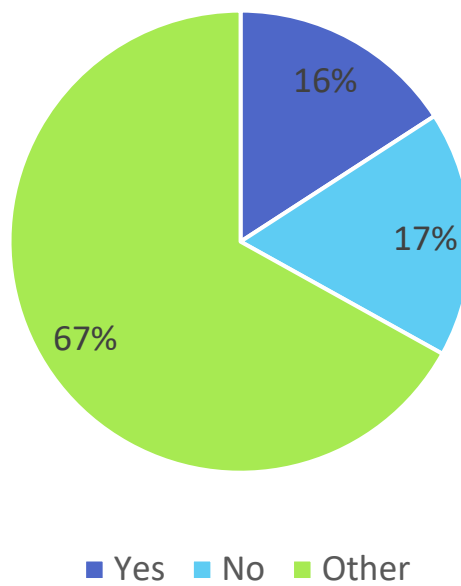
1.62 436 consultees provided comments with their answers.

Consultation Question 28

Consultation Question 28.

8.139 We provisionally propose that, for surrogacy arrangements within the new pathway, the surrogate should retain parental responsibility for the child born as a result of the arrangement until the expiry of the period during which she can exercise her right to object, assuming that she does not exercise her right to object.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	9	5	20	34
Intended parent	15	48	1	64
Family member of intended parent	0	1	2	3
Legal professional or organisation	13	7	7	27
Medical practitioner or organisation / counsellor or counselling organisation	5	1	11	17
Other individual	28	9	274	311
Other organisation	4	4	14	22
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	2	0	6	8
Surrogate	5	9	3	17
Family member of a surrogate	0	1	3	4
Surrogacy organisation	0	3	1	4
Grand total	81	88	342	511

1.63 443 consultees provided comments with their answers.

Consultation Question 29

Consultation Question 29.

8.140 For all surrogacy arrangements, we invite consultees' views as to:

- (1) whether there is a need for any restriction to be placed on the exercise of parental responsibility by either the surrogate (or other legal parent), or the intended parents, during the period in which parental responsibility is shared; and
- (2) whether it should operate to restrict the exercise of parental responsibility by the party not caring for the child or with whom the child is not living.

1.64 441 consultees responded to Consultation Question 29.

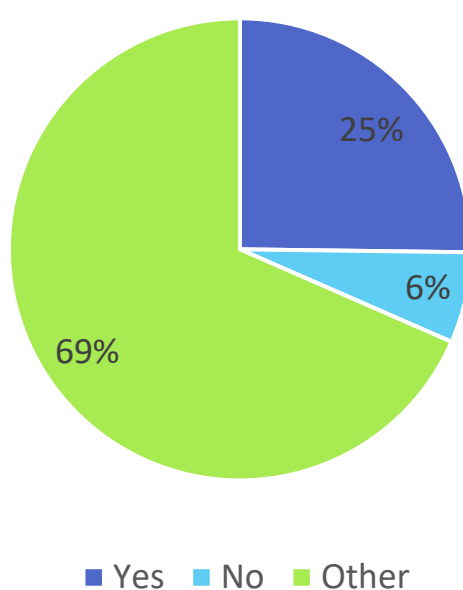
Chapter 9

Consultation Question 30

Consultation Question 30.

9.29 We provisionally propose that traditional surrogacy arrangements should fall within the scope of the new pathway.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	9	3	20	32
Intended parent	59	2	3	64
Family member of intended parent	1	0	2	3
Legal professional or organisation	14	1	9	24
Medical practitioner or organisation / counsellor or counselling organisation	8	1	12	21
Other individual	7	18	265	290
Other organisation	4	4	14	22
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	0	1	7	8
Surrogate	16	0	0	16
Family member of a surrogate	1	1	2	4
Surrogacy organisation	4	0	0	4
Grand total	123	31	334	488

1.65 393 consultees provided comments with their answers.

Consultation Question 31

Consultation Question 31.

9.35 We invite the views of independent surrogates, and intended parents who have used independent surrogacy arrangements, to tell us about their experience. In particular, we would be interested to hear about any health screening, counselling and legal advice that took place.

1.66 88 consultees responded to Consultation Question 31.

Consultation Question 32

Consultation Question 32.

- 9.36 We invite consultees' views as to whether independent surrogacy arrangements should be brought within the scope of the new pathway.
- 9.37 We invite consultees' views as to how independent surrogacy arrangements might be brought within the scope of the new pathway.

1.67 Consultation Question 32 was divided into two parts – paras 9.36 and 9.37.

Part 1

1.68 In respect of the first part of the question (para 9.36), 459 consultees responded.

Part 2

1.69 In respect of the second part of the question (para 9.37), 408 consultees responded.

Consultation Question 33

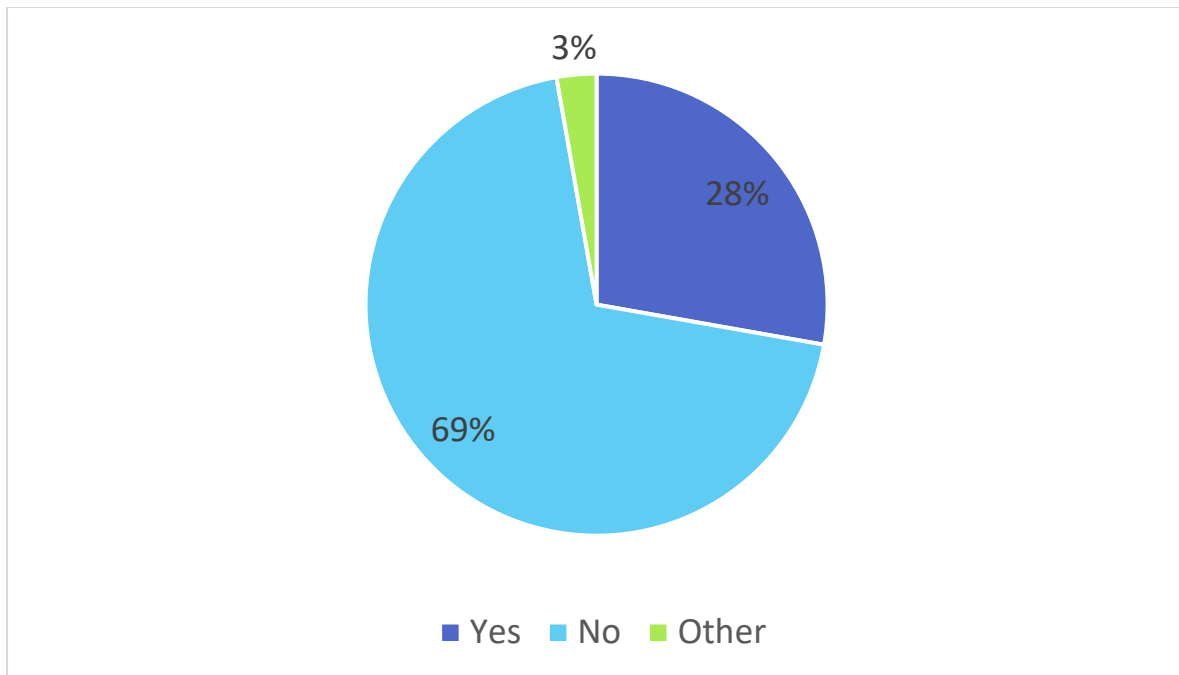
Consultation Question 33.

- 9.61 We provisionally propose that:
- (1) there should be regulated surrogacy organisations;
 - (2) there should be no requirement for a regulated surrogacy organisation to take a particular form; and
 - (3) each surrogacy organisation should be required to appoint an individual responsible for ensuring that the organisation complies with regulation.
- Do consultees agree?

1.70 Consultation Question 33 was divided into three parts – paras 9.61(1), (2) and (3).

Part 1

1.71 In response to the first part (para 9.61(1)), the statistics were as follows:

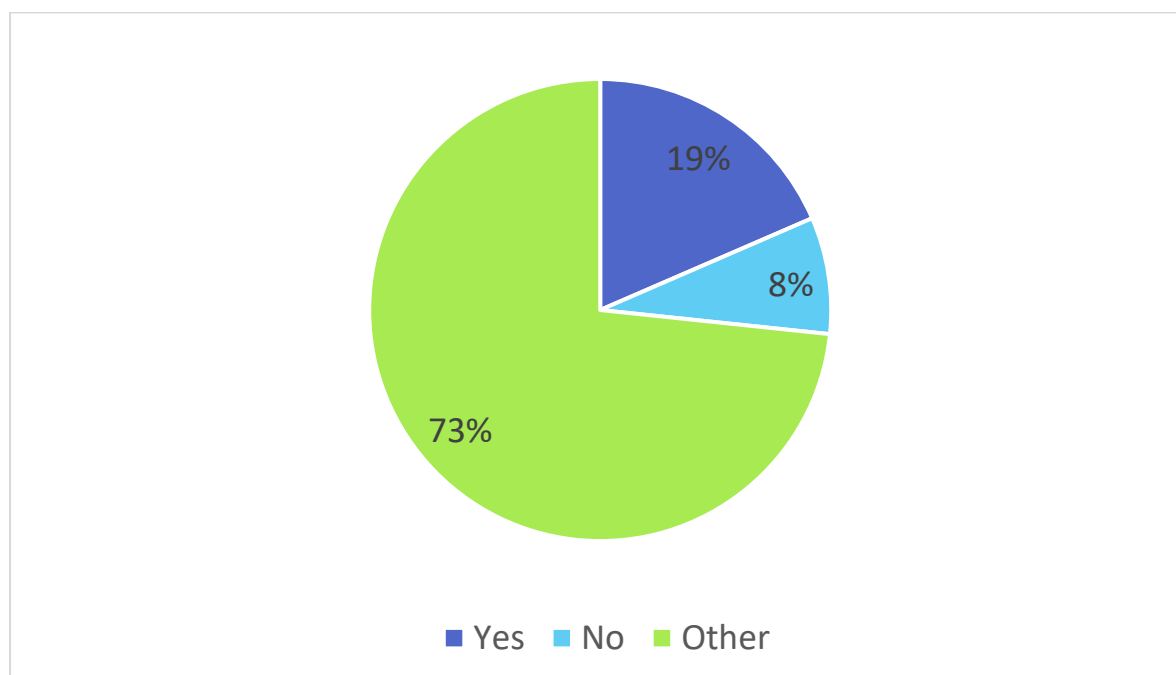


	Yes	No	Other	TOTAL
Academic	12	20	0	32
Intended parent	59	6	4	69
Family member of intended parent	1	2	0	3
Legal professional or organisation	18	6	0	24
Medical practitioner or organisation / counsellor or counselling organisation	8	13	0	21
Other individual	13	277	8	298
Other organisation	7	16	1	24
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	2	6	0	8
Surrogate	15	1	1	17
Family member of a surrogate	1	3	0	4
Surrogacy organisation	4	0	0	4
Grand total	140	350	14	504

1.72 421 consultees provided comments with their answers.

Part 2

1.73 In response to the second part (para 9.61(2)), the statistics were as follows:



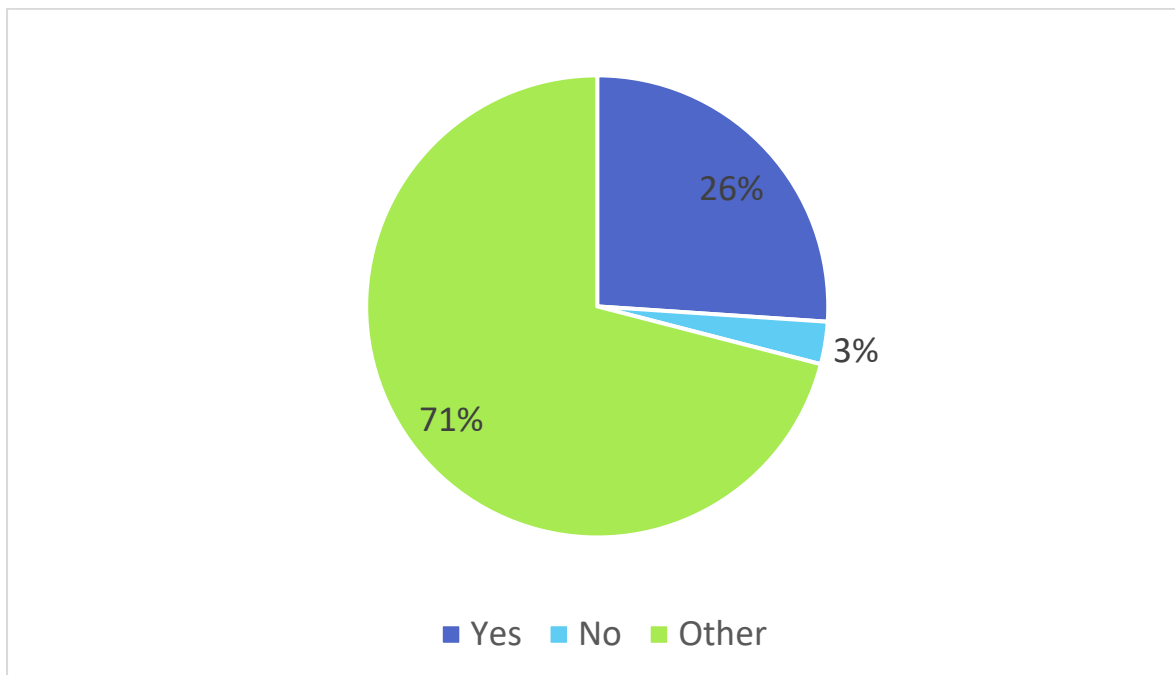
	Yes	No	Other	TOTAL
Academic	4	1	21	26
Intended parent	43	13	6	62
Family member of intended parent	1	0	2	3
Legal professional or organisation	13	3	6	22
Medical practitioner or organisation / counsellor or counselling organisation	3	2	13	18
Other individual	5	15	269	289
Other organisation	3	0	13	16
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	2	1	5	8
Surrogate	10	2	2	14
Family member of a surrogate	0	0	3	3
Surrogacy organisation	2	1	1	4

Grand total	86	38	341	465

1.74 396 consultees provided comments with their answers.

Part 3

1.75 In response to the third part (para 9.61(3)), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	7	0	20	27
Intended parent	55	5	4	64
Family member of intended parent	1	0	2	3
Legal professional or organisation	16	1	5	22
Medical practitioner or organisation / counsellor or counselling organisation	7	1	12	20
Other individual	13	6	270	289
Other organisation	3	0	14	17
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	2	1	5	8

Surrogate	15	0	0	15
Family member of a surrogate	1	0	2	3
Surrogacy organisation	3	0	1	4
Grand total	123	14	335	472

1.76 373 consultees provided comments with their answers.

Consultation Question 34

Consultation Question 34.

9.62 We provisionally propose that the person responsible must be responsible for:

- (1) representing the organisation to, and liaising with, the regulator;
- (2) managing the regulated surrogacy organisation with sufficient care, competence and skill;
- (3) ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;
- (4) training any staff, including that of the person responsible; and
- (5) providing data to the regulator and to such other person as required by law.

Do consultees agree?

9.63 We invite consultees to identify any other responsibilities which a responsible individual should have.

9.64 We invite consultees' views as to what experience, skills and qualifications a person responsible for a surrogacy organisation should have.

1.77 Consultation Question 34 was divided into three parts – paras 9.62, 9.63 and 9.64.

Part 1

1.78 In response to the first part (para 9.62), the number of consultees indicating that the person responsible should have a particular responsibility were as follows –

- (1) 89 consultees indicated that the person responsible should be responsible for representing the organisation to, and liaising with, the regulator;

- (2) 79 consultees indicated that the person responsible should be responsible for managing the regulated surrogacy organisation with sufficient care, competence and skill;
- (3) 88 consultees indicated that the person responsible should be responsible for ensuring the compliance of the organisation with relevant law and regulation, including the creation, maintenance and operation of necessary policies and procedures;
- (4) 80 consultees indicated that the person responsible should be responsible for training any staff, including that of the person responsible; and
- (5) 88 consultees indicated that the person responsible should be responsible for providing data to the regulator and to such other person as required by law.

1.79 376 consultees provided comments with their answers.

Part 2

1.80 In respect of the second part of the question (para 9.63), 355 consultees responded.

Part 3

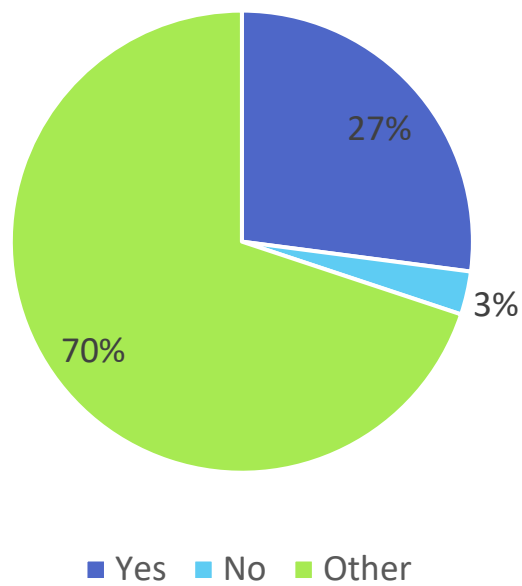
1.81 In respect of the third part of the question (para 9.64), 367 consultees responded.

Consultation Question 35

Consultation Question 35.

9.84 We provisionally propose that regulated surrogacy organisations should be non-profit making bodies.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	7	1	23	31
Intended parent	56	8	6	70
Family member of intended parent	1	0	2	3
Legal professional or organisation	14	1	8	23
Medical practitioner or organisation / counsellor or counselling organisation	5	3	13	21
Other individual	22	2	269	293
Other organisation	6	0	15	21
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	2	0	6	8
Surrogate	17	0	1	18
Family member of a surrogate	1	0	2	3
Surrogacy organisation	3	0	1	4
Grand total	134	15	346	495

1.82 416 consultees provided comments with their answers.

Consultation Question 36

Consultation Question 36.

9.94 We invite consultees' views as to what should be included in the definition of matching and facilitation services.

1.83 376 consultees responded to Consultation Question 36.

Consultation Question 37

Consultation Question 37.

9.95 We provisionally propose that only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements in the new pathway.

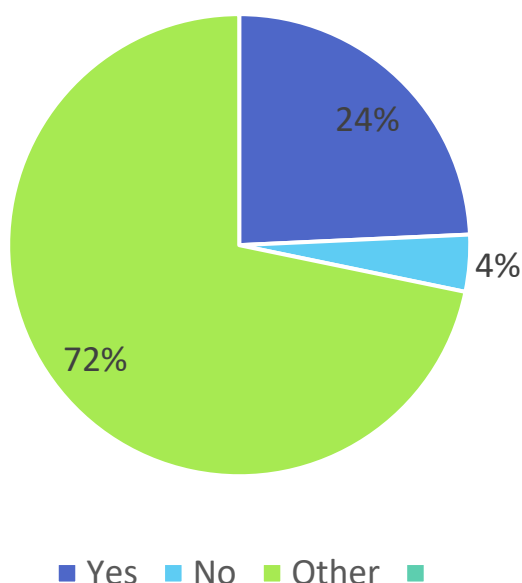
Do consultees agree?

9.96 We invite consultees' views as to whether only regulated surrogacy organisations should be able to offer matching and facilitation services in respect of surrogacy arrangements outside the new pathway.

1.84 Consultation Question 37 was divided into two parts – paras 9.95 and 9.96.

Part 1

1.85 In response to the first part (para 9.95), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	6	0	20	26
Intended parent	52	8	5	65
Family member of intended parent	1	0	2	3
Legal professional or organisation	16	0	6	22
Medical practitioner or organisation / counsellor or counselling organisation	7	0	13	20
Other individual	16	8	268	292
Other organisation	4	0	16	20
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	0	0	8	8
Surrogate	11	3	1	15
Family member of a surrogate	1	0	2	3
Surrogacy organisation	2	0	2	4
Grand total	116	19	343	478

1.86 396 consultees provided comments with their answers.

Part 2

1.87 In respect of the second part of the question (para 9.96), 395 consultees responded.

Consultation Question 38

Consultation Question 38.

9.97 We invite consultees' views as to the sanctions that should be available against organisations that offer matching and facilitation services without being regulated to do so, and whether these should be criminal, civil or regulatory.

1.88 394 consultees responded to Consultation Question 38.

Consultation Question 39

Consultation Question 39.

9.117 We provisionally propose that the remit of the Human Fertilisation and Embryology Authority be expanded to include the regulation of regulated surrogacy organisations, and oversight of compliance with the proposed legal requirements for the new pathway to legal parenthood.

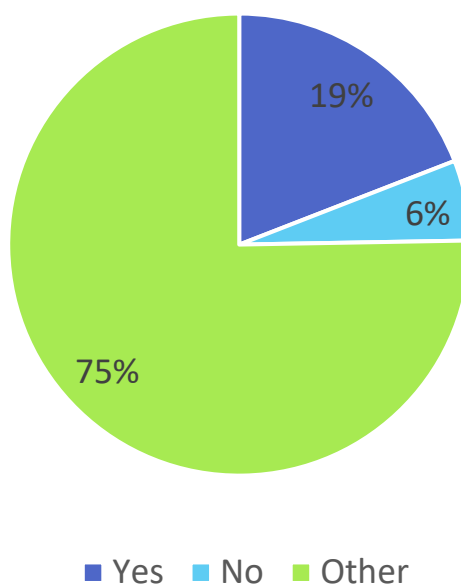
Do consultees agree?

9.118 If consultees agree, we invite their views as to how the Authority's Code of Practice should apply to regulated surrogacy organisations, including which additional or new areas of regulation should be applied.

1.89 Consultation Question 39 was divided into two parts – paras 9.117 and 9.118.

Part 1

1.90 In response to the first part (para 9.117), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	9	1	17	27
Intended parent	27	5	2	34
Family member of intended parent	1	0	2	3
Legal professional or organisation	16	0	8	24

Medical practitioner or organisation / counsellor or counselling organisation	6	2	14	22
Other individual	12	10	271	293
Other organisation	4	3	13	20
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	2	1	5	8
Surrogate	5	1	0	6
Family member of a surrogate	1	1	2	4
Surrogacy organisation	2	1	1	4
Grand total	85	25	335	445

1.91 393 consultees provided comments with their answers.

Part 2

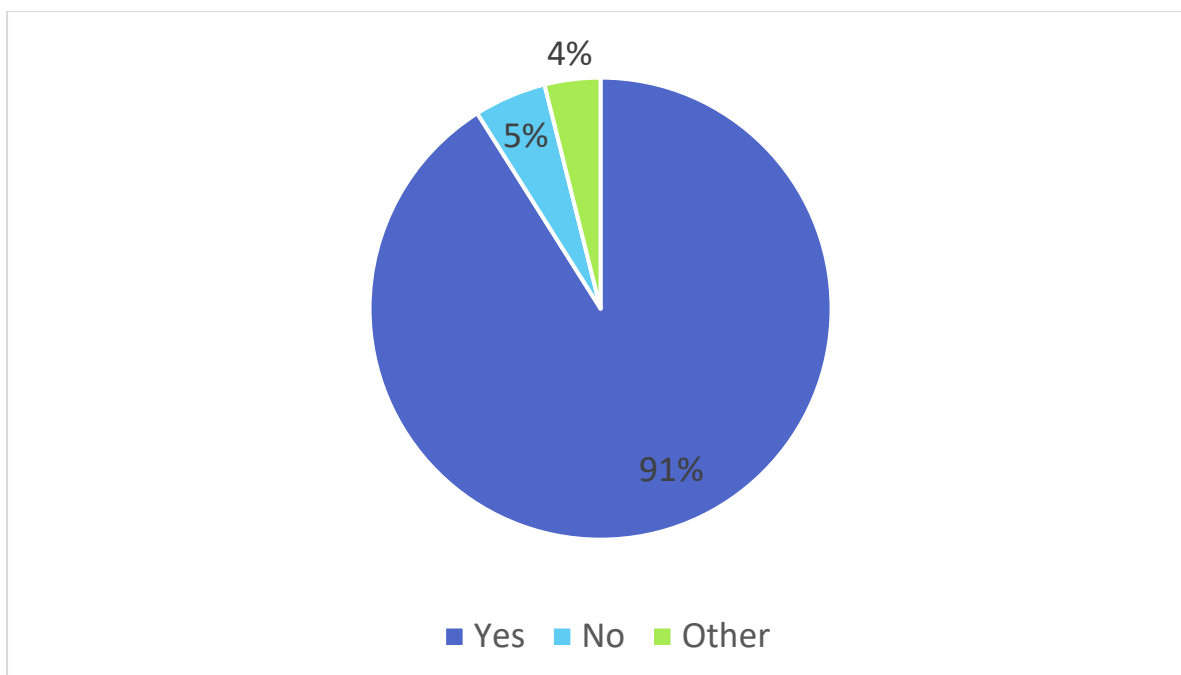
1.92 In respect of the second part of the question (para 9.118), 47 consultees responded.

Consultation Question 40

Consultation Question 40.

9.129 We provisionally propose that surrogacy agreements should remain unenforceable (subject to the exception we provisionally propose in Consultation Question 88 in relation to financial terms).

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	27	1	2	30
Intended parent	10	15	5	30
Family member of intended parent	3	0	0	3
Legal professional or organisation	22	1	2	25
Medical practitioner or organisation / counsellor or counselling organisation	15	2	1	18
Other individual	281	0	5	286
Other organisation	19	1	0	20
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	8	0	0	8
Surrogate	6	2	0	8
Family member of a surrogate	2	0	1	3
Surrogacy organisation	3	0	1	4
Grand total	396	22	17	435

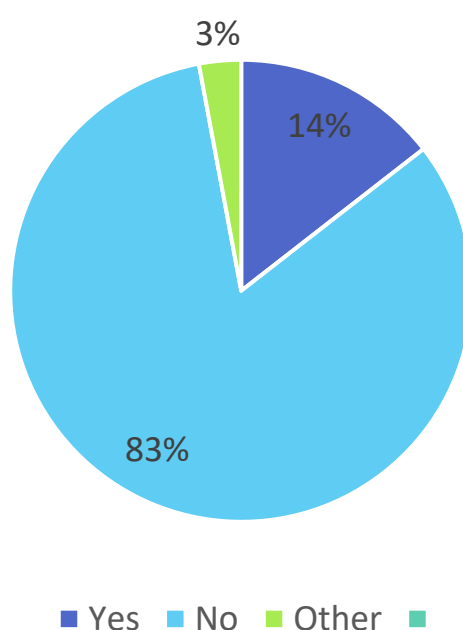
1.93 76 consultees provided comments with their answers.

Consultation Question 41

Consultation Question 41.

9.135 We provisionally propose that there should be no prohibition against charging for negotiating, facilitating and advising on surrogacy arrangements.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	6	20	1	27
Intended parent	21	9	3	33
Family member of intended parent	1	2	0	3
Legal professional or organisation	17	8	0	25
Medical practitioner or organisation / counsellor or counselling organisation	3	14	1	18
Other individual	7	285	3	295
Other organisation	2	16	2	20
Person born of a surrogacy arrangement	0	0	0	0

Social worker or social work organisation	2	5	0	7
Surrogate	2	3	1	6
Family member of a surrogate	0	3	1	4
Surrogacy organisation	3	0	1	4
Grand total	64	365	13	442

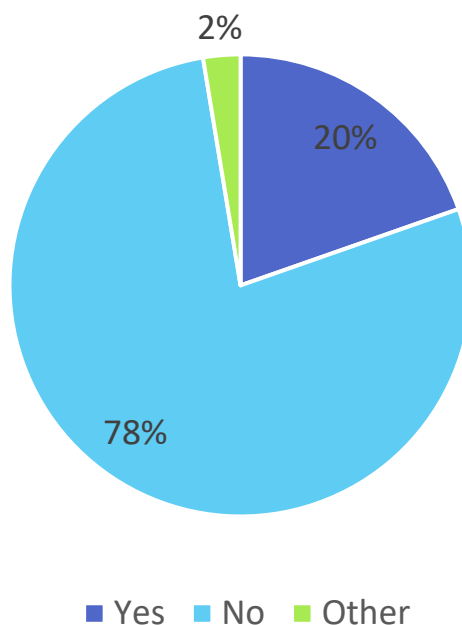
1.94 409 consultees provided comments with their answers.

Consultation Question 42

Consultation Question 42.

9.145 We provisionally propose that the current ban on advertising in respect of surrogacy should be removed, with the effect that there will be no restrictions on advertising anything that can lawfully be done in relation to surrogacy arrangements.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	6	22	1	29
Intended parent	53	9	4	66
Family member of intended parent	1	2	0	3
Legal professional or organisation	13	8	2	23
Medical practitioner or organisation / counsellor or counselling organisation	3	15	2	20
Other individual	4	295	2	301
Other organisation	4	21	0	25
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	2	6	0	8
Surrogate	7	7	2	16
Family member of a surrogate	1	3	0	4
Surrogacy organisation	4	0	0	4
Grand total	98	388	13	499

1.95 427 consultees provided comments with their answers.

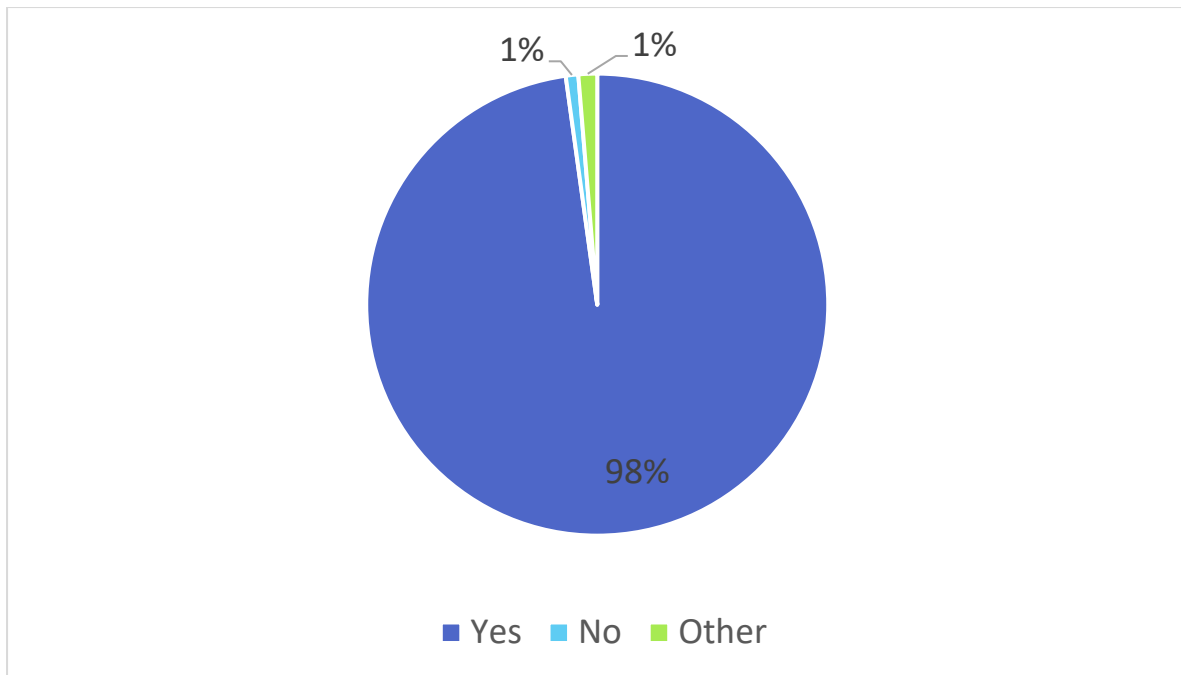
Chapter 10

Consultation Question 43

Consultation Question 43.

10.80 We provisionally propose that, in England and Wales, where the making of a parental order in respect of a child born of a surrogacy arrangement has been recorded in the Parental Order Register, the child should be able to access his or her original birth certificate at the age of 18.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	28	0	0	28
Intended parent	34	2	1	37
Family member of intended parent	3	0	0	3
Legal professional or organisation	20	0	1	21
Medical practitioner or organisation / counsellor or counselling organisation	19	1	0	20
Other individual	298	1	3	302
Other organisation	20	0	1	21
Person born of a surrogacy arrangement	1	0	0	1
Social worker or social work organisation	8	0	0	8
Surrogate	9	0	0	9
Family member of a surrogate	4	0	0	4
Surrogacy organisation	4	0	0	4
Grand total	448	6	6	458

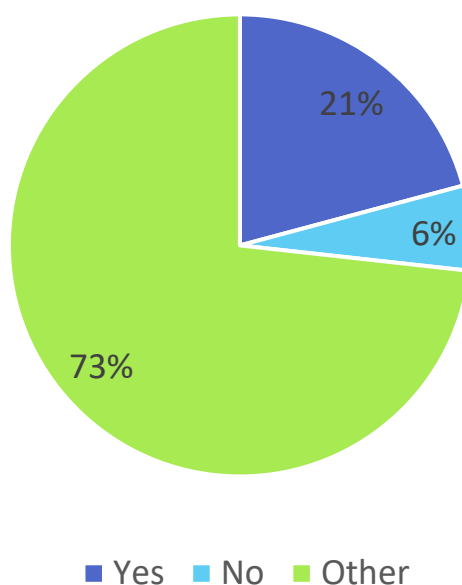
1.96 60 consultees provided comments with their answers.

Consultation Question 44

Consultation Question 44.

10.85 We provisionally propose that where children are born of surrogacy arrangements that result in the intended parents being recorded as parents on the birth certificate, the full form of that certificate should make clear that the birth was the result of a surrogacy arrangement.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	9	1	17	27
Intended parent	24	12	2	38
Family member of intended parent	1	1	2	4
Legal professional or organisation	10	5	7	22
Medical practitioner or organisation / counsellor or counselling organisation	6	2	11	19
Other individual	26	2	270	298
Other organisation	7	2	13	22

Person born of a surrogacy arrangement	0	0	1	1
Social worker or social work organisation	1	0	7	8
Surrogate	10	0	0	10
Family member of a surrogate	0	0	3	3
Surrogacy organisation	1	2	1	4
Grand total	95	27	334	456

1.97 396 consultees provided comments with their answers.

Consultation Question 45

Consultation Question 45.

10.87 We invite consultees' views as to whether the birth registration system in England and Wales requires reform and, if so, which reforms they would like to see.

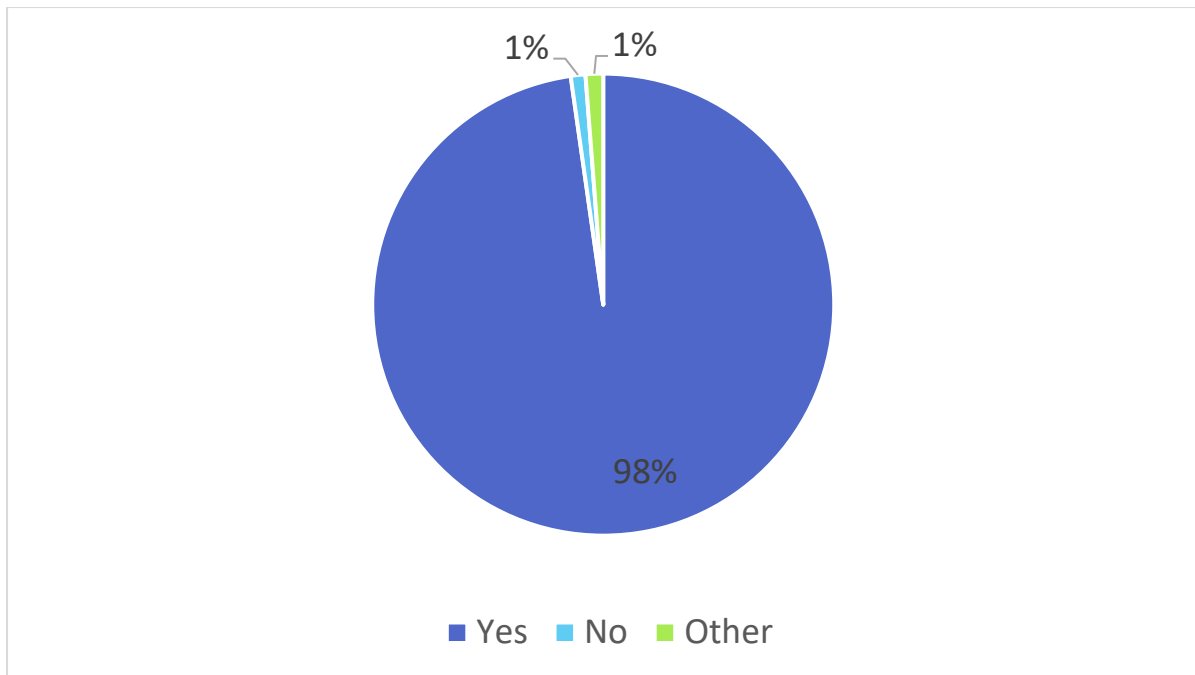
1.98 391 consultees responded to Consultation Question 45

Consultation Question 46

Consultation Question 46.

10.89 We provisionally propose that, in England and Wales, from the age of 18, a child who has been the subject of a parental order should be able to access all the documents contained in the court's file for those parental order proceedings.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	26	1	0	27
Intended parent	62	4	1	67
Family member of intended parent	3	0	0	3
Legal professional or organisation	18	0	2	20
Medical practitioner or organisation / counsellor or counselling organisation	20	0	1	21
Other individual	293	0	1	294
Other organisation	22	0	0	22
Person born of a surrogacy arrangement	1	0	0	1
Social worker or social work organisation	8	0	0	8
Surrogate	18	0	0	18
Family member of a surrogate	4	0	0	4
Surrogacy organisation	2	0	1	3
Grand total	477	5	6	488

1.99 62 consultees provided comments with their answers.

Consultation Question 47

Consultation Question 47.

10.102 We provisionally propose that a national register of surrogacy arrangements should be created to record the identity of the intended parents, the surrogate and the gamete donors.

Do consultees agree?

10.103 We provisionally propose that:

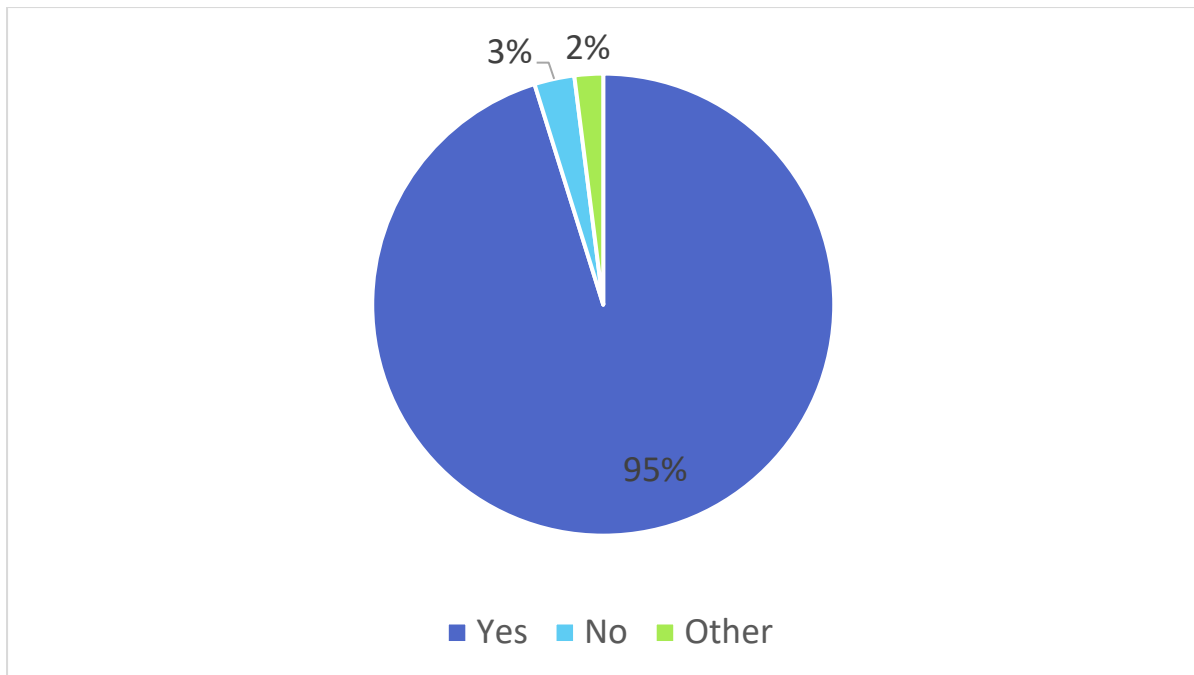
- (1) the register should be maintained by the Authority;
- (2) the register should record information for all surrogacy arrangements, whether in or outside the new pathway, provided that the information about who has contributed gametes for the conception of the child has been medically verified, and that the information should include:
 - (a) identifying information about all the parties to the surrogacy arrangement, and
 - (b) non-identifying information about those who have contributed gametes to the conception of the child; and
- (3) to facilitate the record of this information, the application form/petition for a parental order should record full information about a child's genetic heritage where available and established by DNA or medical evidence, recording the use of an anonymous gamete donor if that applies.

Do consultees agree?

1.100 Consultation Question 47 was divided into two parts – paras 10.102 and 10.103.

Part 1

1.101 In response to the first part (para 10.102), the statistics were as follows:

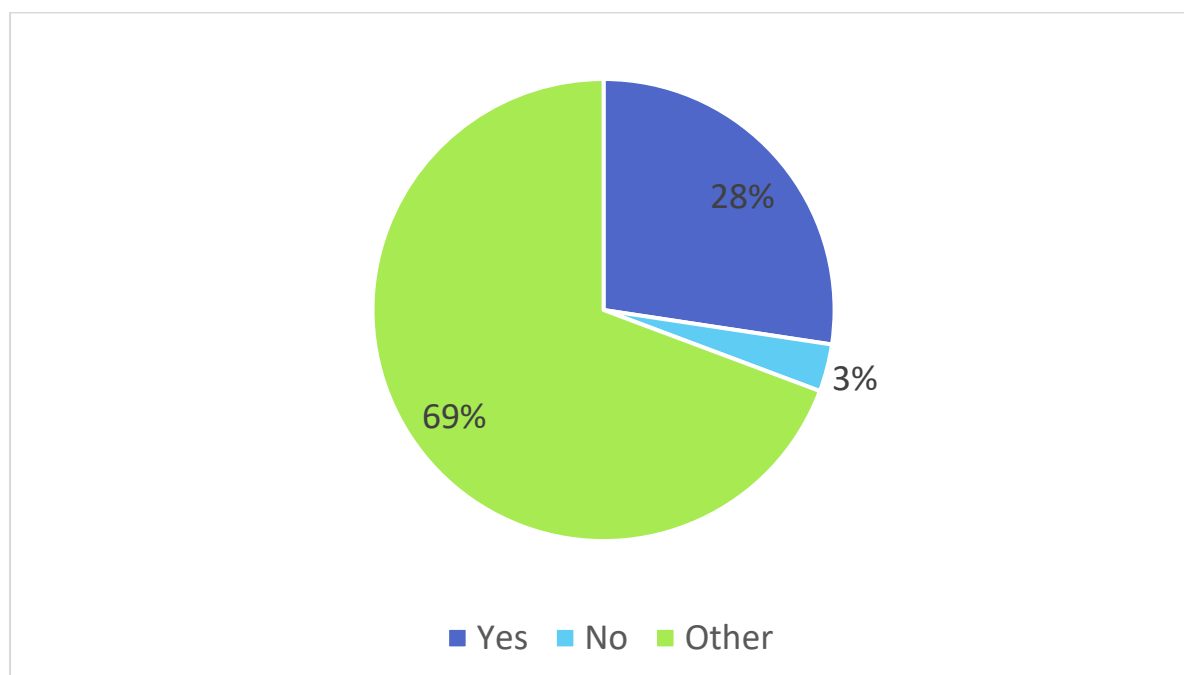


	Yes	No	Other	TOTAL
Academic	28	0	1	29
Intended parent	55	9	5	69
Family member of intended parent	2	1	0	3
Legal professional or organisation	22	0	1	23
Medical practitioner or organisation / counsellor or counselling organisation	23	0	0	23
Other individual	289	4	1	294
Other organisation	25	0	0	25
Person born of a surrogacy arrangement	1	0	0	1
Social worker or social work organisation	8	0	0	8
Surrogate	16	0	1	17
Family member of a surrogate	3	0	0	3
Surrogacy organisation	3	0	1	4
Grand total	475	14	10	499

1.102 81 consultees provided comments with their answers.

Part 2

1.103 In response to the second part (para 10.103), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	9	0	17	26
Intended parent	51	7	8	66
Family member of intended parent	0	1	2	3
Legal professional or organisation	13	0	9	22
Medical practitioner or organisation / counsellor or counselling organisation	9	2	12	23
Other individual	18	4	264	286
Other organisation	9	2	13	24
Person born of a surrogacy arrangement	1	0	0	1
Social worker or social work organisation	3	0	5	8
Surrogate	15	0	1	16
Family member of a surrogate	1	0	2	3
Surrogacy organisation	3	0	1	4

Grand total	132	16	334	482

1.104 394 consultees provided comments with their answers.

Consultation Question 48

Consultation Question 48.

10.104 We invite consultees' views as to whether non-identifying information about the surrogate and the intended parents should be recorded in the national register of surrogacy arrangements and available for disclosure to a child born of a surrogacy arrangement.

1.105 443 consultees responded to Consultation Question 48.

Consultation Question 49

Consultation Question 49.

10.110 We provisionally propose that a child born of a surrogacy arrangement should be able to access the information recorded in the register from the age of 18 for identifying information, and 16 for non-identifying information (if such information is included on the register), provided that he or she has been given a suitable opportunity to receive counselling about the implications of compliance with this request.

Do consultees agree?

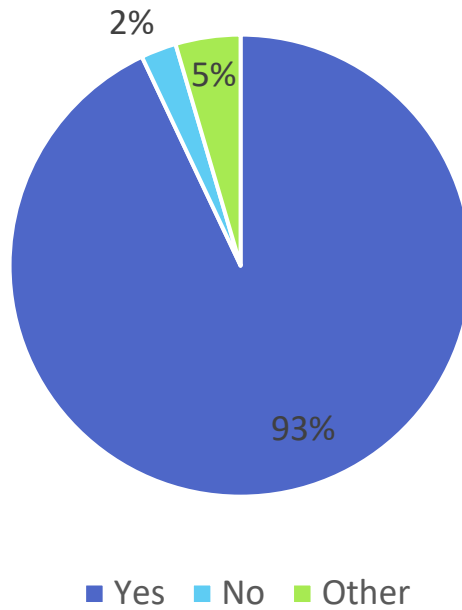
10.111 We invite consultees' views as to whether a child under the age of 18 or 16 (depending on whether the information is identifying or non-identifying respectively) should be able to access the information in the register and, if so, in which circumstances:

- (1) where his or her legal parents have consented;
- (2) if he or she has received counselling and the counsellor judges that he or she is sufficiently mature to receive this information; and/or
- (3) in any other circumstances.

1.106 Consultation Question 49 was divided into two parts – paras 10.110 and 10.111.

Part 1

1.107 In response to the first part (para 10.110), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	26	2	0	28
Intended parent	51	4	8	63
Family member of intended parent	2	0	0	2
Legal professional or organisation	17	1	3	21
Medical practitioner or organisation / counsellor or counselling organisation	19	1	2	22
Other individual	285	2	6	293
Other organisation	20	0	2	22
Person born of a surrogacy arrangement	0	1	0	1
Social worker or social work organisation	8	0	0	8
Surrogate	15	1	1	17
Family member of a surrogate	3	0	0	3
Surrogacy organisation	4	0	0	4
Grand total	450	12	22	484

1.108 91 consultees provided comments with their answers.

Part 2

1.109 In respect of the second part of the question (para 10.111), 429 consultees responded.

Consultation Question 50

Consultation Question 50.

10.114 We invite consultees' views as to whether there should be any provision for those born of a surrogacy arrangement to make a request for information to disclose whether a person whom he or she is intending to marry, or with whom he or she intends to enter into a civil partnership or intimate physical relationship, was carried by the same surrogate.

1.110 435 consultees responded to Consultation Question 50.

Consultation Question 51

Consultation Question 51.

10.121 We provisionally propose that where two people are born to, and genetically related through, the same surrogate, they should be able to access the register to identify each other, if they both wish to do so.

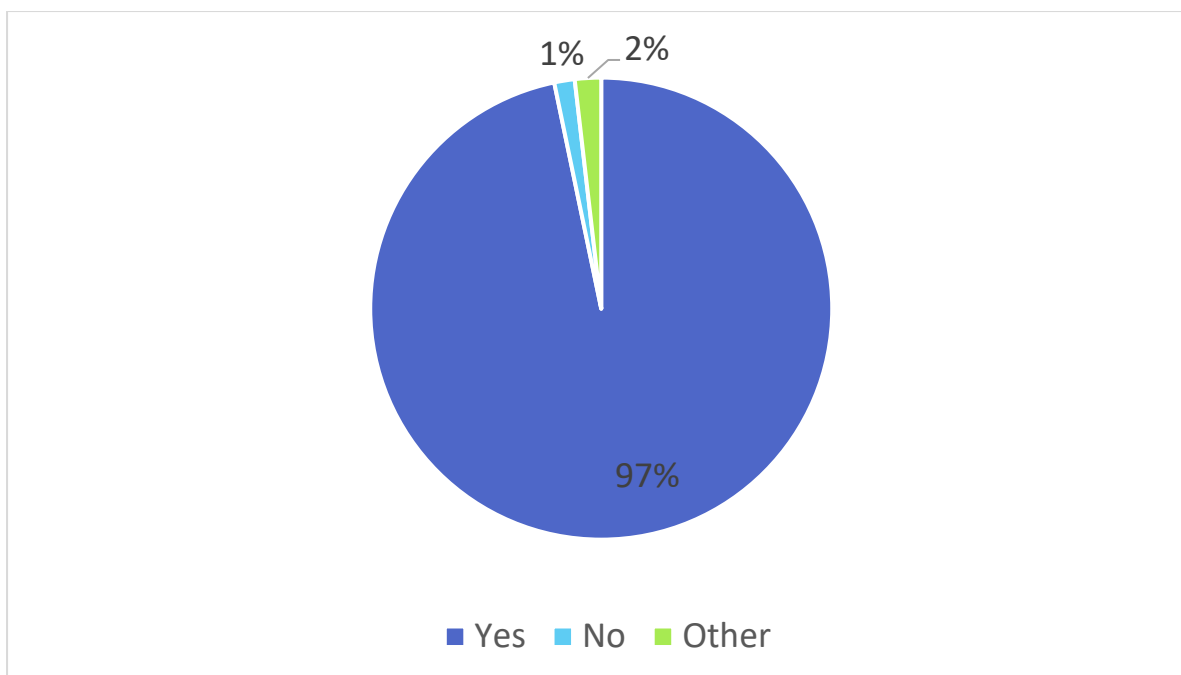
Do consultees agree?

10.122 We invite consultees' views as to whether there should be provision to allow people born to the same surrogate – but who are not genetically related – to access the register to identify each other, if they both wish to do so.

1.111 Consultation Question 51 was divided into two parts – paras 10.121 and 10.122.

Part 1

1.112 In response to the first part (para 10.121), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	29	1	0	30
Intended parent	56	4	4	64
Family member of intended parent	2	0	0	2
Legal professional or organisation	20	0	0	20
Medical practitioner or organisation / counsellor or counselling organisation	20	1	2	23
Other individual	292	0	2	294
Other organisation	23	1	0	24
Person born of a surrogacy arrangement	1	0	0	1
Social worker or social work organisation	8	0	0	8
Surrogate	16	0	1	17
Family member of a surrogate	3	0	0	3
Surrogacy organisation	4	0	0	4
Grand total	474	7	9	490

1.113 92 consultees provided comments with their answers.

Part 2

1.114 In respect of the second part of the question (para 10.122), 433 consultees responded.

Consultation Question 52

Consultation Question 52.

10.123 We invite consultees' views as to whether provision should be made to allow a person carried by a surrogate, and the surrogate's own child, to access the register to identify each other, if they both wish to do so:

- (1) if they are genetically related through the surrogate; and/or
- (2) if they are not genetically related through the surrogate.

1.115 Consultation Question 52 was divided into two parts – paras 10.123(1) and (2).

Part 1

1.116 In respect of the first part of the question (para 10.123(1), 455 consultees responded.

Part 2

1.117 In respect of the second part of the question (para 10.123(2), 439 consultees responded.

Consultation Question 53

Consultation Question 53.

10.128 For surrogacy arrangements outside the new pathway, we invite consultees' views as to whether details of an intended parent who is not a party to the application for a parental order should be recorded in the register.

1.118 415 consultees responded to Consultation Question 53.

Chapter 11

Consultation Question 54

Consultation Question 54.

11.20 We provisionally propose that the six month time limits in sections 54 and 54A of the HFEA 2008 for making a parental order application should be abolished.

Do consultees agree?

1.119 425 consultees responded to Consultation Question 54.

Consultation Question 55

Consultation Question 55.

11.58 We provisionally propose that:

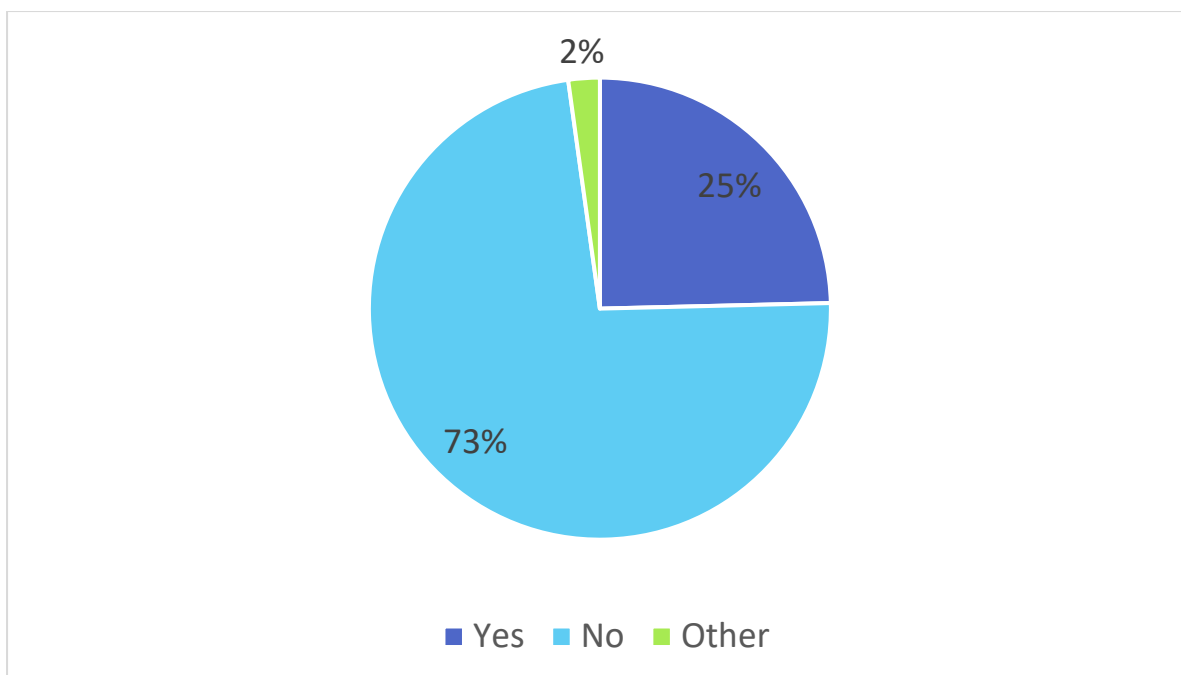
- (1) the current circumstances in which the consent of the surrogate (and any other legal parent) is not required, namely where a person cannot be found or is incapable of giving agreement, should continue to be available;
- (2) the court should have the power to dispense with the consent of the surrogate, and any other legal parent of the child, in the following circumstances:
 - (a) where the child is living with the intended parents, with the consent of the surrogate and any other legal parent, or
 - (b) following a determination by the court that the child should live with the intended parents; and
- (3) the court's power to dispense with consent should be subject to the paramount consideration of the child's welfare throughout his or her life guided by the factors set out in section 1 of the Adoption and Children Act 2002 and, in Scotland, in line with the section 14(3) of the Adoption and Children (Scotland) Act 2007.

Do consultees agree?

1.120 Consultation Question 55 was divided into two parts on Citizen Space, with a yes / no / other option for para 11.58(1), and another for paras 11.58(2) and (3) together.

Part 1

1.121 In response to the first part (para 11.58(1)), the statistics were as follows:

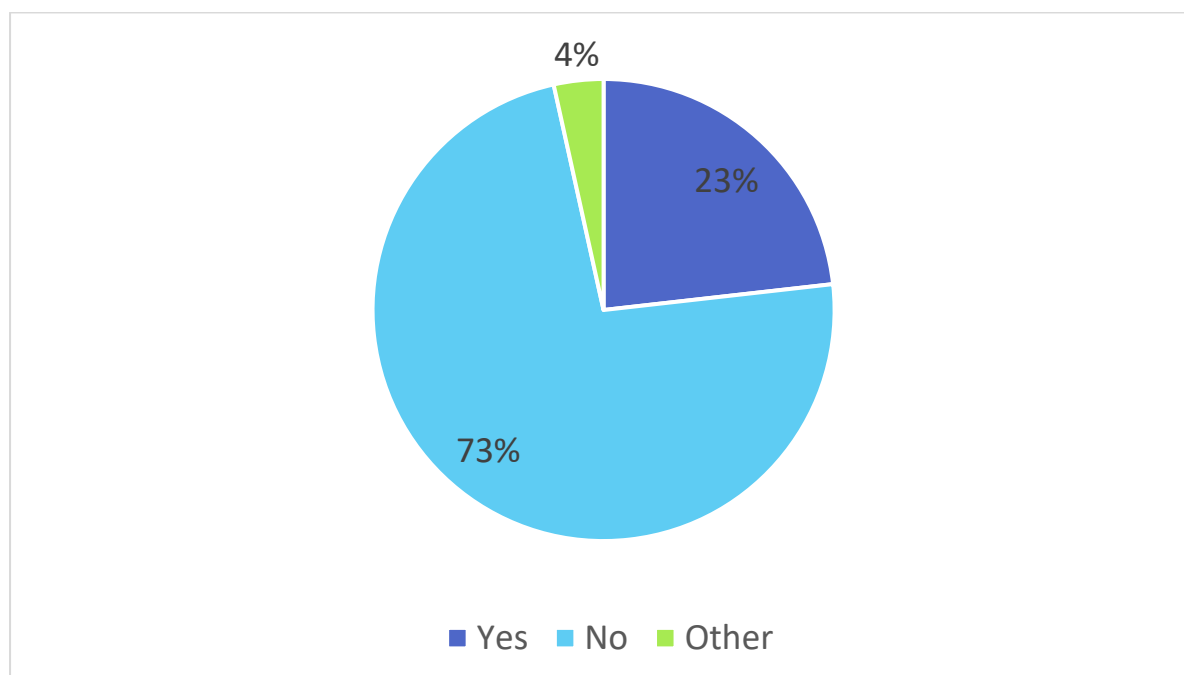


	Yes	No	Other	TOTAL
Academic	7	19	1	27
Intended parent	49	2	2	53
Family member of intended parent	0	2	0	2
Legal professional or organisation	17	6	0	23
Medical practitioner or organisation / counsellor or counselling organisation	4	13	1	18
Other individual	10	269	3	282
Other organisation	5	15	2	22
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	3	5	0	8
Surrogate	12	0	0	12
Family member of a surrogate	0	2	1	3
Surrogacy organisation	5	0	0	5
Grand total	112	333	10	455

1.122 365 consultees provided comments with their answers.

Part 2

1.123 In response to the second part (para 11.58(2) and (3)), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	7	20	1	28
Intended parent	52	1	1	54
Family member of intended parent	1	2	0	3
Legal professional or organisation	14	7	4	25
Medical practitioner or organisation / counsellor or counselling organisation	3	14	2	19
Other individual	8	269	6	283
Other organisation	3	17	1	21
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	2	6	0	8
Surrogate	12	0	0	12
Family member of a surrogate	0	2	1	3
Surrogacy organisation	5	0	0	5

Grand total	107	338	16	461

1.124 380 consultees provided comments with their answers.

Chapter 12

Consultation Question 56

Consultation Question 56.

12.15 We provisionally propose that, both for a parental order and in the new pathway, the intended parents or one of the intended parents must be domiciled or habitually resident in the UK, Channel Islands or Isle of Man.

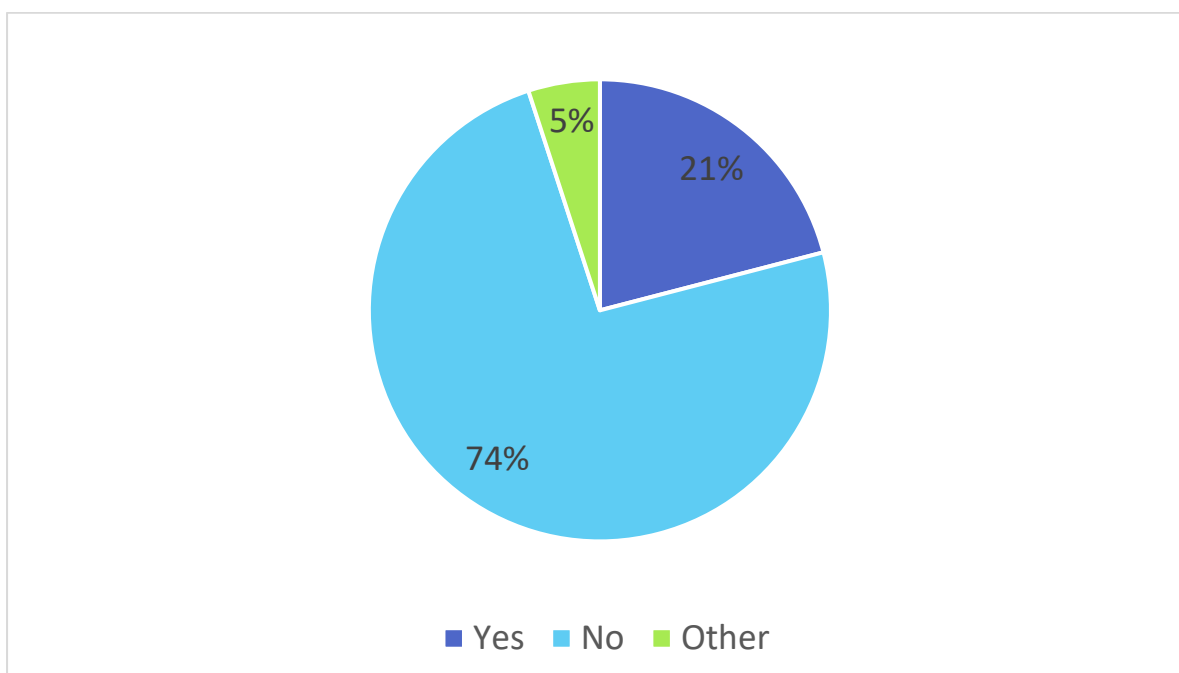
Do consultees agree?

12.16 We invite consultees' views as to whether there should be any additional conditions imposed on the test of habitual residence, for example, a qualifying period of habitual residence required to satisfy the test.

1.125 Consultation Question 56 was divided into two parts – paras 12.15 and 12.16.

Part 1

1.126 In response to the first part (para 12.15), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	5	20	1	26
Intended parent	38	5	1	44
Family member of intended parent	1	2	0	3
Legal professional or organisation	15	7	4	26
Medical practitioner or organisation / counsellor or counselling organisation	6	12	0	18
Other individual	9	259	14	282
Other organisation	4	13	2	19
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	2	5	0	7
Surrogate	7	0	0	7
Family member of a surrogate	1	2	0	3
Surrogacy organisation	4	0	0	4
Grand total	92	325	22	439

1.127 374 consultees provided comments with their answers.

Part 2

1.128 In respect of the second part of the question (para 12.16), 378 consultees responded.

Consultation Question 57

Consultation Question 57.

12.29 We invite consultees' views on whether:

- (1) the qualifying categories of relationship in section 54(2) of the HFEA 2008 should be reformed and, if so, how; or
- (2) the requirement should be removed, subject to two persons who are within the prohibited degrees of relationship being prevented from applying.

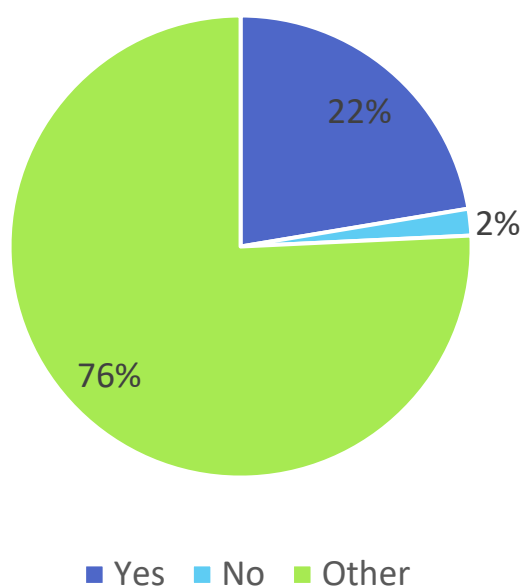
1.129 378 consultees responded to Consultation Question 57.

Consultation Question 58

Consultation Question 58.

12.34 We provisionally propose that to use the new pathway, intended parents should be required to make a declaration in the surrogacy agreement that they intend for the child's home to be with them.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	6	0	19	25
Intended parent	43	1	0	44
Family member of intended parent	1	0	2	3
Legal professional or organisation	16	0	8	24
Medical practitioner or organisation / counsellor or counselling organisation	5	0	13	18
Other individual	9	4	263	276
Other organisation	2	2	13	17
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	2	0	5	7

Surrogate	8	0	0	8
Family member of a surrogate	1	0	2	3
Surrogacy organisation	3	1	0	4
Grand total	96	8	325	429

1.130 353 consultees provided comments with their answers.

Consultation Question 59

Consultation Question 59.

12.64 We provisionally propose that the new pathway –

- (1) should not impose a requirement that the intended parent, or one of the intended parents, provide gametes for the conception of the child, so that double donation of gametes is permitted, but
- (2) that double donation should only be permitted in cases of medical necessity, meaning that there is not an intended parent who is able to provide a gamete due to infertility.

Do consultees agree?

12.65 We invite consultees' views as to whether double donation should be permitted under the parental order pathway (to the same extent that it may be permitted in the new pathway) in domestic surrogacy arrangements.

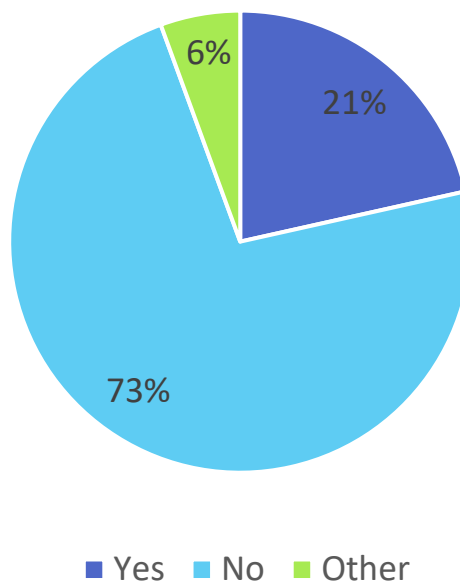
12.66 We provisionally propose that the requirement that the intended parent or one of the intended parents contribute gametes to the conception of the child in the parental order pathway should be retained in international surrogacy arrangements.

Do consultees agree?

1.131 Consultation Question 59 was divided into three parts – paras 12.64, 12.65 and 12.66.

Part 1

1.132 In response to the first part (para 12.64), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	3	21	4	28
Intended parent	52	4	4	60
Family member of intended parent	0	2	0	2
Legal professional or organisation	12	9	3	24
Medical practitioner or organisation / counsellor or counselling organisation	6	12	3	21
Other individual	6	265	8	279
Other organisation	4	19	0	23
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	0	5	2	7
Surrogate	13	0	1	14
Family member of a surrogate	1	2	0	3
Surrogacy organisation	3	0	1	4
Grand total	100	339	26	465

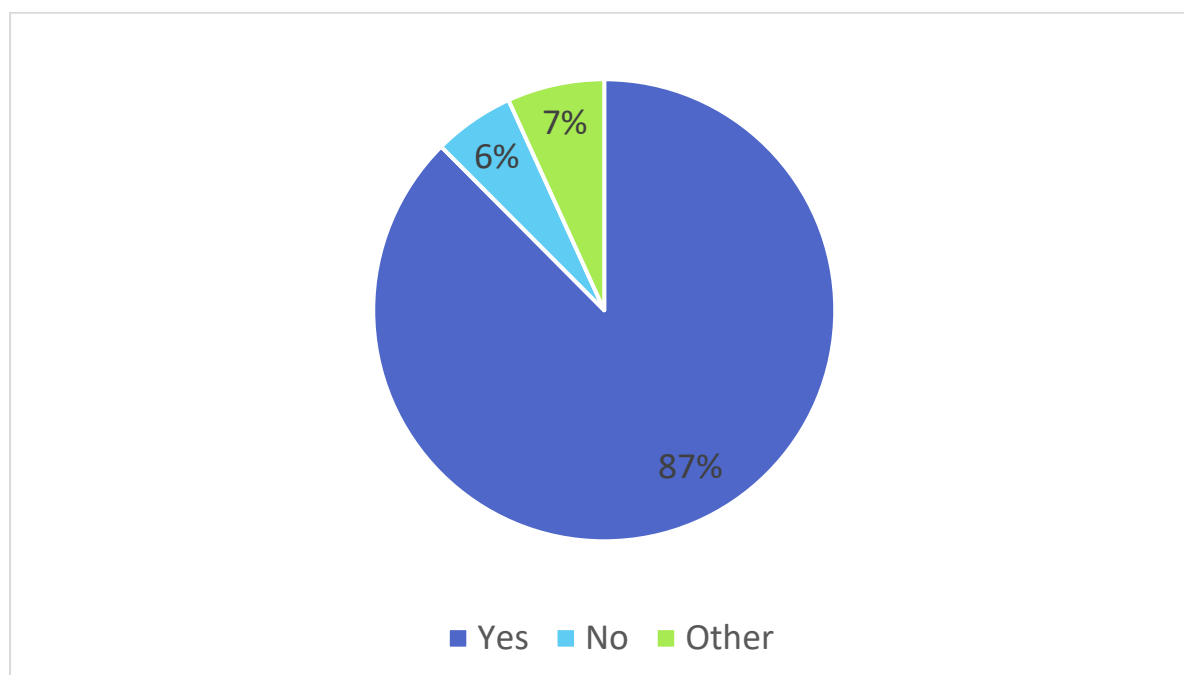
1.133 413 consultees provided comments with their answers.

Part 2

1.134 In respect of the second part of the question (para 12.65), 413 consultees responded

Part 3

1.135 In response to the third part (para 12.66), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	23	1	2	26
Intended parent	29	11	7	47
Family member of intended parent	3	0	0	3
Legal professional or organisation	15	5	3	23
Medical practitioner or organisation / counsellor or counselling organisation	15	0	3	18
Other individual	268	4	8	280
Other organisation	16	1	2	19
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	6	1	0	7
Surrogate	8	2	2	12

Family member of a surrogate	2	0	1	3
Surrogacy organisation	1	0	2	3
Grand total	386	25	30	441

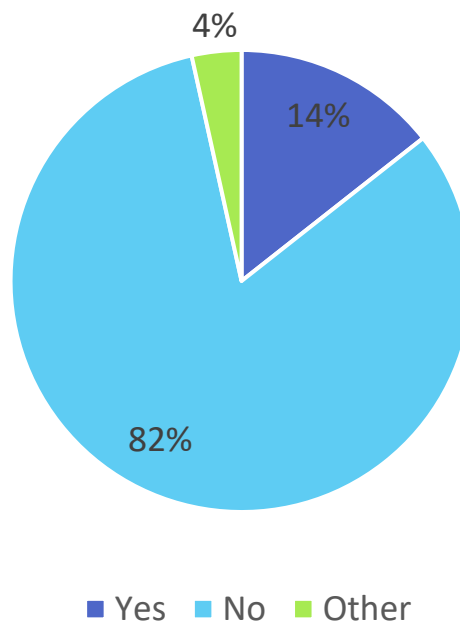
1.136 83 consultees provided comments with their answers.

Consultation Question 60

Consultation Question 60.

12.71 We provisionally propose that if the requirement for a genetic link is retained for domestic cases outside the new pathway, the requirement should not apply, subject to medical necessity, if the court determines that the intended parents in good faith began the surrogacy arrangement in the new pathway but were required to apply for a parental order.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	3	19	1	23
Intended parent	24	1	4	29

Family member of intended parent	1	2	0	3
Legal professional or organisation	12	7	2	21
Medical practitioner or organisation / counsellor or counselling organisation	3	12	1	16
Other individual	4	267	4	275
Other organisation	3	14	1	18
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	2	6	0	8
Surrogate	3	0	0	3
Family member of a surrogate	0	2	1	3
Surrogacy organisation	3	1	0	4
Grand total	58	331	14	403

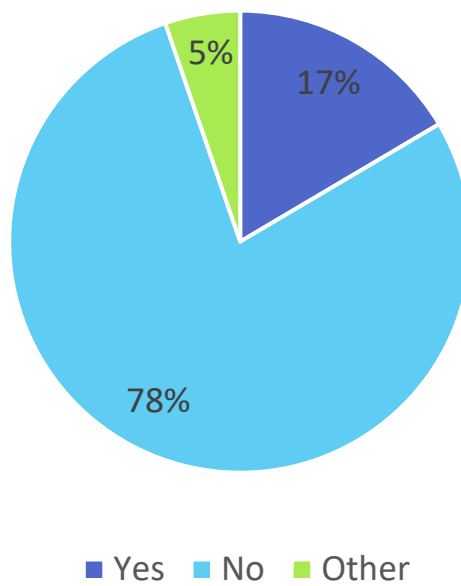
1.137 353 consultees provided comments with their answers.

Consultation Question 61

Consultation Question 61.

12.76 We provisionally propose that if double donation is permitted only in cases of medical necessity, an exception should be made to allow a parental order to be granted to a single parent without a genetic link where the intended parent's former partner provides gametes but the intended parents' relationship breaks down before the grant of a parental order.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	4	18	3	25
Intended parent	0	0	3	3
Family member of intended parent	28	2	0	30
Legal professional or organisation	14	6	2	22
Medical practitioner or organisation / counsellor or counselling organisation	5	13	2	20
Other individual	6	266	8	280
Other organisation	2	14	2	18
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	2	5	0	7
Surrogate	6	0	0	6
Family member of a surrogate	1	2	0	3
Surrogacy organisation	1	1	2	4
Grand total	69	327	22	418

1.138 364 consultees provided comments with their answers.

Consultation Question 62

Consultation Question 62.

12.94 We invite consultees' views as to whether there should be a requirement that a surrogacy arrangement has been used because of medical necessity:

- (1) for cases under the new pathway to parenthood; and/or
- (2) for cases where a post-birth parental order application is made.

12.95 We invite consultees' views as to how a test of medical necessity for surrogacy, if it is introduced, should be defined and assessed.

1.139 Consultation Question 62 was divided into two parts – paras 12.94 and 12.95.

Part 1

1.140 In respect of the first part of the question (para 12.94), 433 consultees responded.

Part 2

1.141 In respect of the second part of the question (para 12.95), 402 consultees responded

Consultation Question 63

Consultation Question 63.

12.115 We provisionally propose that in order to use the new pathway to parenthood, information identifying the child's genetic parents and the surrogate must be provided for entry on the national register of surrogacy agreements prior to registration of the child's birth.

Do consultees agree?

12.116 We invite consultees' views as to whether it should be a condition for an application for a parental order that:

- (1) those who contributed gametes are entered on the national register of surrogacy agreements; and/or
- (2) if it remains a requirement that one of the intended parents provided gametes in the conception of the child, that the genetic link is demonstrated to the court with medical or DNA evidence.

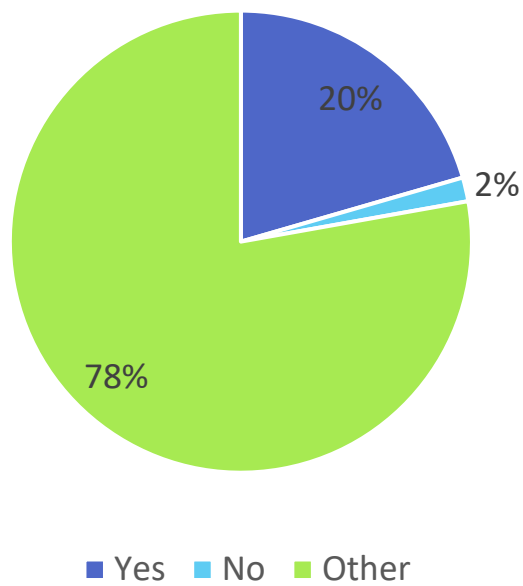
12.117 We provisionally propose that it should be a condition for the application of a parental order that the identity of the surrogate is entered on the national register of surrogacy agreements.

Do consultees agree?

1.142 Consultation Question 63 was divided into three parts – paras 12.115, 12.116 and 12.117.

Part 1

1.143 In response to the first part (para 12.115), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	9	0	18	27
Intended parent	29	5	2	36
Family member of intended parent	0	0	2	2
Legal professional or organisation	13	1	7	21
Medical practitioner or organisation / counsellor or counselling organisation	6	0	13	19
Other individual	11	1	262	274
Other organisation	5	0	14	19
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	3	0	5	8
Surrogate	6	0	0	6
Family member of a surrogate	1	0	2	3
Surrogacy organisation	3	0	1	4
Grand total	86	7	326	419

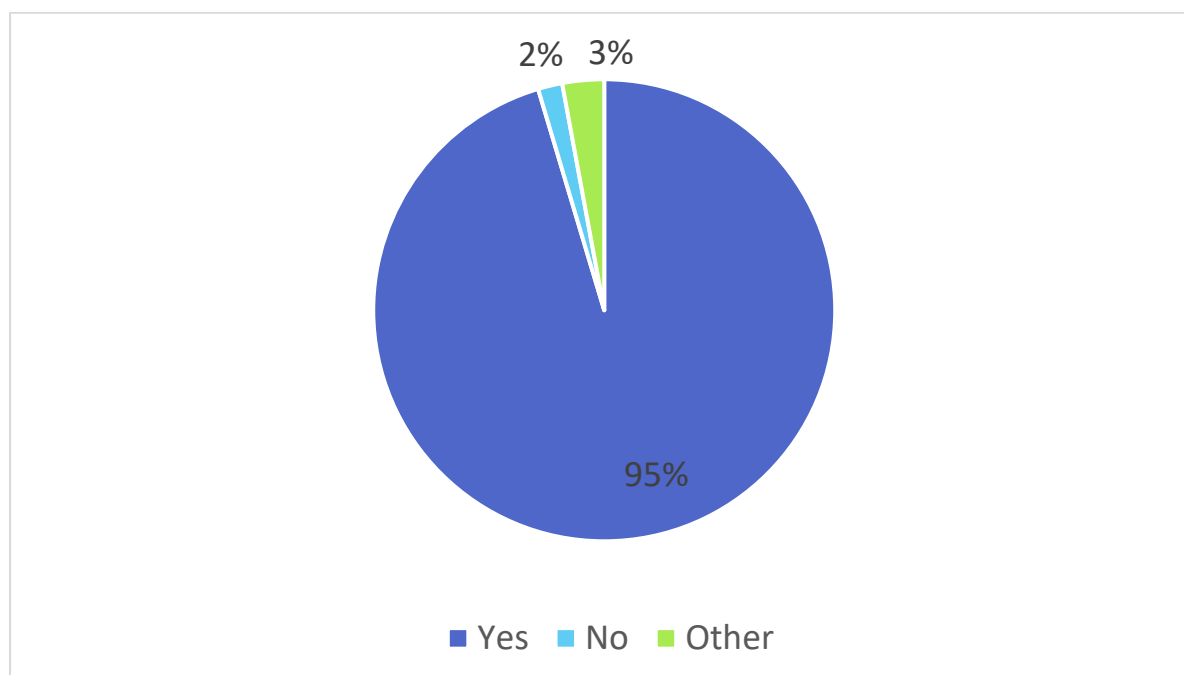
1.144 350 consultees provided comments with their answers.

Part 2

1.145 In respect of the second part of the question (para 12.116), 375 consultees responded

Part 3

1.146 In response to the third part (para 12.117), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	25	0	1	26
Intended parent	29	5	1	35
Family member of intended parent	2	0	0	2
Legal professional or organisation	16	1	1	18
Medical practitioner or organisation / counsellor or counselling organisation	17	1	0	18
Other individual	267	0	6	273
Other organisation	18	0	0	18
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	8	0	0	8
Surrogate	5	0	1	6

Family member of a surrogate	3	0	0	3
Surrogacy organisation	2	0	2	4
Grand total	392	7	12	411

1.147 341 consultees provided comments with their answers.

Consultation Question 64

Consultation Question 64.

12.133 We provisionally propose that there should be no maximum age limit for the grant of a parental order. The age of the intended parents should continue to be taken into account in the assessment of the welfare of the child in applications to grant a parental order.

Do consultees agree?

12.134 We invite consultees' views as to whether under the new pathway there should be a maximum age limit for intended parents, and if so, what it should be.

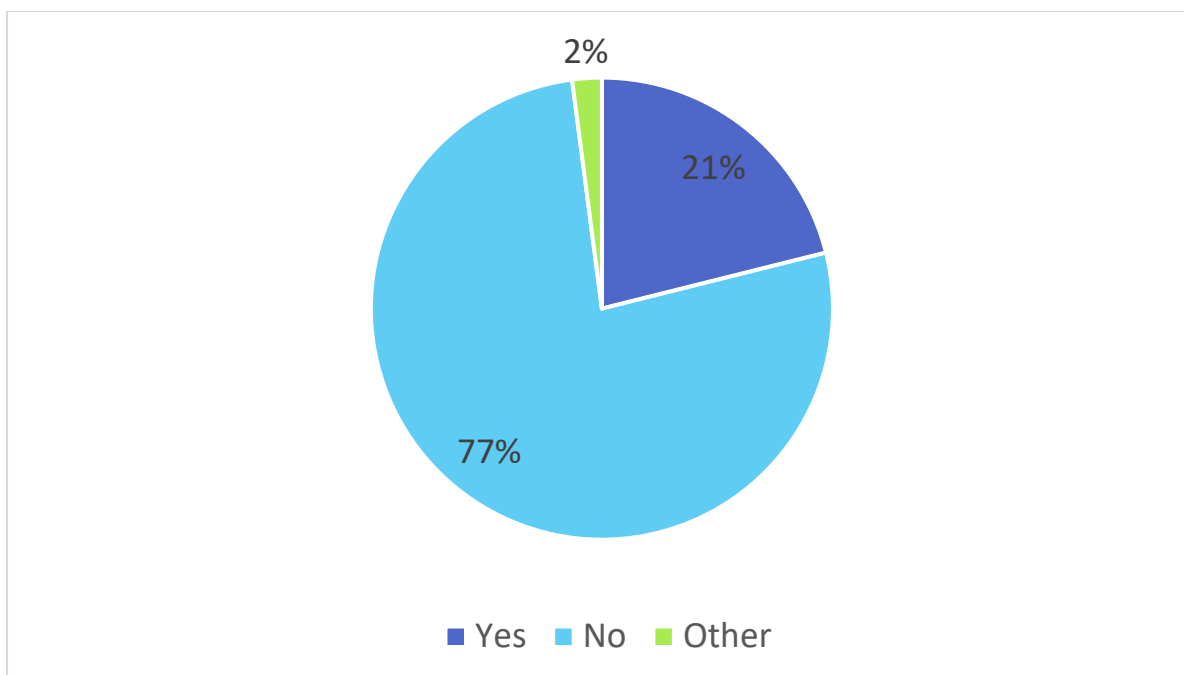
12.135 We provisionally propose that intended parents should be required to be at least 18 years old at the time that they enter into a surrogacy agreement under the new pathway.

Do consultees agree?

1.148 Consultation Question 64 was divided into three parts – paras 12.133, 12.134 and 12.135.

Part 1

1.149 In response to the first part (para 12.133), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	6	19	1	26
Intended parent	37	2	0	39
Family member of intended parent	1	2	0	3
Legal professional or organisation	16	7	1	24
Medical practitioner or organisation / counsellor or counselling organisation	6	14	0	20
Other individual	10	267	6	283
Other organisation	3	15	1	19
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	1	7	0	8
Surrogate	7	0	0	7
Family member of a surrogate	1	2	0	3
Surrogacy organisation	4	0	0	4
Grand total	92	335	9	436

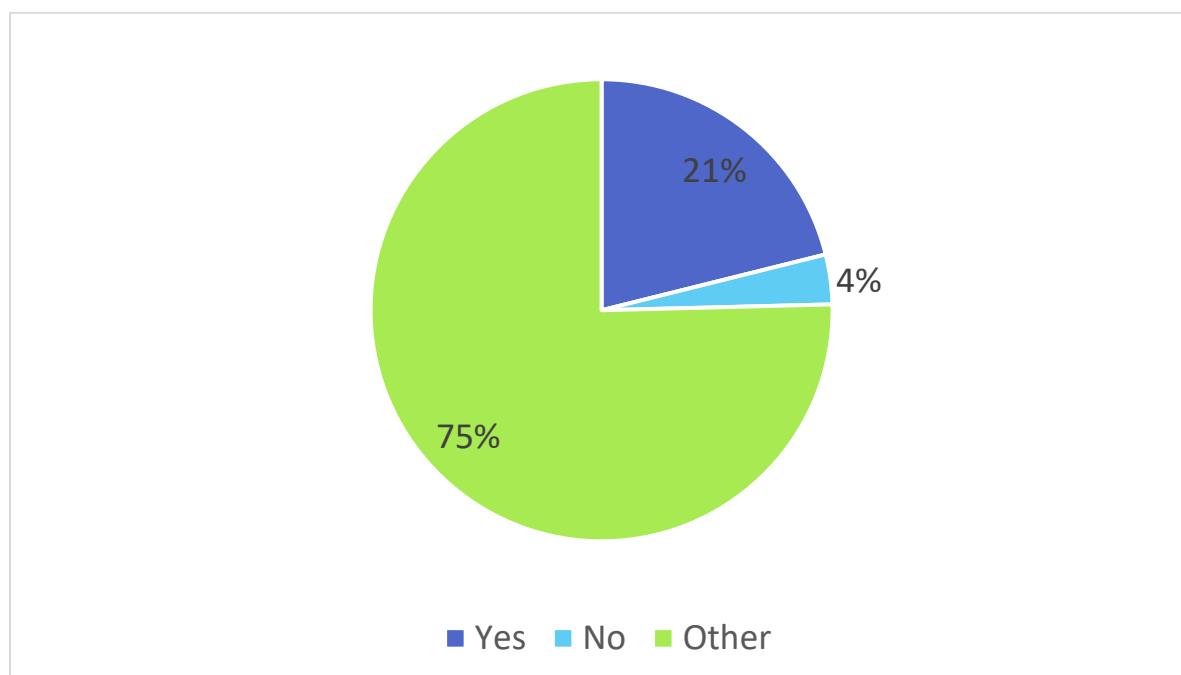
1.150 364 consultees provided comments with their answers.

Part 2

1.151 In respect of the second part of the question (para 12.134), 394 consultees responded

Part 3

1.152 In response to the third part (para 12.135), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	7	0	19	26
Intended parent	39	1	2	42
Family member of intended parent	1	0	2	3
Legal professional or organisation	14	1	7	22
Medical practitioner or organisation / counsellor or counselling organisation	6	4	11	21
Other individual	9	8	260	277
Other organisation	4	0	14	18
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	1	0	7	8
Surrogate	6	0	1	7

Family member of a surrogate	1	0	2	3
Surrogacy organisation	3	1	0	4
Grand total	91	15	325	431

1.153 356 consultees provided comments with their answers.

Consultation Question 65

Consultation Question 65.

12.144 We provisionally propose that surrogates should be required to be at least 18 years of age (at the time of conception), in order for the court to have the power to make a parental order.

Do consultees agree?

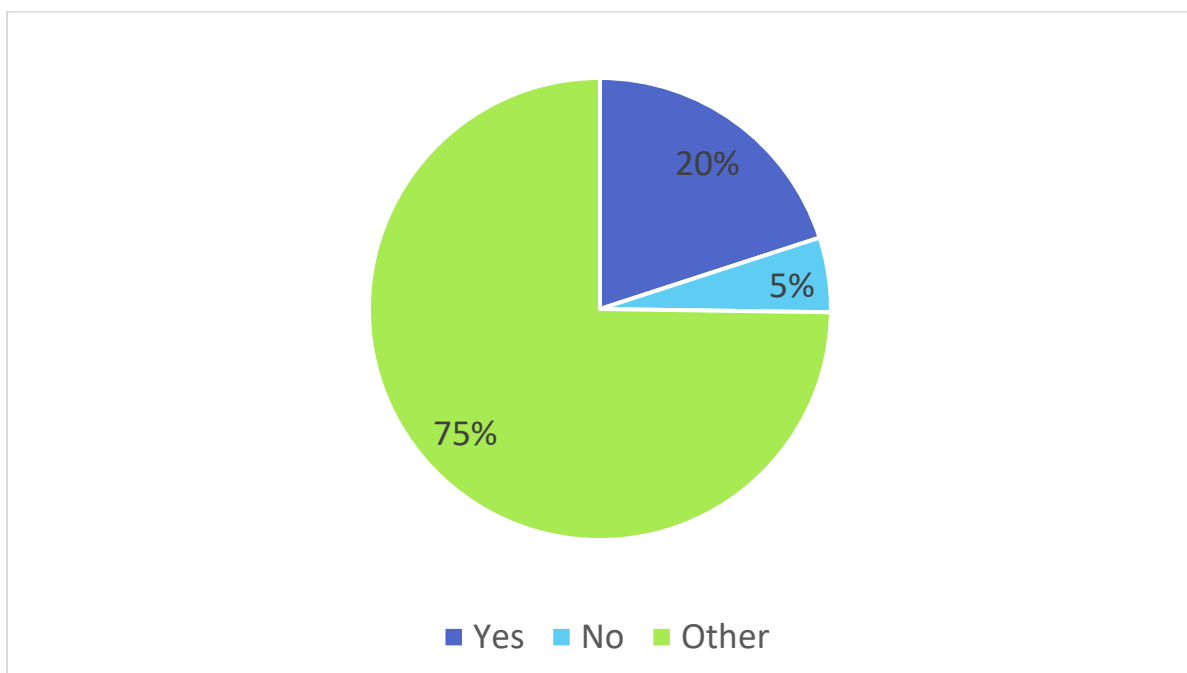
12.145 We provisionally propose that surrogates should be required to be at least 18 years old at the time of entering into the surrogacy agreement within the new pathway.

Do consultees agree?

1.154 Consultation Question 65 was divided into two parts – paras 12.144 and 12.145.

Part 1

1.155 In response to the first part (para 12.144), the statistics were as follows:

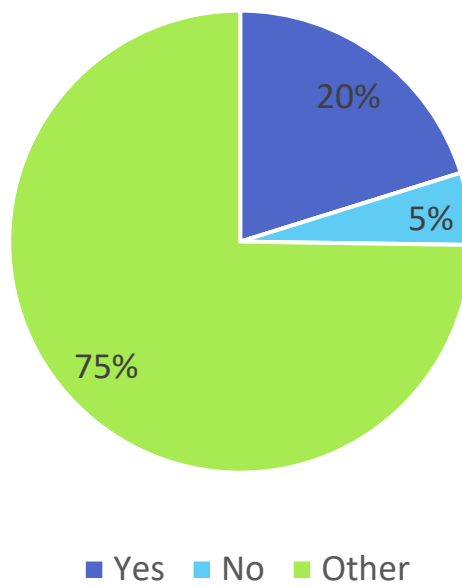


	Yes	No	Other	TOTAL
Academic	6	2	19	27
Intended parent	39	2	1	42
Family member of intended parent	1	0	2	3
Legal professional or organisation	14	0	8	22
Medical practitioner or organisation / counsellor or counselling organisation	7	4	10	21
Other individual	8	11	266	285
Other organisation	3	1	13	17
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	1	0	7	8
Surrogate	6	1	0	7
Family member of a surrogate	1	0	3	4
Surrogacy organisation	2	2	0	4
Grand total	88	23	329	440

1.156 372 consultees provided comments with their answers.

Part 2

1.157 In response to the second part (para 12.145), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	7	2	18	27
Intended parent	36	2	3	41
Family member of intended parent	1	0	2	3
Legal professional or organisation	14	1	7	22
Medical practitioner or organisation / counsellor or counselling organisation	7	3	12	22
Other individual	9	11	263	283
Other organisation	3	1	13	17
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	1	0	6	7
Surrogate	6	1	0	7
Family member of a surrogate	1	0	2	3
Surrogacy organisation	3	1	0	4
Grand total	88	22	326	436

1.158 376 consultees provided comments with their answers.

Chapter 13

Consultation Question 66

Consultation Question 66.

13.16 We provisionally propose that medical testing of the surrogate, any partner of the surrogate, and any intended parent providing gametes should be required for the new pathway.

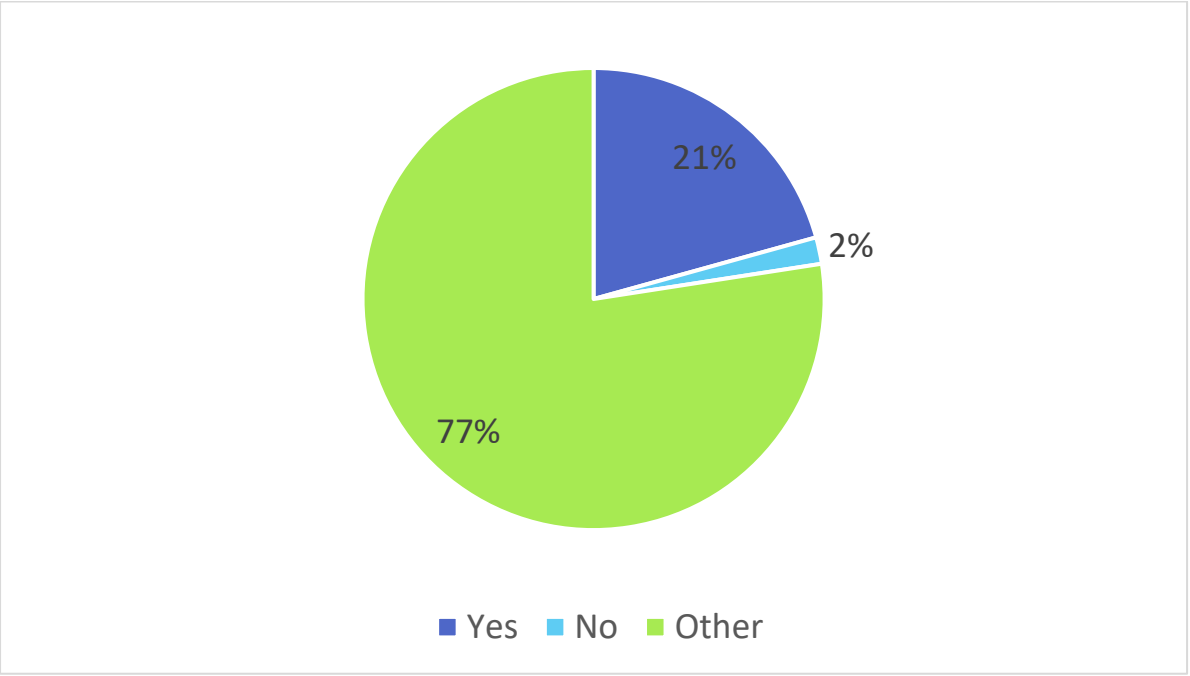
Do consultees agree?

13.17 We invite consultees' views as to whether the types of testing set out in the Code of Practice are feasible for traditional surrogacy arrangements outside a licensed clinic, and if not, which types of testing should be required for such arrangements.

1.159 Consultation Question 66 was divided into two parts – paras 13.16 and 13.17.

Part 1

1.160 In response to the first part (para 13.16), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	4	1	20	25
Intended parent	34	3	0	37

Family member of intended parent	1	0	2	3
Legal professional or organisation	13	0	7	20
Medical practitioner or organisation / counsellor or counselling organisation	8	0	11	19
Other individual	11	3	270	284
Other organisation	4	1	14	19
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	3	0	5	8
Surrogate	6	0	1	7
Family member of a surrogate	1	0	3	4
Surrogacy organisation	4	0	0	4
Grand total	89	8	333	430

1.161 361 consultees provided comments with their answers.

Part 2

1.162 In respect of the second part of the question (para 13.17), 45 consultees responded

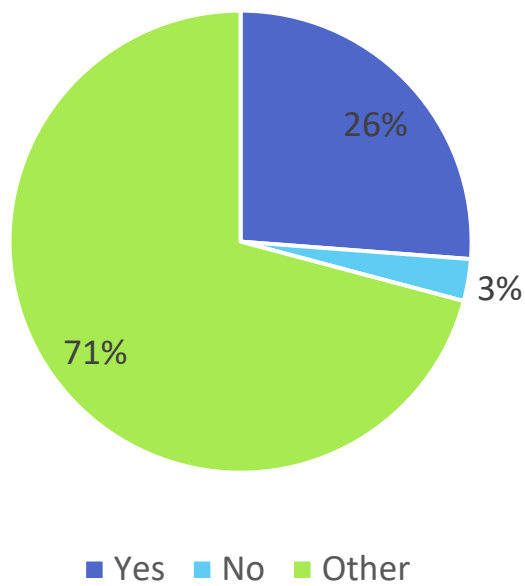
Consultation Question 67

Consultation Question 67.

13.44 We provisionally propose that, as a condition of being eligible for entry into the new pathway:

- (1) the surrogate, her spouse, civil partner or partner (if any) and the intended parents intending to enter into a surrogacy arrangement in the new pathway should be required to attend counselling with regard to the implications of entering into that arrangement; and
- (2) the implications counselling should be provided by a counsellor who meets the requirements set out in the Code of Practice at paragraphs 2.14 to 2.15.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	8	2	19	29
Intended parent	50	8	4	62
Family member of intended parent	1	0	2	3
Legal professional or organisation	15	0	6	21
Medical practitioner or organisation / counsellor or counselling organisation	9	0	12	21
Other individual	14	2	268	284
Other organisation	7	1	17	25
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	3	0	5	8
Surrogate	13	1	2	16
Family member of a surrogate	1	0	3	4
Surrogacy organisation	4	0	0	4
Grand total	125	14	338	477

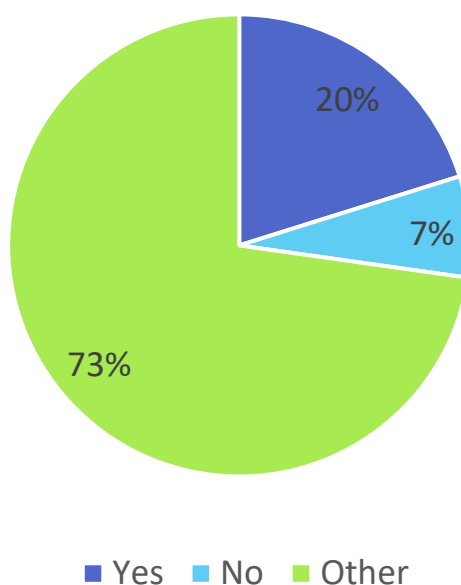
1.163 397 consultees provided comments with their answers.

Consultation Question 68

Consultation Question 68.

13.65 We provisionally propose that, for the new pathway, there should be a requirement that the surrogate and the intended parents should take independent legal advice on the effect of the law and of entering into the agreement before the agreement is signed.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	8	1	21	30
Intended parent	34	20	11	65
Family member of intended parent	1	0	2	3
Legal professional or organisation	19	0	6	25
Medical practitioner or organisation / counsellor or counselling organisation	9	1	11	21
Other individual	14	2	267	283
Other organisation	7	0	15	22

Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	1	0	7	8
Surrogate	3	7	6	16
Family member of a surrogate	0	0	4	4
Surrogacy organisation	1	3	0	4
Grand total	97	34	350	481

1.164 419 consultees provided comments with their answers.

Consultation Question 69

Consultation Question 69.

13.73 We provisionally propose that, as an eligibility requirement of the new pathway:

- (1) an enhanced criminal record certificate should be obtained for intended parents, surrogates and any spouses, civil partners or partners of surrogates;
- (2) the body overseeing the surrogate arrangement should not enable a surrogate arrangement to be proceed under the new pathway where a person screened is unsuitable for having being convicted of, or received a police caution for, any offence appearing on a prescribed list of offences; and
- (3) the body overseeing the surrogacy arrangement may also determine that a person is unsuitable based on the information provided in the enhanced record certificate.

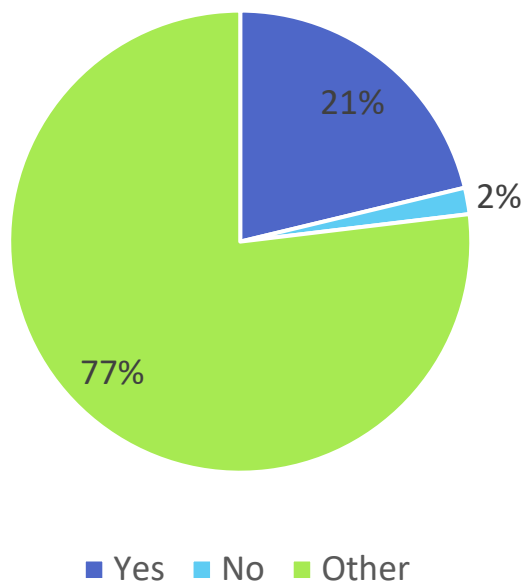
Do consultees agree?

13.74 We invite consultees' views as to whether the list of offences that applies in the case of adoption is appropriate in the case of surrogacy arrangements in the new pathway.

1.165 Consultation Question 69 was divided into two parts – paras 13.73 and 13.74.

Part 1

1.166 In response to the first part (para 13.73), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	10	1	18	29
Intended parent	33	2	1	36
Family member of intended parent	1	0	2	3
Legal professional or organisation	13	0	8	21
Medical practitioner or organisation / counsellor or counselling organisation	5	0	15	20
Other individual	13	2	268	283
Other organisation	5	1	13	19
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	3	0	5	8
Surrogate	6	1	0	7
Family member of a surrogate	1	0	2	3
Surrogacy organisation	2	1	1	4
Grand total	92	8	333	433

1.167 360 consultees provided comments with their answers.

Part 2

1.168 In respect of the second part of the question (para 13.74), 354 consultees responded.

Consultation Question 70

Consultation Question 70.

13.95 We invite consultees' views as to whether there should be a requirement that the surrogate has previously given birth as an eligibility requirement of the new pathway.

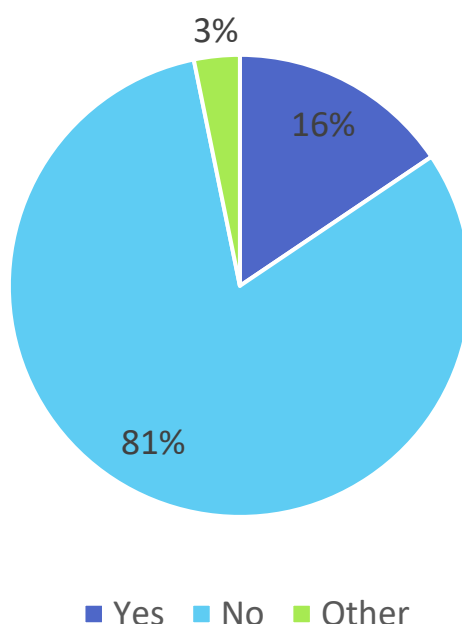
1.169 463 consultees responded to Consultation Question 70.

Consultation Question 71

Consultation Question 71.

13.99 We provisionally propose that there should not be a maximum number of surrogate pregnancies that a woman can undertake as an eligibility requirement of the new pathway.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	4	23	1	28
Intended parent	32	4	0	36
Family member of intended parent	1	2	0	3
Legal professional or organisation	10	8	1	19
Medical practitioner or organisation / counsellor or counselling organisation	2	15	0	17
Other individual	4	278	9	291
Other organisation	4	14	3	21
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	0	8	0	8
Surrogate	7	0	0	7
Family member of a surrogate	1	2	0	3
Surrogacy organisation	3	1	0	4
Grand total	68	355	14	437

1.170 391 consultees provided comments with their answers.

Chapter 14

1.171 There were no consultation questions in chapter 14.

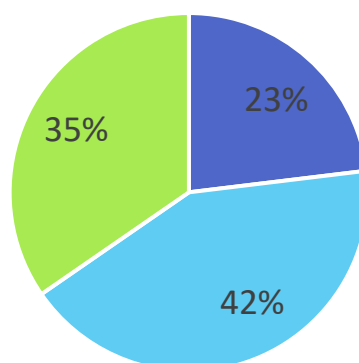
Chapter 15

Consultation Question 72

Consultation Question 72.

15.16 We invite consultees' views as to whether payment of costs by the intended parents to the surrogate should be able to be:

- (1) based on an allowance;
- (2) based on costs actually incurred by the surrogate, but without the need for production of receipts; or
- (3) based on costs actually incurred by the surrogate, and only on production of receipts.



- Based on an allowance
- Based on costs incurred, without the need to produce receipts
- Based on costs incurred, only on production of receipts

	Allowance	Costs without receipts	Costs with receipts	TOTAL
Academic	2	2	6	10
Intended parent	15	33	20	68
Family member of intended parent	1	0	0	1
Legal professional or organisation	6	5	1	12

Medical practitioner or organisation / counsellor or counselling organisation	2	3	2	7
Other individual	4	7	21	32
Other organisation	1	1	1	3
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	0	2	1	3
Surrogate	4	11	1	16
Family member of a surrogate	0	0	1	1
Surrogacy organisation	1	2	0	3
Grand total	36	66	54	156

1.172 458 consultees provided comments.

Consultation Question 73

Consultation Question 73.

15.22 We invite consultees' views as to:

- (1) whether intended parents should be able to pay the surrogate essential costs relating to the pregnancy; and
- (2) the types of expenditure which should be considered "essential".

1.173 470 consultees responded to Consultation Question 73.

Consultation Question 74

Consultation Question 74.

15.26 We invite consultees' views as to:

- (1) whether they consider that intended parents should be able to pay the surrogate additional costs relating to the pregnancy; and
- (2) the types of expenditure which should be considered additional, rather than essential.

1.174 455 consultees responded to Consultation Question 74.

Consultation Question 75

Consultation Question 75.

15.29 We invite consultees' views as to:

- (1) whether intended parents should be permitted to pay all costs that arise from entering into a surrogacy arrangement, and those unique to a surrogate pregnancy; and
- (2) the types of cost which should be included within this category.

1.175 452 consultees responded to Consultation Question 75.

Consultation Question 76

Consultation Question 76.

15.37 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate her actual lost earnings (whether the surrogate is employed or self-employed).

1.176 471 consultees responded to Consultation Question 76.

Consultation Question 77

Consultation Question 77.

15.38 We invite consultees' views as to whether they consider that intended parents should be able to pay their surrogate either or both of the following lost potential earnings:

- (1) her lost employment-related potential earnings (as defined in paragraph 15.35 above); and/or
- (2) other lost potential earnings (as defined in paragraph 15.36 above).

1.177 441 consultees responded to Consultation Question 77.

Consultation Question 78

Consultation Question 78.

15.47 We invite consultees to share their experiences:

- (1) of the impact that payments received by a surrogate from the intended parents has had on the surrogate's entitlement to means-tested social welfare benefits; and
- (2) where a surrogacy arrangement has had an impact on the surrogate's entitlement to means-tested social welfare benefits, how that has been addressed in their surrogacy arrangement.

1.178 94 consultees responded to Consultation Question 78.

Consultation Question 79

Consultation Question 79.

15.53 We invite consultees' views as to whether intended parents should be able to pay compensation to the surrogate for the following:

- (1) pain and inconvenience arising from the pregnancy and childbirth;
- (2) medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and/or
- (3) specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

15.54 We invite consultees' views as to whether there are any other matters in respect of which intended parents should be able to pay the surrogate compensation.

15.55 We invite consultees' views as to whether the level of compensation payable should be:

- (1) a fixed fee set by the regulator (operating as a cap on the maximum payable), or
- (2) left to the parties to negotiate.

1.179 Consultation Question 79 was divided into three parts – paras 15.53, 15.54 and 15.55

Part 1

1.180 In respect of the first part of the question (para 15.53), the number of consultees indicating that intended parents should be able to pay compensation to the surrogate were as follows –

- (1) 61 consultees indicated that intended parents should be able to pay compensation to the surrogate for pain and inconvenience arising from the pregnancy and childbirth;
- (2) 71 consultees indicated that intended parents should be able to pay compensation to the surrogate for medical treatments relating to the surrogacy, including payments for each insemination or embryo transfer; and
- (3) 70 consultees indicated that intended parents should be able to pay compensation to the surrogate for specified complications, including hyperemesis gravidarum, pre-eclampsia, an ectopic pregnancy, miscarriage, termination, caesarean birth, excessive haemorrhaging, perineal tearing, removal of fallopian tubes or ovaries or a hysterectomy.

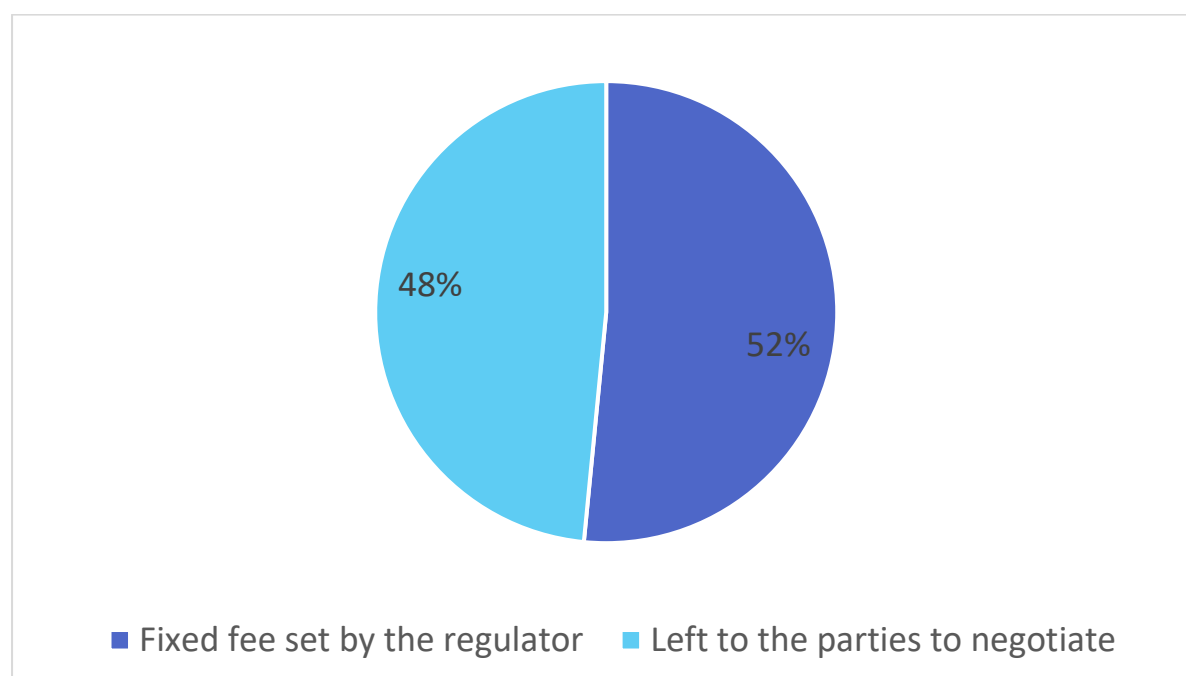
1.181 462 consultees provided comments in relation to this part of the question.

Part 2

1.182 In respect of the second part of the question (para 15.54), 394 consultees responded.

Part 3

1.183 In respect of the third part of the question (para 15.55), the statistics were as follows:



	Fixed fee set by regulator	Left to the parties to negotiate	TOTAL
Academic	3	1	4
Intended parent	16	28	44
Family member of intended parent	1	0	1
Legal professional or organisation	10	4	14
Medical practitioner or organisation / counsellor or counselling organisation	1	3	4
Other individual	11	1	12
Other organisation	3	0	3
Person born of a surrogacy arrangement	0	0	0
Social worker or social work organisation	1	0	1
Surrogate	3	8	11

Family member of a surrogate	0	1	1
Surrogacy organisation	1	1	2
Grand total	50	47	97

1.184 409 consultees provided comments in relation to this part of the question.

Consultation Question 80

Consultation Question 80.

15.56 We invite consultees views' as to whether intended parents should be able to pay compensation to the surrogate's family in the event of the pregnancy resulting in the surrogate's death, including through payment of the cost of life assurance for the surrogate.

1.185 468 consultees responded to Consultation Question 80.

Consultation Question 81

Consultation Question 81.

15.60 We invite consultees' views as to whether:

- (1) intended parents should be able to buy gifts for the surrogate; and
- (2) if so, specific provision should be made for these gifts to be modest or reasonable in nature.

1.186 465 consultees responded to Consultation Question 81.

Consultation Question 82

Consultation Question 82.

15.69 We invite consultees' views as to whether it should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

15.70 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman for the service of undertaking surrogacy, whether that the fee should be:

- (1) any sum agreed between the parties to the surrogacy; or
- (2) a fixed fee set by the regulator.

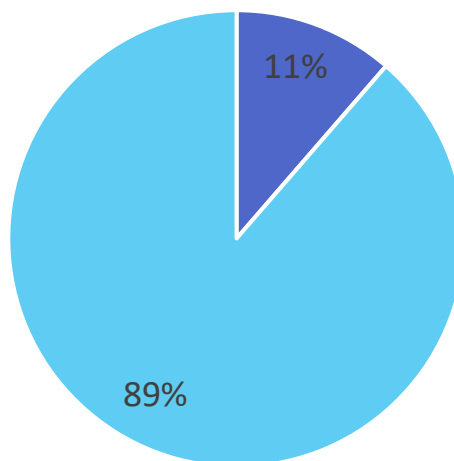
15.71 We invite consultees' views as to whether, if provision is made for intended parents to pay a woman a fixed fee for the service of undertaking surrogacy, what, if any, other payments the law should permit, in addition to that fixed fee:

- (1) no other payments;
- (2) essential costs relating to the pregnancy;
- (3) additional costs relating to the pregnancy;
- (4) lost earnings;
- (5) compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and/or
- (6) gifts.

1.187 Consultation Question 82 was divided into three parts – paras 15.69, 15.70 and 15.71

Part 1

1.188 In respect of the first part of the question (para 15.69), the statistics were as follows:



- It should be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.
- It should not be possible for the intended parents to agree to pay a woman for the service of undertaking a surrogacy.

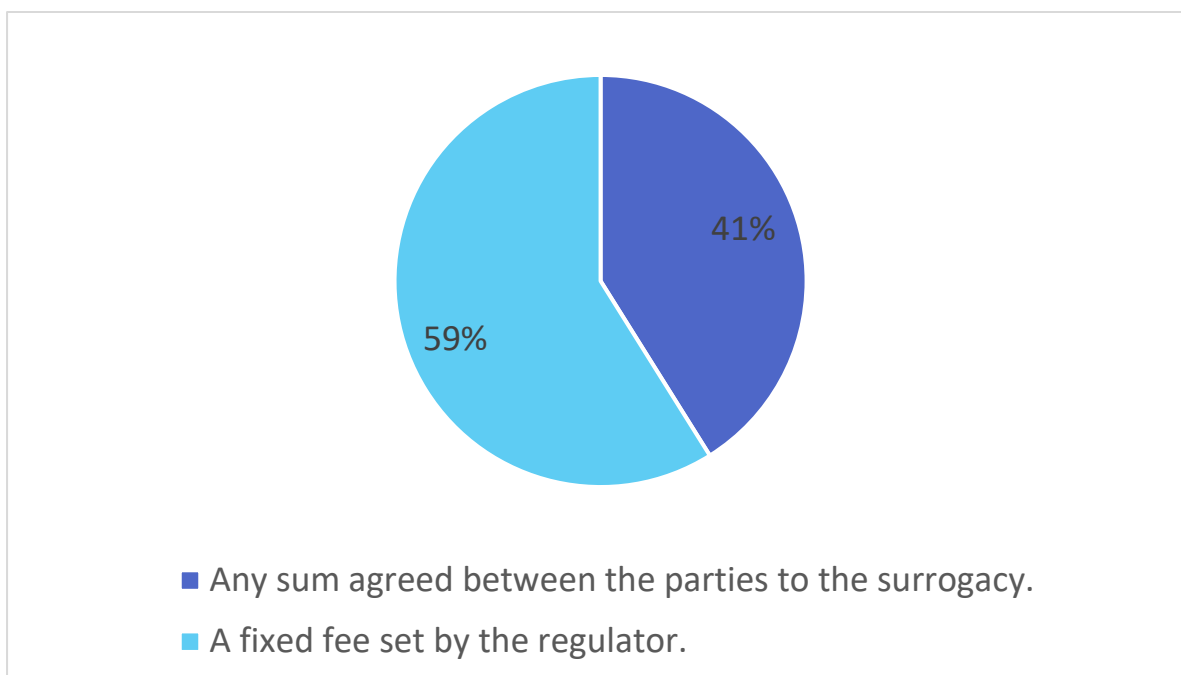
	It should be possible	It should not be possible	TOTAL
Academic	4	23	27
Intended parent	26	36	62
Family member of intended parent	1	2	3
Legal professional or organisation	9	8	17
Medical practitioner or organisation / counsellor or counselling organisation	4	14	18
Other individual	5	291	296
Other organisation	0	20	20
Person born of a surrogacy arrangement	0	0	0
Social worker or social work organisation	0	8	8
Surrogate	3	13	16
Family member of a surrogate	0	4	4
Surrogacy organisation	2	2	4

Grand total	54	421	475
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1.189 455 consultees provided comments with their answer.

Part 2

1.190 In respect of the second part of the question (para 15.70), the statistics were as follows:



	Any sum agreed between the parties	A fixed fee set by the regulator	TOTAL
Academic	1	3	4
Intended parent	18	18	36
Family member of intended parent	0	1	1
Legal professional or organisation	3	7	10
Medical practitioner or organisation / counsellor or counselling organisation	1	3	4
Other individual	2	8	10
Other organisation	0	1	1

Person born of a surrogacy arrangement	0	0	0
Social worker or social work organisation	0	0	0
Surrogate	4	0	4
Family member of a surrogate	0	1	1
Surrogacy organisation	1	1	2
Grand total	30	43	73

1.191 411 consultees provided comments in response to this question.

Part 3

1.192 In respect of the third part of the question (para 15.71), the number of consultees indicating the type of payments that the law should permit, in addition to a fixed fee, were as follows:

- (1) 18 consultees indicated that the law should permit no other payments;
- (2) 52 consultees indicated that the law should permit payment of essential costs relating to the pregnancy;
- (3) 46 consultees indicated that the law should permit payment of additional costs relating to the pregnancy;
- (4) 46 consultees indicated that the law should permit payment of lost earnings;
- (5) 41 consultees indicated that the law should permit payment of compensation for pain and inconvenience, medical treatment and complications, and the death of the surrogate; and
- (6) 32 consultees indicated that the law should permit gifts.

1.193 394 consultees provided comments in relation to this part of the question.

Consultation Question 83

Consultation Question 83.

15.72 We invite consultees' views as to whether it should be possible for any payment the law permits the intended parents to pay the surrogate for her services to be reduced in the event of a miscarriage or termination of the pregnancy.

15.73 We invite consultees' views as to whether, if the law permits a fee payable to the surrogate to be able to be reduced in the event of a miscarriage or termination, whether such provision should apply:

- (1) in the first trimester of pregnancy only;
- (2) to any miscarriage or termination; or
- (3) some other period of time (please specify).

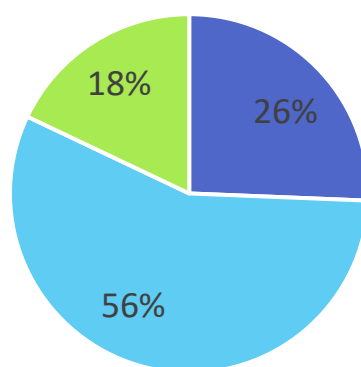
1.194 Consultation Question 83 was divided into two parts – paras 15.72 and 15.73.

Part 1

1.195 In respect of the first part of the question (para 15.72), 399 consultees responded.

Part 2

1.196 In respect of the second part of the question (para 13.73), the statistics were as follows:



- In first trimester of pregnancy only
- Any miscarriage or termination
- Some other period of time

	First trimester only	Any miscarriage or termination	Other period of time	TOTAL
Academic	0	1	1	2
Intended parent	1	17	2	20
Family member of intended parent	0	1	0	1
Legal professional or organisation	3	1	0	4
Medical practitioner or organisation / counsellor or counselling organisation	1	1	1	3
Other individual	3	1	1	5
Other organisation	1	0	0	1
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	0	0	0	0
Surrogate	1	0	0	1
Family member of a surrogate	0	0	0	0
Surrogacy organisation	0	0	2	2
Grand total	10	22	7	39

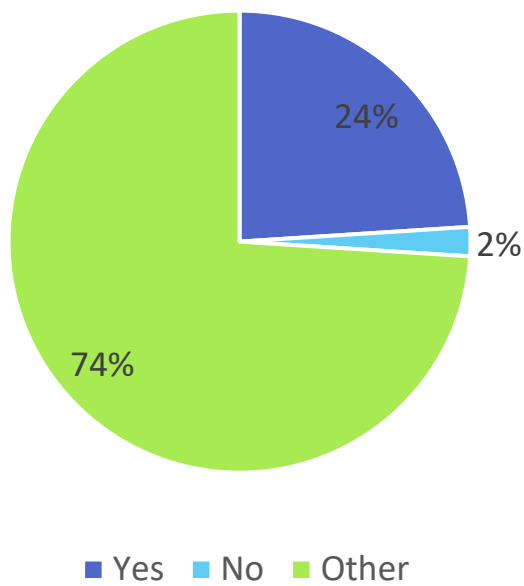
1.197 364 consultees provided comments in relation to this part of the question.

Consultation Question 84

Consultation Question 84.

15.74 We provisionally propose that the types of payment that are permitted to be made to surrogates should be the same, whether the surrogacy follows our new pathway to parenthood or involves a post-birth application for a parental order.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	6	0	17	23
Intended parent	51	2	1	54
Family member of intended parent	1	0	2	3
Legal professional or organisation	13	0	7	20
Medical practitioner or organisation / counsellor or counselling organisation	4	1	11	16
Other individual	10	3	263	276
Other organisation	3	1	15	19
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	0	0	7	7
Surrogate	14	2	1	17
Family member of a surrogate	1	0	2	3
Surrogacy organisation	3	0	1	4
Grand total	106	9	327	442

1.198 373 consultees provided comments with their answer.

Consultation Question 85

Consultation Question 85.

15.75 We invite consultees' views as to whether there are any categories of payment we have not discussed which they think intended parents should be able to agree to pay to the surrogate.

1.199 384 consultees responded to Consultation Question 85.

Consultation Question 86

Consultation Question 86.

15.76 We invite consultees to express any further views they have about the payments that intended parents should be able to agree to pay to the surrogate.

1.200 379 consultees responded to Consultation Question 86.

Consultation Question 87

Consultation Question 87.

15.89 We invite consultees' views as to whether there are specific methods of enforcing limitations that are placed on payments to surrogates that we should consider as part of our review:

- (1) for cases within the new pathway to parenthood; and
- (2) for cases where a parental order is made after the birth of the baby.

1.201 367 consultees responded to Consultation Question 87.

Consultation Question 88

Consultation Question 88.

15.99 We provisionally propose that financial terms of a surrogacy agreement entered into under the new pathway to parenthood should be enforceable by the surrogate.

Do consultees agree?

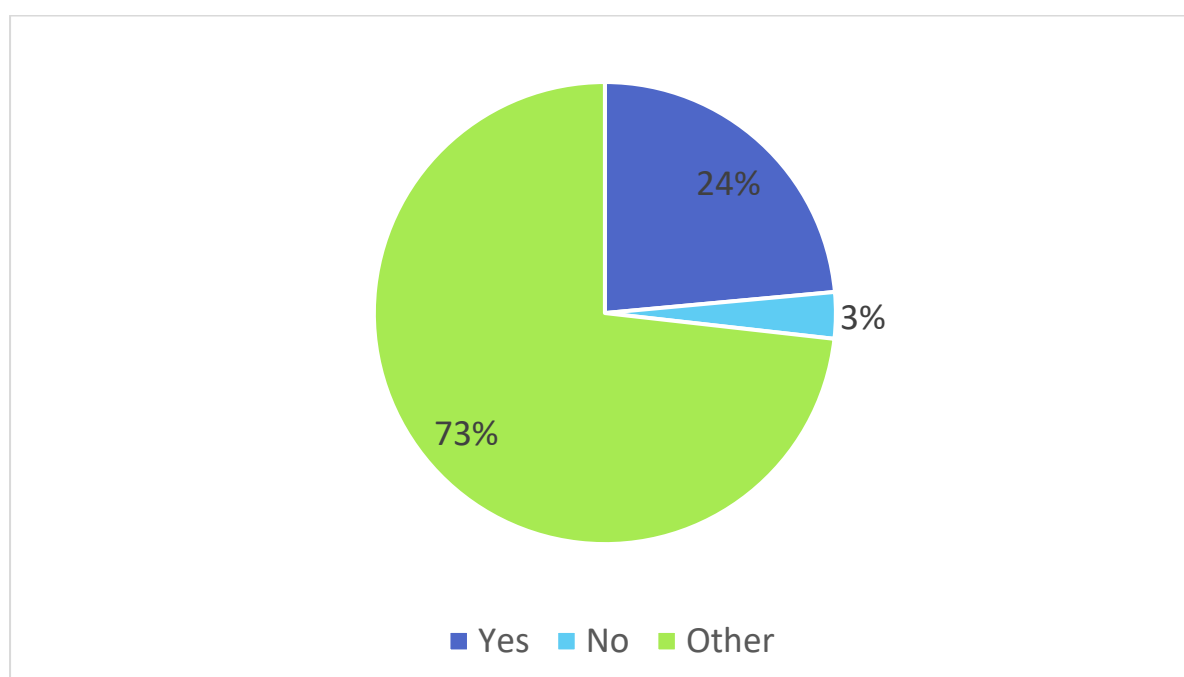
15.100 We provisionally propose that if the financial terms of a surrogacy agreement entered into under the new pathway become enforceable, the ability to do so should not be dependent on the surrogate complying with any terms of the agreement relating to her lifestyle.

Do consultees agree?

1.202 Consultation Question 88 was divided into two parts – paras 15.99 and 15.100.

Part 1

1.203 In response to the first part (para 15.99), the statistics were as follows:



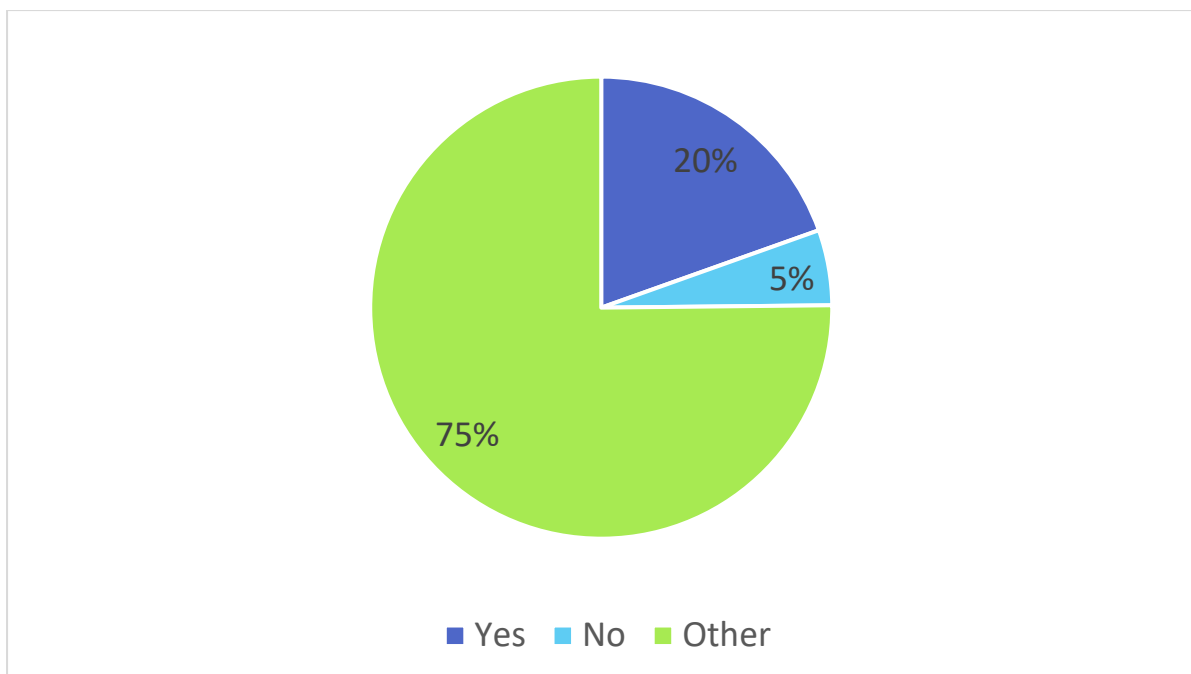
	Yes	No	Other	TOTAL
Academic	7	0	18	25
Intended parent	48	5	8	61
Family member of intended parent	1	0	2	3
Legal professional or organisation	12	0	7	19

Medical practitioner or organisation / counsellor or counselling organisation	4	0	12	16
Other individual	10	8	266	284
Other organisation	7	1	15	23
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	3	0	5	8
Surrogate	14	1	3	18
Family member of a surrogate	1	0	2	3
Surrogacy organisation	2	0	1	3
Grand total	109	15	339	463

1.204 400 consultees provided comments with their answer

Part 2

1.205 In response to the second part (para 15.100), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	7	1	20	28
Intended parent	34	16	6	56
Family member of intended parent	0	1	2	3
Legal professional or organisation	9	1	9	19
Medical practitioner or organisation / counsellor or counselling organisation	3	1	12	16
Other individual	14	3	266	283
Other organisation	5	1	13	19
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	3	0	5	8
Surrogate	13	0	3	16
Family member of a surrogate	0	0	3	3
Surrogacy organisation	1	0	3	4
Grand total	89	24	342	455

1.206 392 consultees provided comments with their answer.

Chapter 16

Consultation Question 89

Consultation Question 89.

16.10 We invite overseas surrogates (or bodies representing or advocating for surrogates) to share with us their experiences of international surrogacy arrangements.

1.207 42 consultees responded to Consultation Question 89.

Consultation Question 90

Consultation Question 90.

16.12 We invite organisations focused on children's rights and welfare in the international context to share with us their views on our proposed reforms and consultation questions in this chapter.

1.208 40 consultees responded to Consultation Question 90.

Consultation Question 91

Consultation Question 91.

16.52 We invite consultees to provide us with evidence of their experience of applying to register a child born through an international surrogacy arrangement as a British citizen and obtaining a passport for the child. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have about causes of delays in the process.

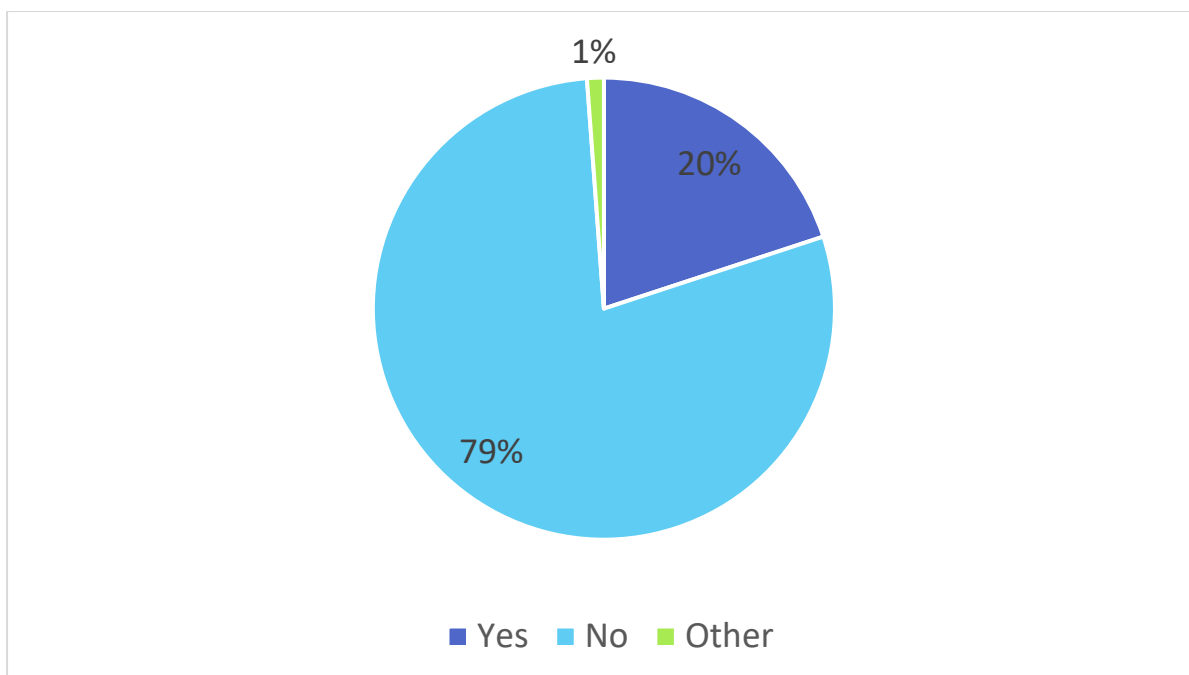
1.209 45 consultees responded to Consultation Question 91

Consultation Question 92

Consultation Question 92.

16.53 We provisionally propose that it should be possible for a file to be opened, and the application process for obtaining registration of a child born from an international surrogacy arrangement and obtaining a passport to begin, prior to the birth of the child.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	4	19	0	23
Intended parent	46	0	1	47
Family member of intended parent	1	2	0	3
Legal professional or organisation	15	8	0	23
Medical practitioner or organisation / counsellor or counselling organisation	1	12	1	14
Other individual	4	270	2	276
Other organisation	4	15	1	20
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	2	6	0	8
Surrogate	7	1	0	8
Family member of a surrogate	0	3	0	3
Surrogacy organisation	1	0	0	1
Grand total	85	336	5	426

1.210 366 consultees provided comments with their answer.

Consultation Question 93

Consultation Question 93.

16.68 We invite consultees to provide us with evidence of the experience they have had of applying for a visa for a child born through an international surrogacy arrangement. In particular, we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

1.211 35 consultees responded to Consultation Question 93.

Consultation Question 94

Consultation Question 94.

16.69 We provisionally propose that it should be possible to open a [file](#), and begin the process for applying for a visa in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child, and the issue of a passport in the child's country of birth.

Do consultees agree?

16.70 We provisionally propose that the current provision made for the grant of a visa outside of the Immigration Rules where the intended parents are not the legal parents of the child under nationality law should be brought within the Rules.

Do consultees agree?

16.71 We provisionally propose that:

- (1) the grant of a visa should not be dependent on the child breaking links with the surrogate; or
- (2) that this condition should be clarified to ensure that it does not prevent the child having contact, and an on-going relationship, with the surrogate.

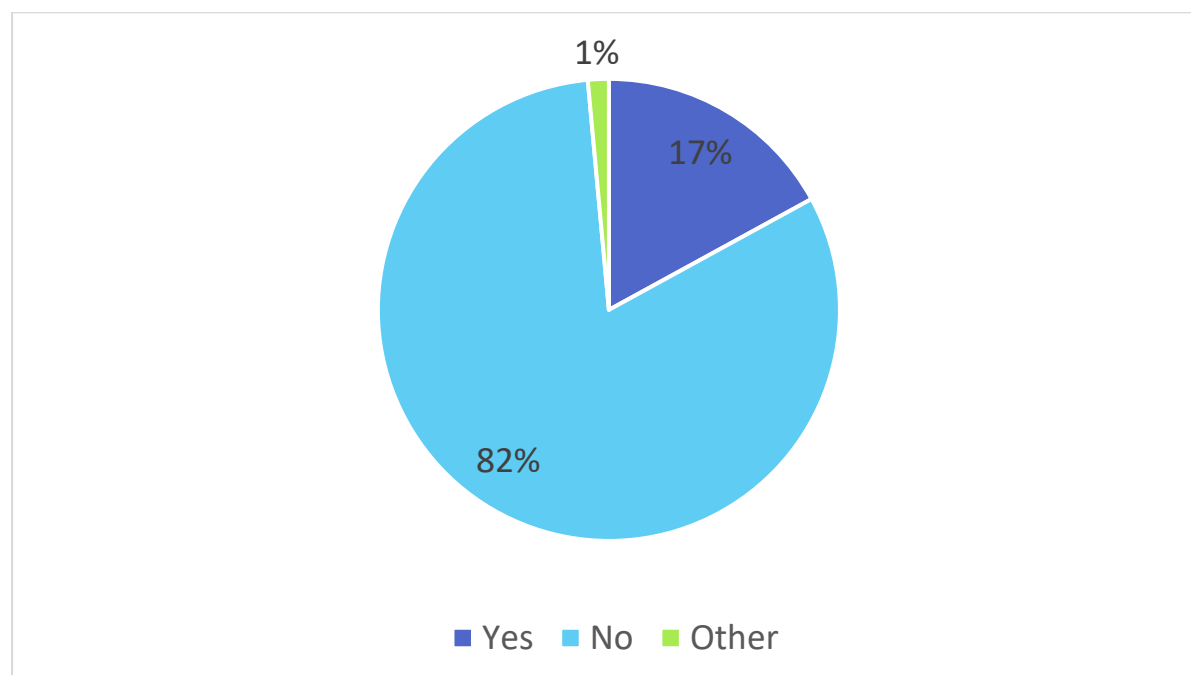
Do consultees agree?

16.72 We invite consultees' views as to whether the current requirement for the grant of a visa outside the Rules that the intended parents must apply for a parental order within six months of the child's birth should be removed (regardless of whether the availability of the visa is brought within the Rules), if our provisional proposal to remove the time limit on applications for parental orders is accepted.

1.212 Consultation Question 94 was divided into five parts, paras 16.69, 16.70, 16.71(1), 16.71(2) and 16.72.

Part 1

1.213 In response to the first part (para 16.69), the statistics were as follows:



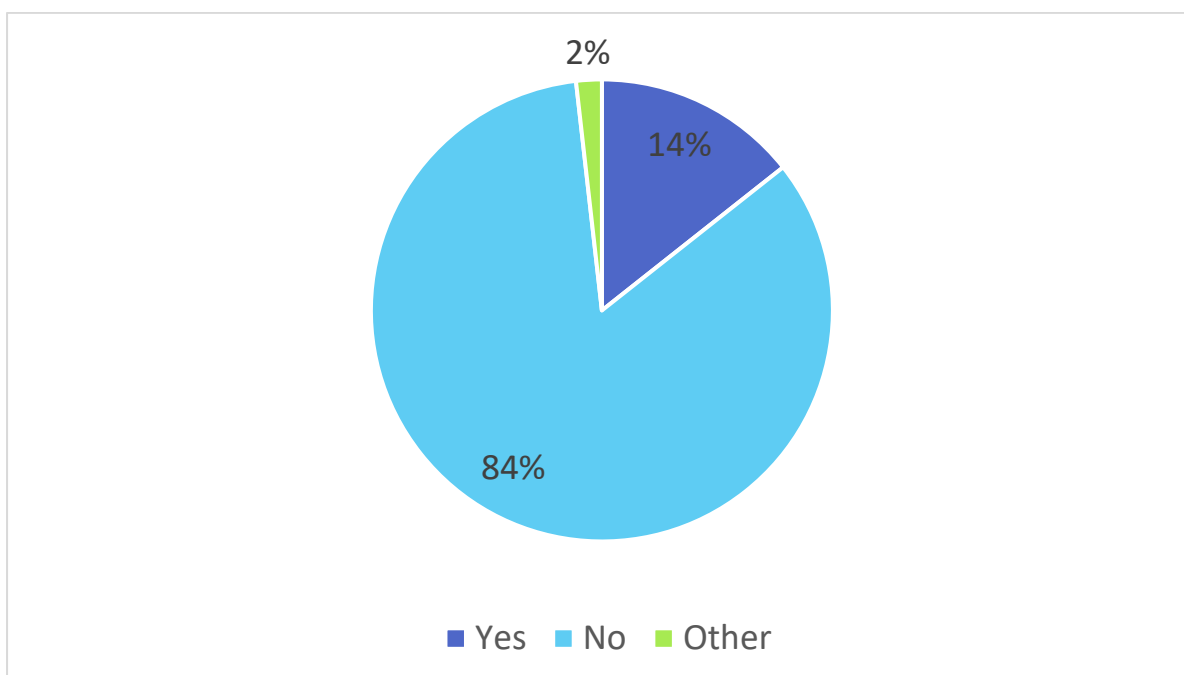
	Yes	No	Other	TOTAL
Academic	5	20	0	25
Intended parent	35	1	3	39
Family member of intended parent	0	2	0	2
Legal professional or organisation	13	8	0	21
Medical practitioner or organisation / counsellor or counselling organisation	1	12	1	14
Other individual	4	268	2	274
Other organisation	4	15	0	19
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	2	6	0	8
Surrogate	5	1	0	6
Family member of a surrogate	0	2	0	2
Surrogacy organisation	1	0	0	1

Grand total	70	335	6	411
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1.214 356 consultees provided comments with their answers.

Part 2

1.215 In response to the second part (para 16.70), the statistics were as follows:



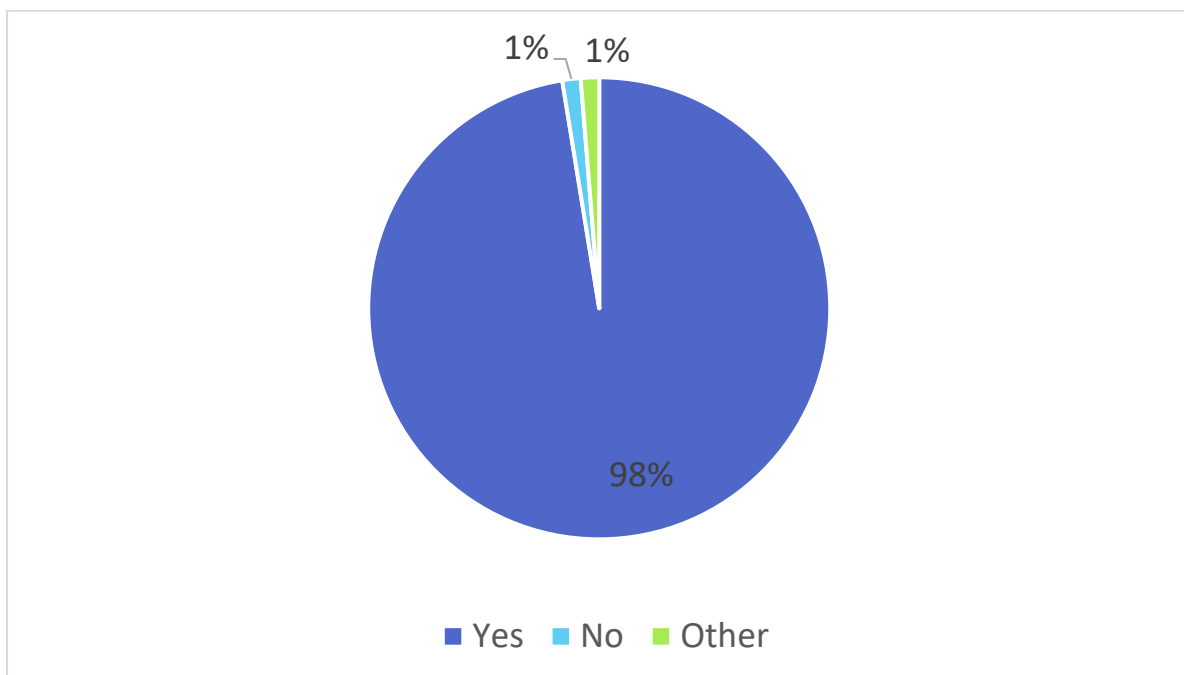
	Yes	No	Other	TOTAL
Academic	4	20	0	24
Intended parent	26	1	3	30
Family member of intended parent	0	2	0	2
Legal professional or organisation	12	7	0	19
Medical practitioner or organisation / counsellor or counselling organisation	1	12	0	13
Other individual	4	262	3	269
Other organisation	2	15	0	17
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	2	5	0	7
Surrogate	5	1	0	6

Family member of a surrogate	0	2	0	2
Surrogacy organisation	0	0	1	1
Grand total	56	327	7	390

1.216 34 consultees provided comments with their answers.

Part 3

1.217 In response to the third part (para 16.71(1)), the statistics were as follows:



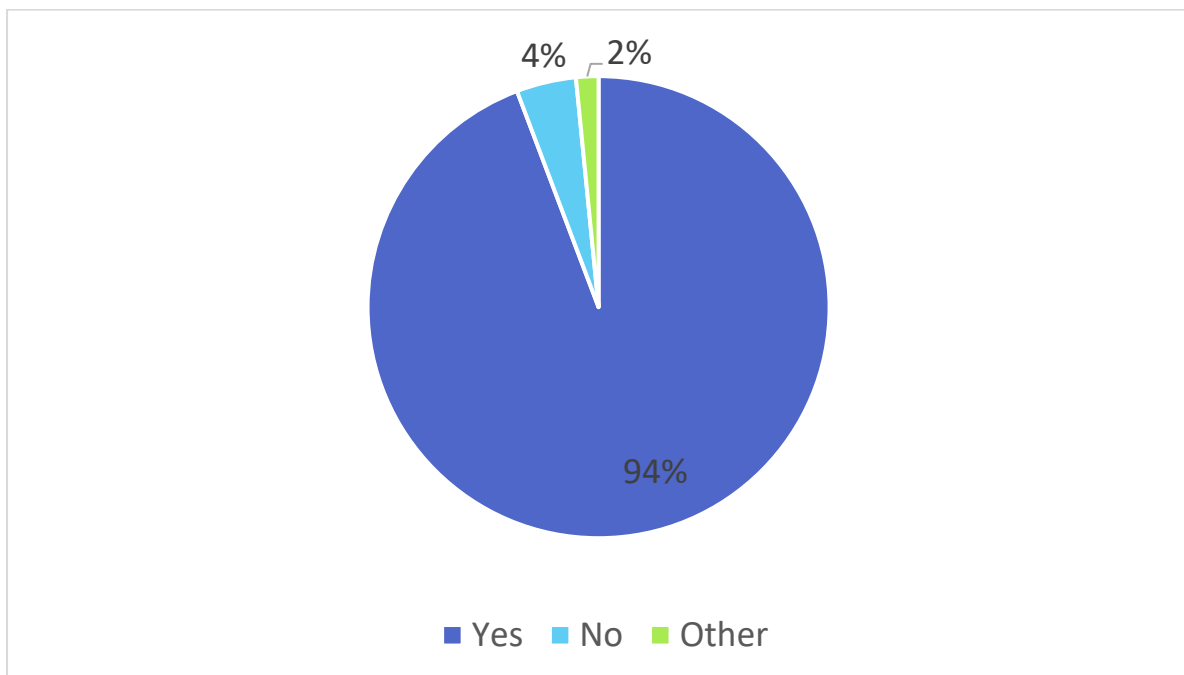
	Yes	No	Other	TOTAL
Academic	26	0	0	26
Intended parent	31	0	0	31
Family member of intended parent	2	0	0	2
Legal professional or organisation	17	0	0	17
Medical practitioner or organisation / counsellor or counselling organisation	13	1	0	14
Other individual	261	3	4	268
Other organisation	16	0	0	16

Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	7	0	0	7
Surrogate	5	1	0	6
Family member of a surrogate	2	0	0	2
Surrogacy organisation	0	0	1	1
Grand total	380	5	5	390

1.218 30 consultees provided comments with their answers.

Part 4

1.219 In response to the fourth part (para 16.71(2)), the statistics were as follows:



	Yes	No	Other	TOTAL
Academic	22	1	0	23
Intended parent	29	0	1	30
Family member of intended parent	2	0	0	2
Legal professional or organisation	15	0	0	15

Medical practitioner or organisation / counsellor or counselling organisation	14	1	0	15
Other individual	250	13	5	268
Other organisation	15	0	0	15
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	7	0	0	7
Surrogate	5	1	0	6
Family member of a surrogate	2	0	0	2
Surrogacy organisation	0	0	0	0
Grand total	361	16	6	383

1.220 37 consultees provided comments with their answers.

Part 5

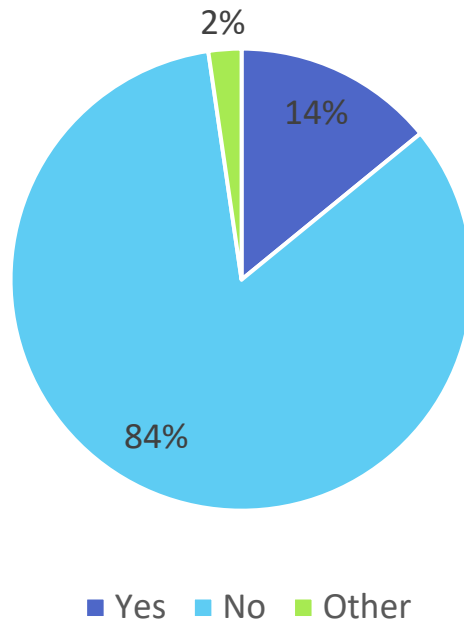
1.221 In respect of the fifth part of the question (para 16.72), 345 consultees responded.

Consultation Question 95

Consultation Question 95.

16.76 We provisionally propose that it should be possible to open a file, and begin the process for applying for [a](#) EU Uniform Format Form in respect of a child born through an international surrogacy arrangement, before the child is born. The application will need to be completed after the birth of the child.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	3	19	0	22
Intended parent	26	0	4	30
Family member of intended parent	0	2	0	2
Legal professional or organisation	10	8	0	18
Medical practitioner or organisation / counsellor or counselling organisation	1	12	0	13
Other individual	4	262	4	270
Other organisation	3	15	1	19
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	2	5	0	7
Surrogate	5	1	0	6
Family member of a surrogate	0	2	0	2
Surrogacy organisation	1	0	0	1
Grand total	55	326	9	390

1.222 340 consultees provided comments with their answers.

Consultation Question 96

Consultation Question 96.

16.77 We invite consultees to provide us with evidence of the experience they have had of applying for a EU Uniform Format Form for a child born through an international surrogacy arrangement. In particular we would be interested to hear how long the application took after the birth of the child, and any information consultees have of causes of delays in the process.

1.223 32 consultees responded to Consultation Question 96.

Consultation Question 97

Consultation Question 97.

16.82 We provisionally propose that the UK Government should provide a single, comprehensive guide for intended parents explaining the nationality and immigration consequences of having a child through an international surrogacy arrangement.

Do consultees agree?

	Yes	No	Other	TOTAL
Academic	7	0	18	25
Intended parent	49	0	1	50
Family member of intended parent	1	0	2	3
Legal professional or organisation	17	1	6	24
Medical practitioner or organisation / counsellor or counselling organisation	4	0	11	15
Other individual	11	2	259	272
Other organisation	6	1	15	22
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	3	0	5	8
Surrogate	9	0	0	9
Family member of a surrogate	0	0	2	2

Surrogacy organisation	3	0	0	3
Grand total	110	4	319	433

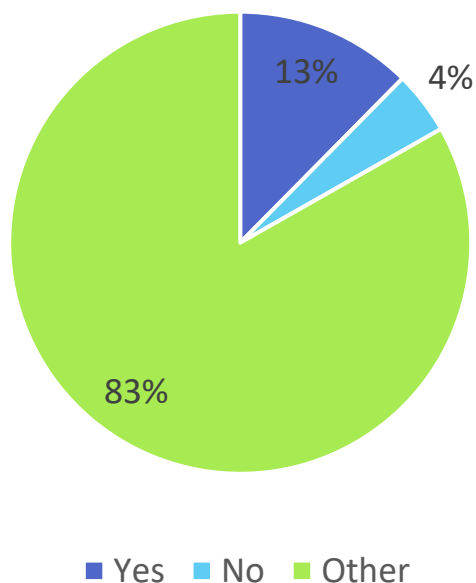
1.224 369 consultees provided comments with their answer.

Consultation Question 98

Consultation Question 98.

16.93 We provisionally propose that international surrogacy arrangements should not be eligible for the new pathway to parenthood.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	5	2	18	25
Intended parent	8	9	2	19
Family member of intended parent	0	1	2	3
Legal professional or organisation	14	1	10	25

Medical practitioner or organisation / counsellor or counselling organisation	2	0	11	13
Other individual	9	3	257	269
Other organisation	4	0	15	19
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	3	0	5	8
Surrogate	2	0	0	2
Family member of a surrogate	0	0	2	2
Surrogacy organisation	1	1	0	2
Grand total	48	17	322	387

1.225 356 consultees provided comments with their answers.

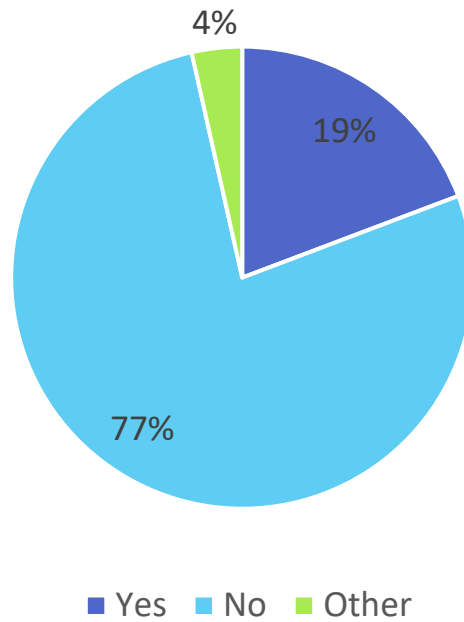
Consultation Question 99

Consultation Question 99.

16.94 We provisionally propose that:

- (1) the Secretary of State should have the power to provide that the intended parents of children born through international surrogacy arrangements, who are recognised as the legal parents of the child in the country of the child's birth, should also be recognised as the child's legal parents in the UK, without it being necessary for the intended parents to apply for a parental order, but
- (2) before exercising the power, the Secretary of State should be required to be satisfied that the domestic law and practice in the country in question provides protection against the exploitation of surrogates, and for the welfare of the child, that is at least equivalent to that provided in UK law.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	4	21	1	26
Intended parent	44	0	1	45
Family member of intended parent	1	2	0	3
Legal professional or organisation	15	7	1	23
Medical practitioner or organisation / counsellor or counselling organisation	2	12	2	16
Other individual	3	261	7	271
Other organisation	7	17	0	24
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	0	6	2	8
Surrogate	4	1	1	6
Family member of a surrogate	0	2	0	2
Surrogacy organisation	2	0	0	2
Grand total	82	329	15	426

1.226 368 consultees provided comments with their answers.

Consultation Question 100

Consultation Question 100.

16.120 We invite consultees to tell us of their experience of surrogacy arrangements in the UK involving foreign intended parents.

16.121 We invite consultees' views as to whether:

- (1) any restriction is necessary on the removal of a child from the UK for the purpose of the child becoming the subject of a parental order, or its equivalent, in another jurisdiction; and
- (2) if such a restriction is necessary, there should be a process allowing foreign intended parents to remove the child from the jurisdiction of the UK for this purpose and with the approval of the court and, if so, what form should that process take.

1.227 Consultation Question 100 was divided into two parts, paras 16.120 and 16.121.

Part 1

1.228 In respect of the first part of the question (para 16.120), 40 consultees responded.

Part 2

1.229 In respect of the second part of the question (para 16.121), 335 consultees responded.

Chapter 17

Consultation Question 101

Consultation Question 101.

17.18 We invite consultees' views as to whether the current application of the law on statutory paternity leave, and statutory paternity pay, to the situation of the surrogate's spouse, civil partner or partner requires reform.

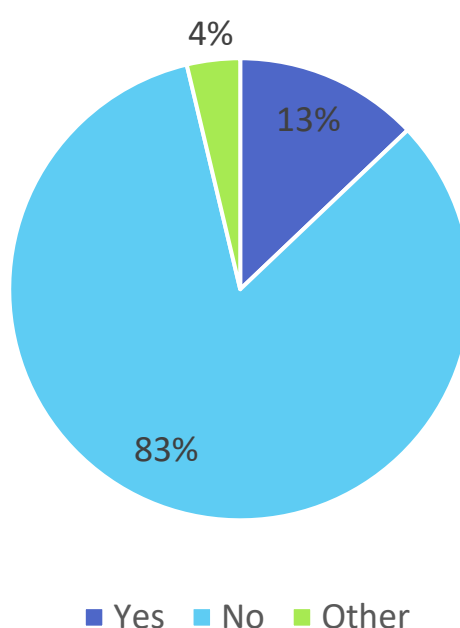
1.230 370 consultees responded to Consultation Question 101.

Consultation Question 102

Consultation Question 102.

17.32 We provisionally propose that provision for maternity allowance should be made in respect of intended parents, and that any such provision should be limited so that only one intended parent qualifies.

Do consultees agree?



	Yes	No	Other	TOTAL
Academic	5	17	1	23
Intended parent	17	10	3	30
Family member of intended parent	1	2	0	3
Legal professional or organisation	4	8	3	15
Medical practitioner or organisation / counsellor or counselling organisation	4	10	2	16
Other individual	9	268	6	283
Other organisation	2	13	0	15
Person born of a surrogacy arrangement	0	0	0	0
Social worker or social work organisation	1	5	0	6

Surrogate	5	1	0	6
Family member of a surrogate	1	2	0	3
Surrogacy organisation	3	0	0	3
Grand total	52	336	15	403

1.231 71 consultees provided comments with their answers.

Consultation Question 103

Consultation Question 103.

17.36 We invite consultees' views as to:

- (1) whether there is a need for reform in respect of the right of intended parents to take time off work before the birth of the child, whether for the purpose of induced lactation, ante-natal appointments or any other reason; and
- (2) if reform is needed, suggestions on reform.

1.232 385 consultees responded to Consultation Question 103.

Consultation Question 104

Consultation Question 104.

17.40 We invite consultees' views as to whether the duty of employers to provide suitable facilities for any person at work who is a pregnant woman or nursing mother to rest under Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 is sufficient to include intended parents in a surrogacy arrangement.

1.233 376 consultees responded to Consultation Question 104.

Consultation Question 105

Consultation Question 105.

17.43 We invite consultees' views as to whether there are further issues in relation to employment rights and surrogacy arrangements and, if so, any suggestions for reform.

1.234 348 consultees responded to Consultation Question 105.

Consultation Question 106

Consultation Question 106.

17.56 We invite consultees' views as to whether they believe any reforms in relation to surrogacy and succession law are required.

1.235 352 consultees responded to Consultation Question 106.

Consultation Question 107

Consultation Question 107.

17.76 We invite consultees' views as to whether there are any issues in how surrogacy arrangements are dealt with by the health services, and whether there are reforms to law or practice that consultees would like to see in this area.

17.77 We invite consultees' views as to any additions or revisions that they would like to see made to the guidance published by the Department for Health and Social Care for England and Wales.

17.78 We invite consultees' views as to how midwifery practice may better accommodate surrogacy arrangements, in particular with regard to safeguarding issues.

1.236 Consultation Question 107 was divided into three parts, paras 17.76, 17.77 and 17.78.

Part 1

1.237 In respect of the first part of the question (para 17.76), 406 consultees responded.

Part 2

1.238 In respect of the second part of the question (para 17.77), 364 consultees responded.

Part 3

1.239 In respect of the third part of the question (para 17.78), 379 consultees responded.

Consultation Question 108

Consultation Question 108.

17.80 We invite consultees' views as to whether there are any other legal issues in relation to surrogacy, not covered in this Consultation Paper, that merit examination.

1.240 399 consultees responded to Consultation Question 108.

Chapter 18

Consultation Question 109

Consultation Question 109.

- 18.2 We invite consultees who are intended parents, live in the UK, and have entered into a surrogacy arrangement that led to the birth of a child to tell us:
- (1) when the child was born;
 - (2) whether the arrangement was domestic or international and, if international, in which country the arrangement took place;
 - (3) whether the arrangement led to the making of a parental order in the UK; and
 - (4) whether they are a:
 - (a) opposite-sex couple;
 - (b) male same-sex couple;
 - (c) female same-sex couple;
 - (d) single woman; or
 - (e) single man.

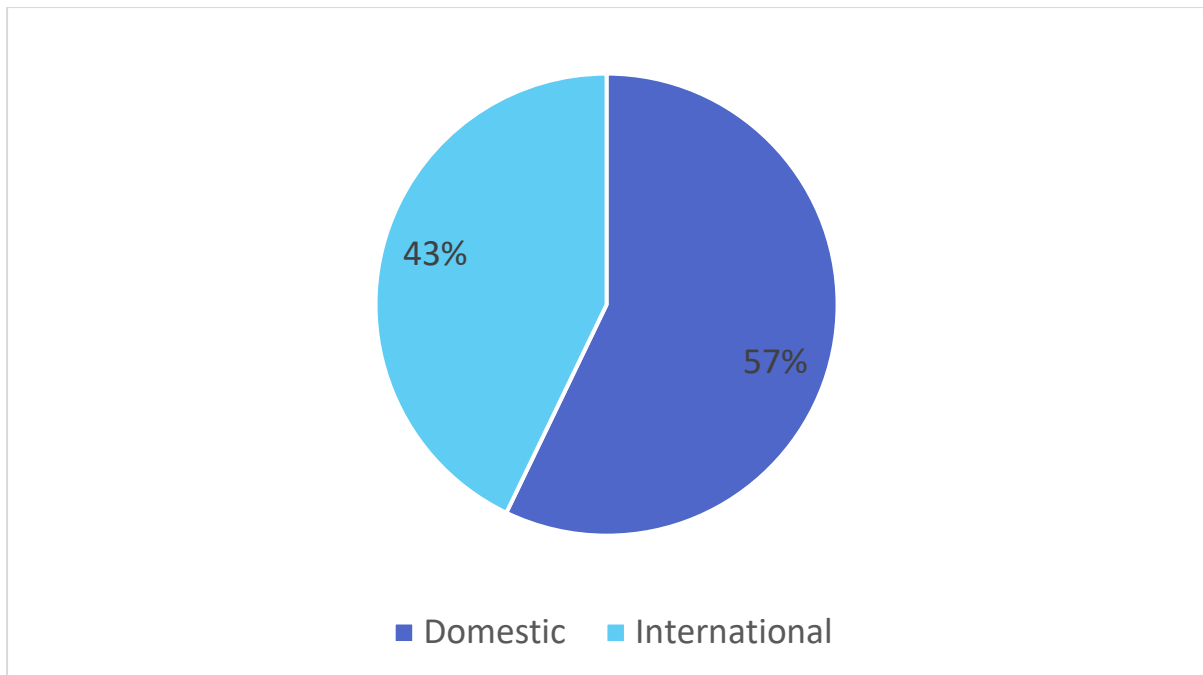
1.241 Consultation Question 109 was divided into four parts, paras 18.2(1), (2), (3) and (4).

Part 1

1.242 In respect of the first part (para 18.2(1)), 29 consultees responded.

Part 2

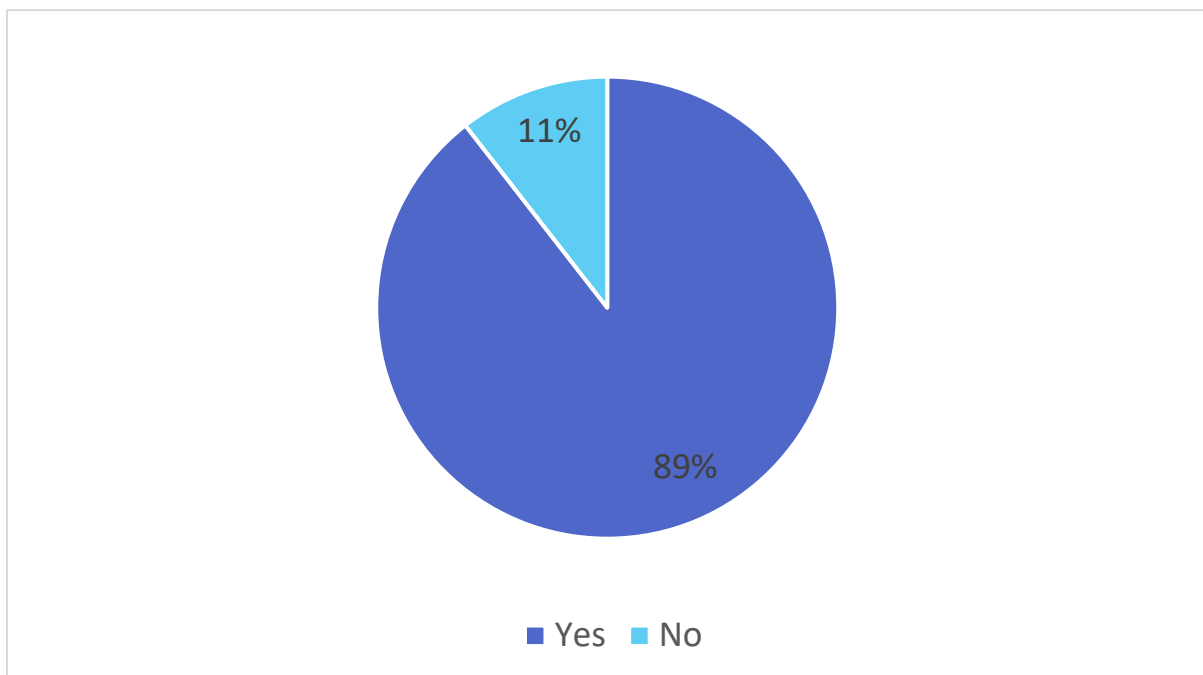
1.243 In respect of the second part (para 18.2(2)), 21 consultees responded.



1.244 All 21 consultees who responded were intended parents.

Part 3

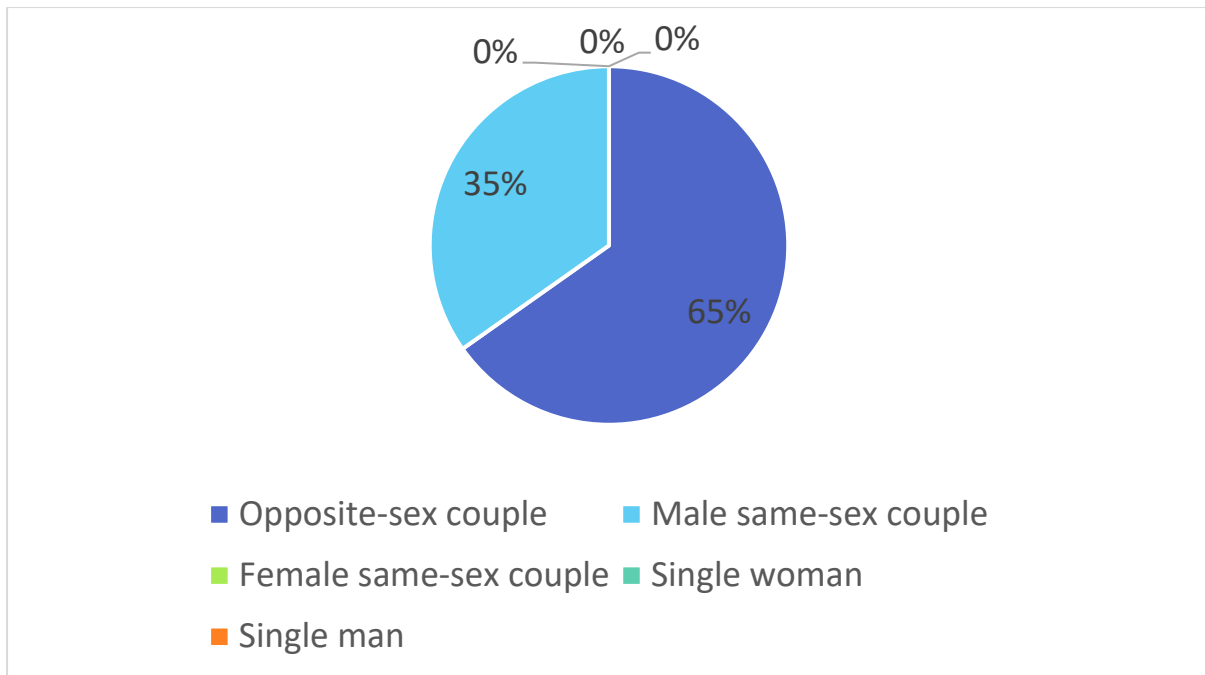
1.245 In respect of the third part (para 18.2(3)), 19 consultees responded.



1.246 All 19 consultees who responded were intended parents.

Part 4

1.247 In respect of the fourth part (para 18.2(4)), 23 consultees responded.



1.248 All 23 consultees who responded were intended parents.

Consultation Question 110

Consultation Question 110.

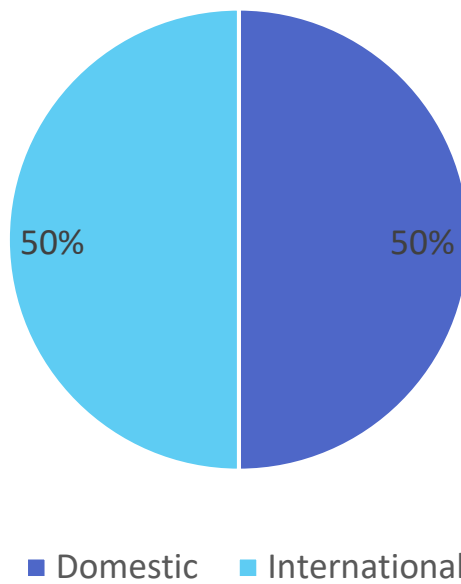
18.4 We invite consultees who have experience of applying for a parental order in the UK to tell us:

- (1) whether the surrogacy arrangement was domestic or international;
- (2) whether they had legal advice before the making of the parental order;
- (3) whether they were represented by a lawyer in court; and
- (4) the cost of any legal advice or representation.

1.249 Consultation Question 110 was divided into four parts, paras 18.4(1), (2), (3) and (4).

Part 1

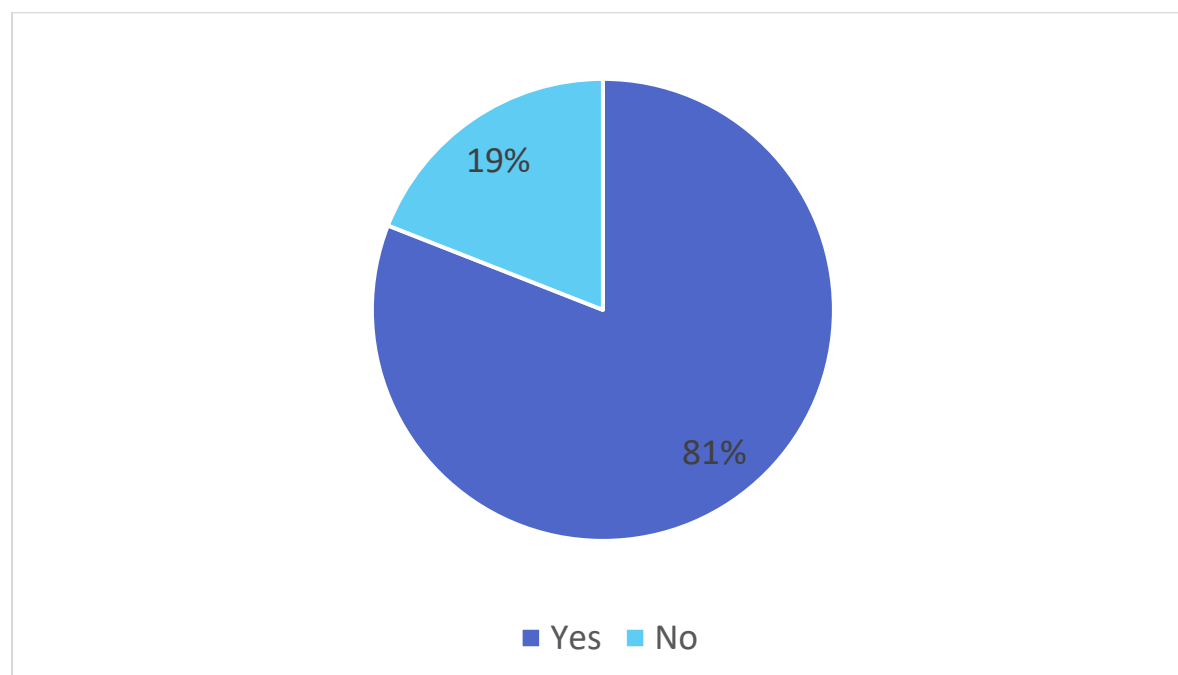
1.250 In respect of the first part (para 18.4(1)), the statistics were as follows:



	Domestic	International	TOTAL
Academic	0	0	0
Intended parent	10	9	19
Family member of intended parent	0	0	0
Legal professional or organisation	0	1	1
Medical practitioner or organisation / counsellor or counselling organisation	0	0	0
Other individual	0	0	0
Other organisation	0	0	0
Person born of a surrogacy arrangement	0	0	0
Social worker or social work organisation	0	0	0
Surrogate	1	0	1
Family member of a surrogate	0	0	0
Surrogacy organisation	0	1	1
Grand total	11	11	22

Part 2

1.251 In respect of the second part (para 18.4(2)), the statistics were as follows:

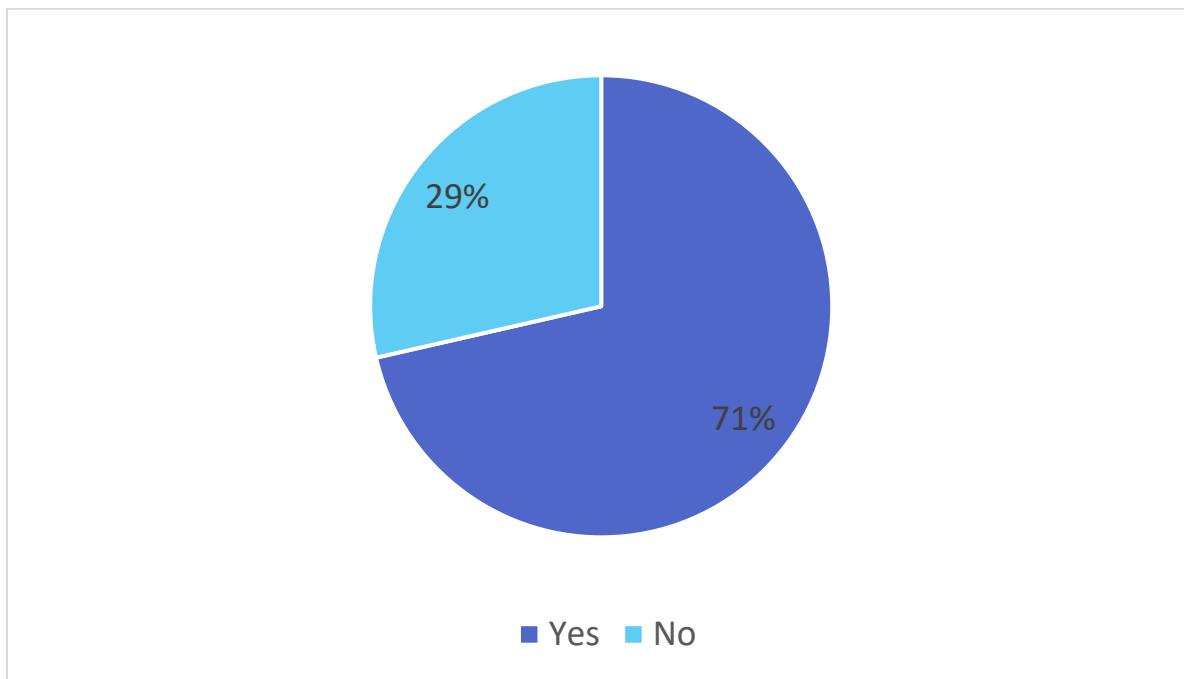


	Yes	No	TOTAL
Academic	0	0	0
Intended parent	15	4	19
Family member of intended parent	0	0	0
Legal professional or organisation	1	0	1
Medical practitioner or organisation / counsellor or counselling organisation	0	0	0
Other individual	0	0	0
Other organisation	0	0	0
Person born of a surrogacy arrangement	0	0	0
Social worker or social work organisation	0	0	0
Surrogate	1	0	1
Family member of a surrogate	0	0	0
Surrogacy organisation	0	0	0

Grand total	17	4	21
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Part 3

1.252 In respect of the third part (para 18.4(3)), the statistics were as follows:



	Yes	No	TOTAL
Academic	0	0	0
Intended parent	7	11	18
Family member of intended parent	0	0	0
Legal professional or organisation	1	0	1
Medical practitioner or organisation / counsellor or counselling organisation	0	0	0
Other individual	0	0	0
Other organisation	0	0	0
Person born of a surrogacy arrangement	0	0	0
Social worker or social work organisation	0	0	0
Surrogate	0	1	1
Family member of a surrogate	0	0	0

Surrogacy organisation	0	0	0
Grand total	8	12	20

Part 4

1.253 In respect of the fourth part of the question (para 18.4(4)), 32 consultees responded.

Consultation Question 111

Consultation Question 111.

- 18.6 We invite consultees' views as to the impact (social, emotional, financial or otherwise) of the current law where the intended parents are not the legal parents from birth of the child born of the surrogacy arrangement.

1.254 61 consultees responded to Consultation Question 111.

Consultation Question 112

Consultation Question 112.

- 18.8 We invite consultees to tell us what they have paid for, or to provide evidence about the cost of:
- (1) medical screening; and
 - (2) implications counselling
- (where possible separating out the cost of such screening, tests or implications counselling from any other costs involved with fertility treatment).
- 18.9 We invite legal consultees, who advise on surrogacy and parental order proceedings, to provide evidence of what they would charge:
- (1) to provide advice sufficient to meet the proposed requirement for independent legal advice discussed in Chapter 13 and
 - (2) to draft, advise on and negotiate the written surrogacy agreement required for the new pathway.

1.255 Consultation Question 112 was divided into two parts, paras 18.8 and 18.9.

Part 1

1.256 In respect of the first part of the question (para 18.8), 31 consultees responded.

Part 2

1.257 In respect of the second part of the question (para 18.9), 29 consultees responded.

Consultation Question 113

Consultation Question 113.

18.11 We invite consultees to tell us of the impact of:

- (1) the current requirement of a genetic link; and
- (2) any removal of this requirement in cases of medical necessity:
 - (a) in the new pathway;
 - (b) in the parental order route for domestic surrogacy arrangements; or
 - (c) in both situations.

1.258 Consultation Question 113 was divided into two parts, paras 18.11(1) and (2).

Part 1

1.259 In respect of the first part of the question (para 18.11(1)), 40 consultees responded.

Part 2

1.260 In respect of the second part of the question (para 18.11(2)), 37 consultees responded.

Consultation Question 114

Consultation Question 114.

18.13 We invite consultees who consider that they might be able to fulfil the role of the independent professional discussed in Chapter 9 to tell us:

- (1) their profession; and
- (2) what they would charge to provide such a service.

1.261 30 consultees responded to Consultation Question 114.

Consultation Question 115

Consultation Question 115.

18.15 We invite consultees who are intended parents to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

- (1) if particular proposals will increase accessibility, and why; and
- (2) if particular proposals will restrict accessibility, and why.

18.16 We invite consultees who are surrogates to give us their views on the impact of our proposals for reform on their ability to enter into surrogacy arrangements and, in particular:

- (1) if particular proposals will increase accessibility, and why; and
- (2) if particular proposals will restrict accessibility, and why.

1.262 Consultation Question 115 was divided into two parts, paras 18.15 and 18.16.

Part 1

1.263 In respect of the first part of the question (para 18.15), 39 consultees responded.

Part 2

1.264 In respect of the second part of the question (para 18.16), 25 consultees responded.

Consultation Question 116

Consultation Question 116.

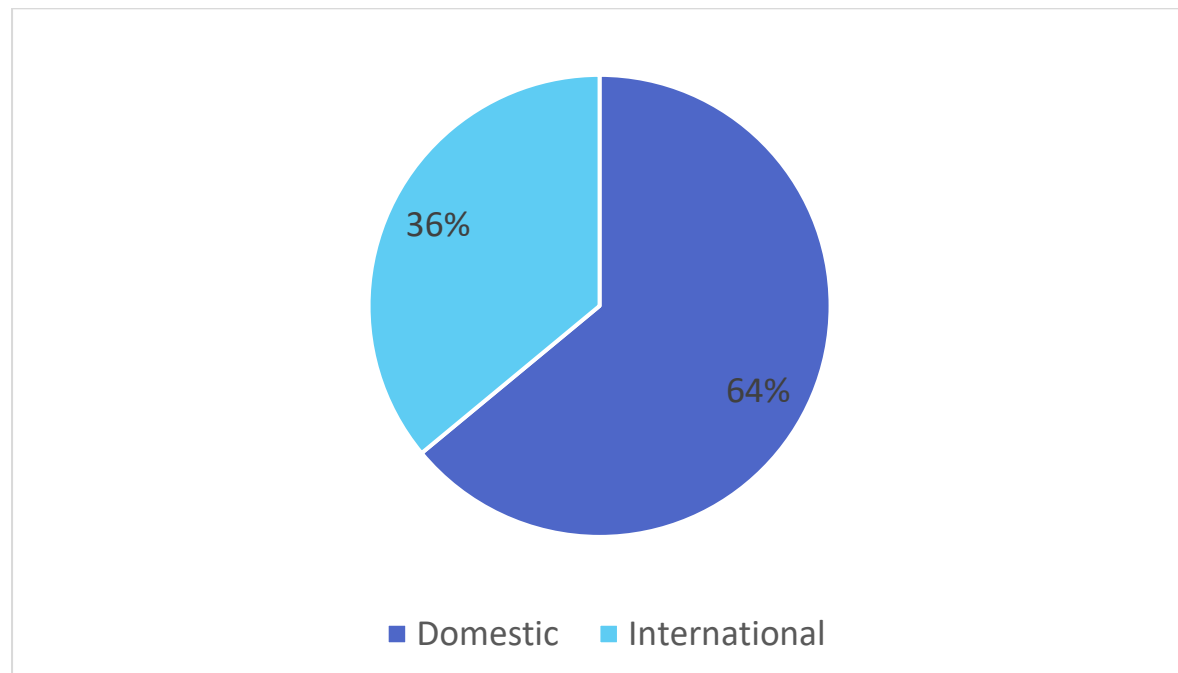
18.18 We ask consultees who are intended parents to tell us:

- (1) whether the surrogacy arrangement was domestic or international;
- (2) what they spent, in total, on the surrogacy arrangement(s) that led to the birth of their child(ren), including the cost of fertility treatment, payments to the surrogate and payments to any surrogacy agency or organisation;
- (3) how they raised the funds for the surrogacy arrangement(s);
- (4) what they spent on any fertility treatment prior to entering into a surrogacy arrangement (where that treatment did not lead to the birth of a child); and
- (5) how they raised the funds for the fertility treatment.

1.265 Consultation Question 116 was divided into five parts, paras 18.18(1), (2), (3), (4) and (5).

Part 1

1.266 In respect of the first part of the question (para 18.18(1)), 25 consultees responded.



1.267 All 25 consultees who responded were intended parents.

Part 2

1.268 In respect of the second part of the question (para 18.18(2)), 38 consultees responded.

Part 3

1.269 In respect of the third part of the question (para 18.18(3)), 38 consultees responded.

Part 4

1.270 In respect of the fourth part of the question (para 18.18(4)), 32 consultees responded.

Part 5

1.271 In respect of the fifth part of the question (para 18.18(5)), 39 consultees responded.

Consultation Question 117

Consultation Question 117.

18.20 We invite consultees' views as to the specific impact of our proposals in Northern Ireland.

1.272 21 consultees responded to Consultation Question 117.

Consultation Question 118

Consultation Question 118.

18.22 We invite consultees' views as to any other impact that we have not specifically addressed in this chapter, or the preceding chapters, of this paper.

1.273 387 consultees responded to Consultation Question 118.