PARLIAMENT OF TASMANIA

HOUSE OF ASSEMBLY STANDING COMMITTEE ON COMMUNITY DEVELOPMENT

Inquiry into Donor Conception Practices in Tasmania

Final Report

MEMBERS OF THE COMMITTEE

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Mr Jaensch (Deputy Chair)
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# Table of Contents

Committee Membership ........................................................................................................... iv
Chair’s Foreword ........................................................................................................................... v
Appointment, Terms of Reference and Conduct of the Inquiry .................................................. vii
Context of the Inquiry .................................................................................................................. viii
Introduction ................................................................................................................................... xii
Committee Findings and Recommendations .......................................................................... xiv

1. Information Management and Access ................................................................................. 1
   Regulation of donor conception practices .............................................................................. 1
   Committee findings ............................................................................................................... 8

2. Retrospective Access ............................................................................................................. 10
   Arguments for full retrospective access ............................................................................. 11
   Retrospective access only with donor’s consent ................................................................. 32
   Arguments against retrospective access ........................................................................... 33
   Committee findings ............................................................................................................. 37

3. Adoption Comparison .......................................................................................................... 39
   Committee findings ............................................................................................................. 41

4. Central Registry and Record Management ......................................................................... 42
   Record management ............................................................................................................ 42
   Birth certificates ................................................................................................................... 47
   Central authority and central registry ................................................................................ 48
   Committee findings ............................................................................................................ 59

5. Counselling and Support Services ....................................................................................... 61
   Provision of counselling ....................................................................................................... 61
   Community education ........................................................................................................ 63
   Contact management .......................................................................................................... 64
   Support services for donors ................................................................................................. 64
   Committee findings ............................................................................................................ 65

Appendix ...................................................................................................................................... 66
COMMITTEE MEMBERSHIP

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Member for Braddon

Ms Andrea Dawkins MP
Member for Bass

Ms Lara Giddings MP
Member for Franklin
CHAIR’S FOREWORD

Children and the family are intrinsically tied together for most people in our society. For many Tasmanians, having children and founding a family is an important and natural part of life. This means for most knowing one’s genetic family is taken for granted. We are raised by our biological parents, know our grandparents, and hear stories of both sides regarding our antecedents. Through this we are informed of who we look like and what characteristics we express which are similar to other members of our extended family group. This knowledge which is imparted to us from our families form the basis of our future relationships. We know who we can marry and who it is not appropriate to marry.

However, for some this dream of creating children does not come easily and other enabling options are considered including, more commonly in the past, adoption, and increasingly since the 1970’s, using Artificial Reproductive Technologies (ART).

Tasmania does not have a legislated framework that outlines the practices, rights and responsibilities surrounding ART. In particular the rights of donors or of the rights of donor-conceived individuals to information about each other. As such the matter before the Committee is a legacy issue where the rights of donors and the rights of the donor-conceived individuals are implied. The evidence suggests the undertakings given at the time of donation were not consistent, records are scant or lost with donations being completely un-regulated until the adoption of the National Health and Medical Council Guidelines in 2004. Consequently, the Committee considered the appropriate measures to reconcile conflicts between the contemporary practice that requires disclosure of information to donor-conceived people and a historical tradition that did not.

For people conceived from donated gametes prior to 2004 there is no legislated right to obtain identifying information about their donor and for some even non-identifying information is not available as records were not kept, are still withheld or may have been destroyed.

The Committee heard that many donor-conceived individuals who are unable to obtain information about their donor’s experience considerable distress and anguish. Through no fault of their own these people are denied information about their identity which is a right most people take for granted.

It became clear to the Committee that there is a precedent to this situation in the unsympathetic adoption practices of the 1950s and 1970s. A practice that was rectified nationally by uniform state legislation providing adopted persons with access to identifying information about their birth parents irrespective of whether the birth parents were guaranteed to anonymity at the time the adoption occurred.

The aim of this inquiry has been to examine the Victorian approach to dealing with the legacy issues and the conflicting assertions of rights between donor who gave on the understanding of anonymity and the donor-conceived persons need and right to know their genetic heritage. Victoria is the first Australian jurisdiction to place the right of the donor-conceived individual to information about their genetic heritage above any other party involved in the creation of their life. In Victoria the date of conception is not relevant as it views that the conceived
individual has the right to whatever information is available on the donor. However, this is balanced by the right of the donor to veto any contact with the donor-conceived individual. Donor-conceived persons are able to provide their identifying information, along with their contact preference, to their donor.

In South Australia, Minister for Health Peter Malinauskas MP, has recently indicated the Government’s intention to create a donor conception register which will provide donor-conceived persons with the right to information about their genetic parentage, irrespective of any promise of anonymity provided to the donor.

The Tasmanian context is different to that of Victoria in one particular aspect: no ART was conducted in public hospitals in Tasmania. This means all the Tasmanian donor records belong to private practices, in all other aspects it was similar. However, Tasmania’s small population means the risk on a consanguine relationships is high with half-siblings and we heard this in evidence.

The Committee heard that with the elapsing of decades records may not exist, records may have been lost or never completed at all. The Committee also heard of the risk of existing records being destroyed if compulsion to acquire records and release information was legislated.

The Committee has made recommendations for donor conception practices to be legislated as a matter of urgency to establish the rights of all donors and donor-conceived persons and to remove the reliance on a set of guidelines applicable to only post 2004 individuals. Further, to immediately prohibit the destruction of donor-conception records and to provide a two year grace period during which pre-2004 donor information will only be disclosed with the voluntary agreement of the donor and subject to contact veto rights for both the donor and donor-conceived person.

For many donor-conceived persons their search for information about their donor is a painful experience, and this pain is exacerbated by the time and energy required to locate records. It is for this reason, the Committee recommends the establishment of a central authority to manage all information, counselling and research services in relation to donor conception. Consideration should be given to contracting VARTA to provide these services to Tasmania. A recommendation is also made to review Birth Certificates to ensure accurate information is recorded, including the annotation of a donor conception.

In concluding, I would like to thank all of the individuals and organisations that provided submissions and appeared before the Committee. These accounts formed the core of the Committee’s deliberations, providing an insight that could not otherwise have been gained. Completion of the inquiry would not have been possible without the diligent and enthusiastic support of my colleagues on the committee. I would also like to thank the Committee Secretary Todd Buttsworth for willing contributions and assistance in what has become quite a lengthy inquiry.

Mrs Joan Rylah, MP
Chair
APPOINTMENT, TERMS OF REFERENCE AND CONDUCT OF THE INQUIRY

The Standing Committee on Community Development was established by resolution of the House of Assembly on 26 June 2014 to inquire into and report upon any issues and legislative proposals arising within the scope of the Committee as follows: Aboriginal affairs; arts; corrections; health; human services; justice; police and emergency management; racing; sport and recreation; and women.

The Committee comprised of five Members of the House of Assembly.

The Committee resolved at its meeting of 4 May 2016 to inquire into donor conception practices in Tasmania with the following Terms of Reference:

(1) That the Standing Committee on Community Development inquire into and report upon issues and options, including non-legislative options, relating to facilitating and/or promoting access to identifying or non-identifying information for donors and their donor-conceived siblings, prior to the introduction in Tasmania in 2004 of the National Health and Medical Research Council ‘Ethical guidelines on the use of assisted reproductive technology in clinical practice and research’ and any matters incidental thereto.

(2) That the Committee report by 31 March 2017.

The Committee resolved to invite, by way of advertisement on the Parliament of Tasmania website and in the three major Tasmanian newspapers, interested persons and organisations to make a submission to the Committee in relation to the Terms of Reference. In addition to such general invitation, the Committee directly invited a number of persons and organisations to provide the Committee with any information they deemed to be relevant to the inquiry.

The Committee received 20 submissions, held four public hearings in Hobart and one public hearing in Launceston with a total of 26 witnesses.
CONTEXT OF THE INQUIRY

The rights of parties involved in donor conception have received significant public attention in recent years with a number of public inquiries both in Australia and overseas, including: a Senate Inquiry into donor conception practices in Australia; a Victorian Law Reform Inquiry into Access by Donor-Conceived People to Information about Donors; and, a New South Wales Committee on Law and Safety Inquiry into Managing Donor Conception Information. An outline of these three inquiries is provided below.

Australian Senate Committee Report

On 16 June 2010, the Australian Senate issued terms of reference to its Legal and Constitutional Affairs References Committee to inquire into the past and present practices of donor conception in Australia, with particular reference to:

- Donor conception regulation and legislation across federal and state jurisdictions;
- The conduct of clinics and medical services, including: payments for donors, management of data relating to donor conception, and provision of appropriate counselling and support services;
- The number of offspring born from each donor with reference to the risk of consanguine relationships; and,
- The rights of donor-conceived individuals.

The Legal and Constitutional Affairs References Committee tabled its report on 10 February 2011. The key recommendations were:

- That all States and Territories establish separate but nationally consistent legislation to regulate donor conception practices, which prohibits donor anonymity, limits the number of families a donor is able to assist, provides rights of access by donor-conceived individuals to identifying and non-identifying information about their donor and siblings and protects the welfare and interests of donor-conceived children;
- That donors should be able to assist a maximum of four families; and,
• That the Attorney-General works towards creating a national register of donor conception.1

**Victorian Law Reform Committee Report**

On 10 February 2011, the Victorian Legislative Assembly issued terms of reference to its Law Reform Committee to consider:

• The legal, practical and other issues that would arise if all donor-conceived people were given access to identifying information about their donors and their donor-conceived siblings, regardless of the date that the donation was made;

• The relevance of a donor's consent or otherwise to the release of identifying information and the National Health and Medical Research Council's ethical guidelines on the use of assisted reproductive technology in clinical practice and research;

• Any practical difficulties in releasing information about donors who provided their gametes before 1 July 1988, because in many cases records are not available either because the procedure was carried out privately or records were not stored centrally;

• The options for implementing any changes to the current arrangements, including non-legislative options;

• The impact that any such changes may have on the donor, the donor-conceived person and future donor programs;

• The impact of the transfer of the donor registers currently held by the Infertility Treatment Authority to the Registrar of Births, Deaths and Marriages; and,

• The possible implications under the Charter of Human Rights and Responsibilities Act 2006.

The Law Reform Committee tabled its report on 28 March 2012. The key recommendations were:

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1 Senate Standing Committee on Legal and Constitutional Affairs, Donor conception practices in Australia, Parliament of Australia, Final report, 2011, pp 1, xi, and xvi
• That the Victorian Government introduce legislation to allow all donor-conceived people to obtain identifying information about their donors, including:
  o that donors and donor-conceived people can lodge contact vetoes, if the donation was prior to 1998, and that penalties apply for breaches of a veto; and,
  o provisions for donors to lodge a contact preference form for presentation to a donor-conceived person;

• That the Victorian Government requires donor-conceived people to attend counselling prior to obtaining identifying information about donors;

• That organisations, agencies and persons holding information about donor conception be encouraged to release upon request non-identifying information about a donor to a donor-conceived person, his or her parents, and his or her descendants; and,

• That the Government introduce legislation to empower one agency to provide all services relating to the provision of information linking and counselling services related to donor conception, including management of the donor registers, a letterbox service, education and public campaigns.2

New South Wales Committee Report

On 17 October 2011, the New South Wales Legislative Assembly Committee on Law and Safety resolved to consider that the Committee inquire into and report on whether there should be provision for the inclusion of donor details on the register of births maintained by the Registrar of Births, Deaths and Marriages. The inquiry was self-referred.

The Committee on Law and Safety tabled its report on 17 October 2012. The key recommendations were:

• That the NSW Government works with state and territory governments to develop a nationally consistent system for the registration, management and release of information in relation to donor conception;

• That the Attorney-General introduce legislation to provide that, if a birth registration statement specifies that a child was donor-conceived, the

2 Victorian Legislative Assembly Law Reform Committee, Inquiry into Access by Donor-Conceived People to Information about Donors (Parliamentary Paper No. 120, Session 2010-2012)
Registrar of Births, Deaths and Marriages is to note that the child was donor-conceived in the entry about that child's birth on the register of births;

- That the Registrar of Births, Deaths and Marriages is to issue an addendum on a separate page, indicating that further information is available, when a donor-conceived individual aged 18 or over applies for a birth certificate;

- That the Registry of Births, Deaths and Marriages and the Ministry of Health inform stakeholders of the changes to birth registration statements and birth certificates, through measures including agency websites and brochures;

- That gamete donors' details continue to be held on a separate donor register (the ART Central Register), and not be included on the register of births or birth certificates; and,

- That the Minister of Health: a) Implement processes to enable participants in private donor conception arrangements to voluntarily register their details on the voluntary register; and b) Publicise information on voluntary registration of details of participants in private arrangements on the Ministry of Health website and through public awareness material such as information brochures.³

³ Legislative Assembly of New South Wales Committee on Law and Safety, Inclusion of donor details on the register of births (Report no. 1/55), p ix
INTRODUCTION

The term ‘donor conception’ refers to the assisted reproduction practice of using donated sperm, donated eggs, donated eggs and sperm, or donated embryos. Gametes are donated with the intention that the donor is not a legal parent of the child. Donor conception includes a broad range of procedures, including assisted reproductive technology (ART).

Donor conception may or may not take place in the context of a surrogacy arrangement.

Number of donor-conceived people

According to Dr Sonia Allan the use of ART in Australia continues to increase. She states that:

Given the recorded figures, if at an estimate there has been an average of 600 births per year since the early 70s in which donor gametes/embryos were used to conceive, this would amount to approximately 20,000 donor-conceived individuals living in Australia born through the clinic system. Donor support groups estimate the figure to be closer to 60,000 if one includes those individuals that were conceived with the assistance of a GP or outside of the clinic system. There are a portion of such individuals who were, and continue to be, conceived and born in Tasmania.4

The exact number of donor-conceived persons born in Tasmania is unknown, as many of these persons were conceived with the assistance of general practitioners or through private arrangements outside of a formal healthcare setting. TasIVF submitted that:

TasIVF data shows that there have been 442 births of children conceived with donor sperm since 1975. This includes 212 births using donor sperm prior to 2004 and the change in regulations. From these children born prior to 2004 there are 181 that have reached the age of 18 and may want to contact TasIVF for further information about their donor. Of these 181 children, 147 will not be able to identify their donor, as the donor has not consented to identification.5

Since the 1950s, ART has become more common with a marked increase in the use and availability of the technologies from the 1970s.

Dr Sonia Allan commented:

Technological advances further increased the occurrence of donor conception in Australia with the first in-vitro fertilisation (‘IVF’) procedure in Australia occurring in 1979, and the first IVF baby born in June 1980. Since then numerous assisted reproductive technologies (ART) and practices have been developed (including gamete intra-fallopian transfer (‘GIFT’), zygote intrafallopian transfer (‘ZIFT’), intracytoplasmic single sperm injection (‘ICSI’), and surrogacy). All of

4 Submission No. 13, pp5-6
5 Submission No. 8, p6
these latter technologies may involve the use of donor oocytes, embryos or sperm, and take place within the clinic system with ART specialists, counsellors and other professional staff involved in the process of a person or persons using ART to attempt to conceive a child.°

Currently there are two providers of ART services in Tasmania, TasIVF and Fertility Tasmania. TasIVF has been providing services since the early 1980s, including egg and embryo donation.

The collection of sperm donation in the past was undertaken by a number of medical practices in Tasmania. According to TasIVF, a number of medical practitioners collected sperm, including Dr Hardy-Wilson, Dr Roald Fullerton, Dr Geoff Bradfield, Dr Tim Sutton and Dr Rodney Watkins. Many records of sperm donation in these practices were not kept or are incomplete.°

What remains unknown is how prevalent the practice of sperm collection by medical practitioners was in Tasmania and what records may still exist, if any.

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° Submission No. 13, p5
7 Submission No. 8, p2
COMMITTEE FINDINGS AND RECOMMENDATIONS

Chapter 1 - INFORMATION MANAGEMENT AND ACCESS

The Committee finds that donor-conceived children are entitled to knowledge of their biological parents, including genetic and identifying information.

The Committee finds the legislation and management of donor conception practices is inconsistent across Australian jurisdictions resulting in different legal rights for donors and donor-conceived persons depending on when and where they were conceived.

The Committee finds that national consistency is desirable but acknowledges it will be hard to achieve.

The Committee finds that Tasmania has no legislative framework for donor conception practices and it would be preferable to have legislation than simply relying on NHMRC Guidelines as the basis of regulation in Tasmania.

The Committee finds that legislation is required for donor conception practices to confirm and confer the rights of donors and donor-conceived persons irrespective of when the donation occurred as well as providing certainty for all persons.

Recommendation 1:
The Committee recommends as a matter of urgency that the Tasmanian Government enact legislation within twelve months from the tabling of this report that:

(1) Enshrines National Health Medical Research Council Guidelines to govern all donor conception practices in Tasmania;
(2) Provides statutory authority for the establishment of a central repository for information about all donor and donor-conceived persons;
(3) Prohibits the destruction of any records pertaining to donors and donor-conceived persons; and
(4) Provides a period of 2 years from the commencement of the legislation during which time:
   (a) provision of pre-2004 information to the repository is voluntary;
   (b) no penalties apply for withholding of pre-2004 information;
   (c) no pre-2004 information can be released without consent; and,
   (d) all reasonable efforts are made to ensure all holders of pre-2004 donor conception information and including service providers, donors and donor-conceived persons are contacted, and offered professional counselling and legal advice in relation to the operation of the repository.
Chapter 2 – RETROSPECTIVE ACCESS

The Committee finds that current NHMRC Guidelines allow for post-2004 donor-conceived persons in Tasmania to be provided identifying information about their donor upon reaching the age of 18 or if younger than 18 have been determined to be sufficiently mature.

The Committee finds that there is an absence of legislation in Tasmania governing donor conception practices for this reason Tasmania relies on the NHMRC Guidelines to inform the rights of donor-conceived persons in relation to information about their biological parents post 2004. Donor conception practitioners are required to adhere to these guidelines as a condition of their licence.

The Committee finds that many donor-conceived persons have an express desire to know information about their genetic heritage, medical history, and the identity of their donor/s.

The Committee finds that a significant portion of a person's genetic predisposition can be discovered utilizing DNA testing. However, DNA testing may not provide all of the medical information sought by donor-conceived persons.

The Committee finds that knowledge of parentage and heredity are also important in developing a sense of identity for many donor-conceived persons.

The Committee finds that many donor-conceived persons have suffered because of being denied knowledge of their biological parent/s, potential half-siblings as well as their medical history and heredity. The Committee accepts that for some donor-conceived persons this has led to an incomplete sense of identity.

The Committee finds that in Victoria, all donor-conceived persons have a right to identifying information, however donors have a right to veto contact with a child and there are legal consequences for a breach of that veto.

The Committee finds that in Victoria, donors have a right to de-identified information and may apply for identifying information which will only be supplied with the donor-conceived persons’ permission (or recipient parent’s permission if under age). If identifying information is supplied, the donor-conceived person will also state their contact preference and there are legal consequences for breaching this preference.

The Committee finds that international law provides donor conceived persons with the right to information about their genetic heritage but does not state a right for a child to have contact with their donor parent.
The Committee finds that some pre-2004 donors have tried to contact, or would be happy to have contact, with their donor-conceived child while others want no contact or other identifying information to be released.

The Committee finds that some donors have tried to contact their donor-conceived offspring but have been denied contact by either the parent of the donor-conceived person or the relevant fertility service provider.

The Committee finds that the creation of a repository of donor information could benefit both donor-conceived persons and donors.

The Committee finds that donors prior to 2004 were provided with a condition of anonymity and that many may not have donated was such a condition not provided.

The Committee finds a number of donors, in hindsight, would have been willing to provide identifying and non-identifying information if given the choice.

The Committee finds that the retrospective release of identifying information about donors could have significant effects for many persons should it be mandated.

The Committee finds that some donors may not have understood that their sperm donation was to be used to produce children but instead believed it was to be used for medical research purposes only.

The Committee finds that donor-conceived persons were not and could not be a party to any “contract” of anonymity, and as such, their rights were not considered in such agreements.

The Committee finds that some donor-conceived persons’ searches have been hindered by the requirement that their mothers’ consent to information being released by the medical practice that performed the donor conception procedure.

The Committee finds that there is broad acceptance that an individual has a right to know information about their genetic heritage, including the details of their biological parent, a right that is currently held by all persons in Australia except for donor-conceived persons born prior to 2004.

**Chapter 3 – ADOPTION COMPARISON**

The Committee finds that all adopted persons have a right to identifying information about their biological parent/s from the age of 18.
The Committee finds there is a disparity in the rights of access to information about biological parents for those born through donor conception prior to 2004 and children born through adoption, despite their similarities.

The Committee finds that sociological research has shown that the secrecy involved in adoptions in the past was psychologically harmful to adoptees.

The Committee finds that despite concerns by some when adoption records were released allowing adopted persons to obtain information about their birth parents, there has been no evidence of adopted persons abusing the information provided.

Chapter 4 - CENTRAL REGISTRY AND RECORD MANAGEMENT

The Committee finds that the absence of regulation in relation to donor conception practices prior to 2004 has resulted in the poor maintenance of records, a lack of detailed records or in some cases any records at all.

The Committee finds that the poor quality or absence of records has denied some donor-conceived persons the opportunity of knowing information about their donor or contacting their donor and extended family.

The Committee finds that a single authority would provide a central location to manage donor conception information. This authority would manage a central registry to provide improved record maintenance and improved information search capabilities for donor-conceived persons as well as links to counselling support.

The Committee finds that in order to establish the registry, the single authority should be tasked with undertaking an audit of all post 2004 medical records relating to donor conception practices in Tasmania and any pre-2004 records that are provided on a voluntary basis. As part of the audit, the registry should seek to conduct interviews with donors and any persons who have worked at medical practices that provided donor conception and sperm collection pre-2004, to ensure as much information as possible is recorded before it is lost.

The Committee finds that a government-funded national campaign would be required to encourage pre-2004 donors to come forward and be part of the registry.

The Committee finds that a prohibition on the destruction of records relating to donor conception practices is required.

The Committee supports a contact veto system to cover all records held in the registry.
The Committee finds that each contact veto should contain an expiration period, with the option to renew.

The Committee supports applications for information to the registry to include the option for the donor-conceived person to explain the reasons they are seeking information about their donor.

The Committee finds that birth records and birth certificates of donor-conceived persons do not allow for the inclusion of contemporary information about their donors.

**Recommendation 2:**
The Committee recommends that the Tasmania Government establish a central authority to:

1. Collect and maintain all donor conception records;
2. Operate a registry of donor conception records that provides the option of a contact veto, which expires but is renewable;
3. Assist donor-conceived persons to search for their donor;
4. Provide contact management between donors and donor-conceived persons;
5. Provide counselling services; and,
6. Deliver public education.

**Recommendation 3:**
The Committee recommends the Government undertakes a national campaign to encourage pre-2004 donors and donor-conceived persons to come forward and be part of the registry.

**Recommendation 4:**
The Committee recommends a review is conducted into the information contained in birth records and birth certificates to ensure donor-conceived persons are cognisant of their donor conception.

**Chapter 5 - COUNSELLING AND SUPPORT SERVICES**

The Committee finds that there is widespread support for counselling services to be provided to donors and donor-conceived persons throughout the process of identification.

The Committee finds contact should be managed by central authority staff with counselling training as this process may be distressing for those involved.

The Committee finds that public education, including promoting a central registry and any changes in the management of information relating to donor conception practices, may alleviate affected persons’ anguish and ensure a successful implementation of the registry and the central authority.
1. INFORMATION MANAGEMENT AND ACCESS

1.1. Information relating to donor conception is managed based upon when the assisted reproductive technology (ART) conception occurred as determined by the regulation and practice that was in place at the time.

Regulation of donor conception practices

Current regulation of ART in Australia

1.2. In Australia, the states and territories are responsible for the regulation of ART. Legislative arrangements vary between the states and territories. Four states have specific ART legislation: Victoria, New South Wales, South Australia and Western Australia. Tasmania regulates its ART providers through private health service licensing legislation.8

1.3. The Tasmanian Government commented:

In states and territories where there is no legislative regulation of ART practices (including donor conception), ART providers voluntarily participate in the Fertility Society of Australia’s (FSA) Reproductive Technology Accreditation Committee (RTAC) accreditation scheme.

Certification under the RTAC scheme requires providers to comply with the National Health and Medical Research Council’s 2007 Ethical guidelines on the use of Assisted Reproductive Technology in clinical practice and research (the NHMRC Guidelines) and the RTAC Code of Practice.

Concerns have been raised that “alongside the growing commerciality of ART, there is a growing likelihood that private institutions will decide to act contrary to these unenforceable guidelines. However, there does appear to be broad acceptance from ART providers of the benefits of RTAC accreditation, and there does not appear to be any ART providers in Australia that are not currently RTAC accredited.”9

Current regulation of ART in Tasmania

1.4. While Tasmania does not have specific legislation in relation to ART, the Tasmanian Government does regulate ART through general private health service licensing legislation, including the Health Service Establishments Act 2006 and the Health Service Establishments Regulations.10

1.5. The Tasmanian Government commented:

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8 Submission No. 18, p4
9 Submission No. 18, p5
10 Submission No. 18, pp5-6
Through licensing of the TasIVF clinics in Hobart and Launceston in 2015 the Secretary of DHHS, as the Regulator of private health services in Tasmania, has been able to mandate compliance with the clinical guidelines issued by the FSA, which includes maintaining RTAC accreditation. Maintenance of RTAC accreditation gives the Regulator and the public an assurance that TasIVF are operating in accordance with the NHMRC Guidelines.

Regulation under the HSE Act also requires licensed providers to comply with a range of licensing standards, including detailed standards in regulations made under the Act.

These standards include matters relating to facilities and equipment, clinical standards, staffing, and record keeping. Further conditions relevant to the objects of the Act can be imposed on licensed establishments by the Secretary.

Compliance with the NHMRC Guidelines helps to ensure public safety and quality of services with regard to the ART procedures undertaken by TasIVF. Furthermore, licensing of the sole ART provider in Tasmania sets a precedence, that should new ART providers seek to operate in Tasmania, they will also be required to be licensed, to achieve and maintain RTAC accreditation, and to comply with the NHMRC Guidelines.

1.6. The Tasmanian Government further commented:

Tasmanian legislation for regulating private hospitals and day procedure centres has the flexibility for providing a framework for regulating ART and making compliance with the NHMRC Guidelines mandatory.

... As has been highlighted, both the TasIVF clinics in Hobart and Launceston have been licensed as day procedure centres since 2015, and a requirement of their licence is ongoing compliance with the clinical guidelines issued by the FSA, including maintaining RTAC accreditation and compliance with the NHMRC Guidelines.

The Health Services Establishments Regulations 2010 (HSE Regulations) currently specifies general classes of establishments and the licensing standards to apply to the class of facilities or to specified types of services. The Department is in the early stages of reviewing 17 Tasmanian Health Service Establishments Act 2006, Part 2, Section 5.10 the HSE Act and HSE Regulations. This process is occurring in concert with a national harmonisation project that is looking at opportunities for harmonisation of state and territory private health service licensing requirements.

This legislative review and harmonization process will provide an opportunity to consider how all private health services - including ART services - are best regulated and licensed in Tasmania.

Under the current regulatory approach, any new providers of IVF services in Tasmania would be required to be licensed to mandate use of the NHMRC guidelines.

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11 Submission No. 18, p5-6
12 Submission No. 18, p10
Pre 2004 conceptions

1.7. Donations made prior to 2004 were made on the understanding of anonymity, although some donors were provided the opportunity to voluntarily agree to identification release.

1.8. The 1996 NHMRC Guidelines titled “Ethical guidelines on assisted reproductive technology” stipulated that children born through ART procedures are “entitled to knowledge of their biological parents”. However, the guidelines did not stipulate any obligations for clinics to provide such knowledge to a donor-conceived person:

Children born from the use of ART procedures are entitled to knowledge of their biological parents. Any person, and his or her spouse or partner, donating gametes and consenting to their use in an ART procedure where the intention is that a child may be born must, in addition to the information specified in this section, be informed that children may receive identifying information about them.

1.9. According to TasIVF, any non-identifying information held about a donor has always been made available to offspring, but the information collected in the past is significantly less than the information collected since 2004. Added to this, TasIVF does not hold all records possibly in existence held by other practices.

1.10. The Donor Conception Support Group of Australia commented:

If you were conceived using gametes donated before 2004 in Tasmania, you are denied access to identifying information unless the donor has given consent to that disclosure and most donors have never been asked to give their consent. Even after this date information may be able to be accessed by donor-conceived people once they reach the age of 18 but then only if the clinic has kept proper records and can connect the donor-conceived person through their mother’s records to the donor.

1.11. Mr Michael Williams, donor-conceived person, commented:

...donor-conceived Tasmanians like myself have no formal mechanism for obtaining information about their donors. There is no way for individuals conceived before clinical practices began to change in respect of donor anonymity in Tasmania to obtain any details about half of their genetic heritage.

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13 Submission No. 11, pp3-4
14 Submission No. 8, p1
15 Submission No. 15, p4
16 Submission No. 12, p2
Post 2004 conceptions

1.12. In 2004, the NHMRC published a new set of guidelines titled: “Ethical guidelines on the use of assisted reproductive technology in clinical practice and research”, which replaced the 1996 guidelines. The 2004 NHMRC Guidelines stipulated that:

*Clinics must not use donated gametes in reproductive procedures unless the donor has consented to the release of identifying information about himself or herself to the persons conceived using his or her gametes.*

1.13. This change granted donor-conceived persons access to details of name of the donor, medical history, family history, physical characteristics, and number and sex of genetic siblings born through gametes from the donor, from the age of 18, or earlier under certain conditions.  

1.14. The Fertility Society of Australia commented:

*Modern infertility practice using donated gametes is therefore based on an understanding of the needs of donor-conceived individuals and the consequent principles of being open with all participants about future identification and the consequences that follow from that.*

1.15. The NHMRC Guidelines obligates clinics to assist donor-conceived people in contacting their donor on their behalf.

1.16. According to the Fertility Society of Australia:

*If this is occurring as it should, as stated in the guidelines, there should be no need for further legislative change. There is a need for legal change and assistance however, to be given to donor-conceived people whose mothers’ treating doctor or clinic is not assisting them or has since closed down. This could occur by giving a government Authority similar to the Victorian Assisted Reproductive Treatment Authority (VARTA) in Victoria, the legal responsibility and onus to assist in the search and contact of their donor.*

1.17. The change in mandating that all donors consent to their identifying information being provided to their donor-conceived children only affected those people who donated from 2004 onwards. Thus, creating distinctions in access to information based upon the date the donation was made.

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17 Submission No. 11, p4
18 Submission No. 3, p2
19 Submission No. 3, p3
1.18. Mr Mark Brown, Australian Christian Lobby commented:

The guidelines did not extend to persons conceived prior to the operation of the guidelines. The current lack of legislation in Tasmania means that a retrospective right to donor information is yet to occur. This means that there is now an arbitrary two tiered system in Tasmania that discriminates against older donor-conceived persons, conceived before the operation of the national guidelines from the NHMRC.  

1.19. While donor-conceived persons conceived from 2004 onwards are able to obtain information about their donors, the donors are unable to gain access to identifying information about their offspring. Donors are only able to access the following information:

1. Number of offspring
2. Number of families with offspring
3. Sex of the offspring.

1.20. In 2007, the National Health and Medical Research Council published an updated version of the NHMRC Guidelines titled 'Ethical Guidelines on the Use of Assisted Reproductive Technology in Clinical Practice and Research', which are the current guidelines in Tasmania.

NHMRC Guidelines and legislation

1.21. ART services in Tasmania are required to adhere to the National Health and Medical Research Council's 'Ethical Guidelines on the Use of Assisted Reproductive Technology in Clinical Practice and Research' (2007) (the "NHMRC Guidelines").

1.22. Mr Bruce Paterson, Department of Health and Human Services commented:

The Health Services Establishments Act now licences both those providers and conditions of licence require them to comply with the NH&MRC and other guidelines and accreditations...At the moment, just as it is, it seems that we have the main bases covered, one would say.

1.23. Dr Bill Watkins, TasIVF argues in favour of the NHMRC Guidelines instead of legislation:

If we don't follow those we would lose our licence. With all due respect, legislation tends to be more clumsy and harder to change quickly and move with the times. These times, as I have indicated by coparenting.com and ancestry.com, they are changing rapidly. I am reluctant because it never gets it quite right. The surrogacy laws are quite

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20 Submission No. 11, p4  
21 Submission No. 8, p1  
22 Submission No. 11, p5  
23 Transcript, 21 March 2017, p12
good but we've found some quite significant flaws that are not going to work for our patients. I can imagine that changing those would not be a simple procedure, not in the patient's time frame at least if you are looking at a patient who is being affected by this.\(^{24}\)

**Legislation inconsistencies in different jurisdictions**

1.24. The Committee received a large number of submissions highlighting the issues caused by the legislative inconsistencies and arguing for uniform legislation in Australia.

1.25. Dr Sonia Allan, Macquarie University, commented:

Inconsistency amongst states and territories with regards to access to such information creates an unjustifiable position in Australia. This submission calls for Tasmania to address the issues faced by donor-conceived individuals in their state.\(^{25}\)

1.26. Dr Sonia Allan further commented:

It is important, as an underpinning principle, that if we are going to accept that donor-conceived people need information and have a right to that information, they should have a right no matter where they are in the country. At the same time, we need to think about where we hold that information, how we impart it, what sort of systems we have in place to support them and who they're provided by. That may differ from state to state, based on what the situation is in that particular state. In Tasmania there is only one IVF clinic, so it is quite different to Victoria that has at present 35 or 37 clinics.\(^{26}\)

1.27. VANISH argued in favour of nationally uniform legislation:

Legislation in Australian states and territories should, as far as possible, treat all donor-conceived people equally and consistently, regardless of when or where the donations that led to their conception were made.

...Such legislation should also be reviewed for consistency with other related areas of legislation – including, surrogacy and adoption. There should be a holistic and harmonious approach to legal provisions pertaining to access to information, contact statements, birth certificates, etc., across all forms of third party human reproduction and family formation.\(^{27}\)

1.28. Mr Ian Smith, sperm donor, commented:

Current practice... is very fragmented across Australia. The Senate report cited previously made a number of recommendations for action – with an underlying thread of achieving greater cohesion in donor conception policy and practice across the States and Territories. Such cooperation is still not much apparent, although the recent

\(^{24}\) Transcript, 23 September 2016, p9

\(^{25}\) Submission No. 13, p39

\(^{26}\) Transcript, 23 September 2016, p36

\(^{27}\) Submission No. 9, p5
legislative action in Victoria and NSW, the Review recently undertaken in South Australia, and the work that is now underway in Tasmania, is encouraging.

I argue that that there is both scope and a need for much better collaboration and cooperation on these matters between the State and Territory Governments – potentially too at a Commonwealth Government level. The COAG Health Council would seem an obvious avenue for discussion on these topics. I encourage the Tasmanian Government to consider raising these matters in that forum.28

Arguments for regulation

1.29. The Committee heard from respondents who argued in the absence of regulation of ART practices a number of issues arise, including individuals being referred to ART practices overseas or outside the Australian medical profession with no oversight or guidance.

1.30. Ms Charlotte Smith, VANISH, commented:

People are already going overseas, they are exploiting loopholes and inconsistencies in state legislation. The Commonwealth does not have a clear framework to regulate. Clearly that is already happening. That’s a problem. It needs to be dealt with. Why should children whose parents have interventions here have one set of rules which enables them to have their rights met - hopefully - whereas Australian citizens, if they can go overseas and engage in practices that do not protect those rights, then they come back and the children are born here and grow up here, is very unfair. It is not equality before the law. They are not having their rights equally met.

If people are going underground, we need to deal with that. It is not good enough. It is not fair.29

1.31. Ms Penny Mackieson, VANISH, commented:

The reason people are going underground is they don’t understand the reason behind the legislation or the damage that is caused through ART practices and the secrecy around who their biological parents are. If there was more community education, together with new legislation, that people could understand they may be less inclined to go ahead with those practices.30

1.32. Dr Bill Watkins, TasiIVF, commented:

I had my first patient come along last week who has already been to coparents.com. That’s another thing. I don’t know if you are aware of co-parenting. That is where you log online and you find somebody who is matched and you will meet in a hotel room and he will pass the sperm to you and you artificially inseminate yourself. It is big and growing apparently, and that is a complete disaster. You can imagine the trouble that is going to arise there.

28 Submission No. 4, p5
29 Transcript, 23 September 2016, p27
30 Transcript, 23 September 2016, p25
CHAIR - There is no testing. They could have HIV or -

Dr WATKINS - They might say on the thing that they have had their tests, but I don't know. I certainly have had patients who have done it that way for their first child and then have said no, because the guy is going for custody now. At least if you come to a clinic there is something formalised, people know what they are getting into. Sure, you can go to court and challenge anything in court but at least there is some structure to it and people know what they are getting into and what they are not. The more regulations we have, the harder that gets and it is easier to go elsewhere.31

Committee findings

1.33. The Committee finds that donor-conceived children are entitled to knowledge about their biological parents, including genetic and identifying information.

1.34. The Committee finds the legislation and management of donor conception practices is inconsistent in the various Australian jurisdictions resulting in different legal rights for donors and donor-conceived persons dependent on when and where they were conceived.

1.35. The Committee finds that national consistency would be ideal but acknowledges it would be hard to achieve.

1.36. The Committee finds that Tasmania has no legislative framework for donor conception practices and it would be preferable to have legislation than simply relying on NHMRC Guidelines as the basis of regulation in Tasmania.

1.37. The Committee finds that legislation is required for donor conception practices to confirm and confer the rights of donors and donor-conceived persons irrespective of when the donation occurred as well as providing certainty for all persons.

1.38. Recommendation 1: The Committee recommends as a matter of urgency that the Tasmanian Government enact legislation within twelve months from the tabling of this report that:

   (1) Enshrines National Health Medical Research Council Guidelines to govern all donor conception practices in Tasmania;

   (2) Provides statutory authority for the establishment of a central repository for information about all donor and donor-conceived persons;

   (3) Prohibits the destruction of any records pertaining to donors and donor-conceived persons; and,

31 Transcript, 23 September 2016, p6
(4) Provides a period of 2 years from the commencement of the legislation during which time:

(a) provision of pre-2004 information to the repository is voluntary;

(b) no penalties apply for withholding of pre-2004 information;

(c) no pre-2004 information can be released without consent; and,

(d) all reasonable efforts are made to ensure all holders of pre-2004 donor conception information and including service providers, donors and donor-conceived persons are contacted, and offered professional counselling and legal advice in relation to the operation of the repository.
2. RETROSPECTIVE ACCESS

2.1. Information relating to donor conception is managed based upon when the assisted reproductive technology (ART) conception occurred as determined by the regulation and practice that was in place at the time.

2.2. While donor-conceived persons born of donations made from 2004 are entitled to identifying information about their donor, persons conceived prior to this time are not.

2.3. The Committee heard a variety of opinions, both personal and academic, as to whether donor-conceived persons, irrespective of when they were conceived, should have equal entitlement to information about their donor through the enactment of retrospective legislation.

2.4. Essentially, this issue is a matter of conflicting rights, those of the donor and those of the donor-conceived person.

2.5. Mr Richard Griggs, Civil Liberties Australia, commented:

Wherever possible, rights should be balanced through a clear, transparent process that acknowledges there are competing rights, and that very few rights are absolute.32

2.6. Mr Mark Brown, Australian Christian Lobby, commented:

Obviously this is a case of competing rights. Often there are competing rights but we have the view that children, who are the most vulnerable and certainly the least able to defend themselves or speak on their own behalf, need to have their rights, in this instance, override the rights of those who at the time were given assurances of anonymity.33

2.7. Dr Sonia Allan, Macquarie University, commented:

... while there is no impediment to the legislature passing retrospective legislation allowing the release of identifying and non-identifying information about donors to donor-conceived people, the legal interests and ‘rights’ to privacy of donors should also be considered. This is particularly so, as some donors may have been ‘promised’ anonymity at the time of their donation and have acted on that basis. A ‘balancing’ exercise therefore is warranted in considering how to best serve both donor-conceived people and donors.34

32 Transcript, 24 October 2016, p6
33 Transcript, 24 October 2016, p8
34 Submission No. 13, p25
2.8. Dr Fiona Kelly, La Trobe University, commented:

I shy away from presenting this as a rights-based argument. I do not think one party’s rights should trump another party’s rights. Instead we should be looking at a model that tries to find common interest and move from that point. 35

2.9. In 2005, TasIVF attempted to contact the donors who would be affected by the granting of retrospective access to information:

TasIVF has approximately 91 sperm donors who donated prior to 2004 and have offspring as a result of that donation. TasIVF attempted to contact these donors in 2005 requesting updated information and to see if they would give consent for the release of their identity if requested when the donor-conceived offspring turn 18. Of the 91 donors, 66 could not be contacted because contact details could not be found and verified (Internet, telephone book and electoral roles). Twenty-five of the donors were contacted by letter or telephone; however, only twelve of these donors replied with further information. Of these twelve donors; nine donors consented to be identified; three did not consent to be identified. One of these specifically contacted TasIVF by telephone and requested he never be contacted again. Thirteen of the twenty-five contacted did not respond. 36

2.10. The Committee notes the records of patients of Dr Hardy-Wilson, Dr Roald Fullerton, Dr Geoff Bradfield, and Dr Tim Sutton may not be accessible as these may have been lost, destroyed or not recorded.

2.11. The Committee further notes there is considerable scope to bring forward information that is not available now to exhaust all possible avenues of inquiry.

Arguments for full retrospective access

2.12. The Committee heard from many donor-conceived persons who provided passionate evidence about their desire to obtain identifying information about their donor. The reasons for their desire, in general, were common – the desire to know their heritage, their medical background, to know their donor, and half-siblings and their families – and all seeking to know a greater sense of themselves.

2.13. Ms Andrea Peace, donor-conceived person, commented:

I think if the law was changed, I have always felt I have had this black hole in my life - this half of me I have not known and many questions so changing the law for me would definitely alleviate that black hole. It would mean I had some access to potentially a person or maybe persons I would really like to get to know. I would certainly, I think, be able to finally understand a little bit more about myself. Everybody has the right to know about themselves or if they have questions about themselves be able to get those answered.

35 Transcript, 10 May 2017, p10
36 Submission No. 8, p5
It would mean a lot to me if the law was changed, but there is still that aspect of perhaps my donor might not want to have contact with me which I accept. I would be disappointed - I am not going to lie if that was the situation, but I would be hopeful. I do not expect anything from them other than I would really love to be able to sit down and find out a little bit about them and maybe learn a little bit more about myself.

That would be pretty amazing, and, yes, half siblings would just be great on that - if they were to have offspring of their own related to me, that would be amazing.\textsuperscript{37}

2.14. Ms Priscilla Walters, donor-conceived person, commented:

I accepted this is how I got to be on the earth for so long, but I would like to know a bit more. As I said, I spend every day doing some sort of research, whether it is trying to Google med students from 1977-1978. I cannot work out how I can find a yearbook yet, but that is the kind of thing - I will even Google doctors in the area, knowing if he was a doctor, he may have gone to the mainland and be practicing over there now. I go to some ridiculous lengths trying to find something out.

...If I ever found him and found out any information at all, I would feel a huge sense of relief. I want to make sure also he is not being affected and his personal life.\textsuperscript{38}

2.15. Mr Michael Williams, donor-conceived person, commented:

Where records relating to donors exist but donor offspring currently have no right to information about those donors, legislation should provide donor offspring with retrospective access to information about their donor. This would provide donor-conceived Tasmanians with the same basic right as everyone else in the community (including donor offspring conceived when donor insemination was not anonymous) to know their genetic background.

The preferred model of legislation would, where the information is available, permit the release to donor offspring of identifying information about their donors. A scheme that permits the release of non-identifying information, but only allows identifying information with donor consent would leave many donor offspring in the same position they are in now (i.e. without any meaningful information about their genetic history and with no ability to obtain information about half siblings).\textsuperscript{39}

Human Rights from the perspective of a donor-conceived person

2.16. For many people, retrospective access is a human rights issue. It is argued that the denial of such information to the donor-conceived person is a breach of their fundamental human rights.

2.17. The Donor Conception Support Group of Australia Inc. commented:

It is a basic human right to know of one’s own heritage, a right which most children are born into and most adults take for granted.

\textsuperscript{37} Transcript, 20 March 2017, p10
\textsuperscript{38} Transcript, 20 March 2017, pp26-27
\textsuperscript{39} Submission No. 12, pp5-6
People may argue that some individuals in today’s society do not know a part of their heritage for a variety of reasons, however their right to seek information is not denied to them by a decision made decades ago by medical professionals and supported by governments.\textsuperscript{40}

2.18. Mr Michael Williams, donor-conceived person, commented:

Donor-conceived people, like myself, seek the same right which everyone else has in the community and takes for granted. That is the right to know about your background and the person who was instrumental in bringing you into the world.\textsuperscript{41}

2.19. Dr Sonia Allan, Macquarie University, commented:

Laws and guidelines, across Australia, and within jurisdictions, result in donor-conceived people being treated differently depending upon where a donor-conceived person was born and when their donor’s gamete donation took place. That donor-conceived people are not granted automatic entitlement to information has led to some stating that they are being discriminated against.

Such claims often also look to the law long since having recognised the need for information about biological heritage in for other people: a) adoptees (which has involved the laws being enacted to permit retrospective release of information to adoptees about their birth parents), b) people whose paternity is at issue (where the law allows for orders to be made for DNA testing to establish paternity), c) indigenous people, including—but not limited to—the stolen generation, and their interests and rights to know their cultural and biological heritage.\textsuperscript{42}

United Nations Convention on the Rights of the Child

2.20. The United Nations Convention on the Rights of the Child, particularly Article 7, “the right to know and be cared for by his or her parents”, was widely cited by respondents as a reason as to why retrospective access must be granted.

2.21. Mr Mark Brown, Australian Christian Lobby commented:

Some may argue that the donors who provided gametes anonymously prior to the 2004 guidelines did so under the understanding they would always remain anonymous, yet such an agreement was made without considering one of the parties most directly affected by it, namely the child conceived.

Justice requires us to make a hard choice between the rights of this group of adults to privacy and the rights of this group of donor-conceived individuals to know their biological identity. Where the state must provide a regulatory framework—which it must around issues of artificial reproductive technologies—it is incumbent upon the state to ensure that the rights of the donor-conceived child come first.\textsuperscript{43}

\textsuperscript{40} Submission No. 15, pp8–9
\textsuperscript{41} Transcript, 20 March 2017, p29
\textsuperscript{42} Submission No. 13, p12
\textsuperscript{43} Submission No. 11, p5
2.22. Mr Mark Brown further commented:

International law recognises the importance of identity for children. Australia is a signatory to the United Nations Convention on the Rights of the Child (1990). Articles 7 – 9 states:

Article 7
1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8
1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9
1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

Articles 7, 8 and 9 of the Convention are, therefore, undertakings by signatory states that involve a commitment to protecting a child's right to know and be cared for by their parents.

... The rights of children include the right to biological identity. Biological heritage is vital in knowing who we are and giving us a sense of belonging and identity. 44

2.23. Mr Damian Adams, academic and donor-conceived person, commented:

Tasmania should introduce legislation which mirrors that currently in effect in Victoria. The Victorian legislation not only addresses the issue of access to information in a manner which respects the welfare of the child paramountcy principle, but also ensures that Victoria meets its obligation under the UN Convention on the Rights of the Child. If Tasmania introduced similar legislation it would therefore also treat donor-conceived people on an equal standing as those who are adopted who have also had to deal with kinship separation and associated problems. By providing this access to all donor-conceived people regardless of when they were born would remove discriminatory

44 Submission No. 11, p5-6
treatment. Furthermore, mirror legislation would move Tasmania toward national harmonisation of donor conception legislation as was recommended by the Senate.\textsuperscript{45}

2.24. Mr Ian Smith, sperm donor, commented:

... the interests and wellbeing of the children – all of them – are paramount. Regardless of what the legal framework was at the time of my being a sperm donor, I believe that I do have responsibilities to the children born as a result of my sperm donations. At the least, those people have a right to know what part of their genetic heritage is – more if they want more.\textsuperscript{46}

A key thing apparent to me in my reflection on my own experience, and my experience of meeting many gamete donors and donor-conceived people, is that that there is a very complicated human aspect to what I fear many in the medical profession have often, in the past and perhaps still now, viewed as simply a clinical process. It is not simply a clinical process. It is a very complex social issue - as well as a medico-legal issue.

Governments, world-wide, are now left with the task of attending to the mess left from previous actions in this field. I say that it is imperative that Governments act decisively – with full regard to the impact on the people who are involved here: the donor-conceived people, the gamete donors, and the families of all of those people. It is those people whose interests and welfare are paramount.\textsuperscript{47}

2.25. Mr Ian Smith, sperm donor, commented:

I strongly support the principle that donor-conceived people should have, as a basic human right, access to information about their genetic heritage and thus to information regarding their gamete donors. I say that this principle should be at the base of any Government policy and action. I say too that, while giving primacy to that right to know, there is a need for careful and sensitive approaches to the gamete donors – some of whom made those donations on the basis of anonymity and some of whom either wish to preserve that status, or have hesitations about a change to that regime.

... In making that submission I observed that one set of human rights has, inevitably, to give way in a circumstance such as this. Both sets of rights cannot be fully maintained. In my view it must be the right to anonymity, of gamete donors such as me, which has to give way. The right of sperm and egg donors to retain anonymity is, in my strong view, ultimately inferior to the rights of donor-conceived people to know their biological origins. The rights of the donor-conceived are, in this instance, the more important.\textsuperscript{48}

2.26. The Fertility Society of Australia commented that it was:

... strongly supportive of the right of a donor-conceived individual to have access to identifying information of their genetic origins. This principle is now enshrined in the practices and procedures of our Society and is subject to audit, with the Reproductive Technology Accreditation Committee Code of Practice, where the introduction states:

\textsuperscript{45} Submission No. 2, p10
\textsuperscript{46} Submission No. 4, p2
\textsuperscript{47} Submission No. 4, p2
\textsuperscript{48} Submission No. 4, p2-3
“Fundamental to the delivery of ART services is that patients and their offspring remain the most important consideration in all decisions. Organisations aspire to deliver services in a manner that recognises patients’ cultural and individual values and beliefs, upholds their dignity and privacy, and acknowledges the rights of children born through ART to know their genetic origins and health outcomes.”49

2.27. Ms Caroline Lorbach, Donor Conception Support Group of Australia, commented:

We think that a right such as identity should not be on a voluntary basis. It should be legislated to show how important it is. Often when people see things in legislation they start looking at the reasons behind it, because legislation is not a simple thing to do. They start understanding the importance of it and why it needed to be done in the first place.

If we keep it on a voluntary basis, we are saying donor-conceived people’s information is not as important as adoptee’s information. It is not as important as a lot of other people’s information. I think donor-conceived people have for way too long sat in the shadows of people telling them they do not need to know. That is what a lot of parents were told a long time ago, myself included. A doctor told us our children did not need to know how they were conceived. So I really would encourage you to definitely move towards legislation in this area.50

2.28. Ms Charlotte Smith, VANISH, commented:

If governments are allowing practices where people are completely disconnected from their heritage and their biological family members, they needs to take responsibility for helping to uphold their rights to know their heritage.51

Right to medical history

2.29. Respondents argued that it was imperative that donor-conceived persons have access to their donors’ information to enable them to know their medical history to ensure their own health and the health of their own offspring – to deny such access would be placing them and their children at risk.

2.30. The Commissioner for Children and Young People commented:

... a child born of assisted reproductive treatment has a right to know and to have information (identifying and non-identifying) about their genetic heritage - regardless of the consent of the donor, and regardless of when the procedure in question occurred. This position is consistent with and informed by a child rights analysis.

49 Submission No. 3, p2
50 Transcript, 24 October 2016, p21
51 Transcript, 23 September 2016, p29
However matters are complicated where the ART occurred at a time when consent to release information was not required of the donor.\textsuperscript{52}

2.31. Ms Priscilla Walters, donor-conceived person, commented:

I want to be able to confidently tell my children about my existence and how lucky they are to have their mum… most importantly I want them to know that they carry no genetic condition & can look back on their family tree & not have any false details.

I want to know my medical history not only for me but for my children and their children. Such medical information could be imperative to me and my legacy. I want to know why I look the way I do, do I have any half siblings and chances are I could possibly know someone I am related to and not even know it. Needless to say there are so many questions that can be answered by the knowledge that can be gained through knowing my Donor.

I am here in unbelievable circumstances, I am married and have children of my own. I feel so blessed to exist.

I am grateful to be here but I do deserve to know the other half of my existence. I have every right to know my genetic background, as does everyone else who is fortunate enough to know both sides of their family.\textsuperscript{53}

2.32. Dr Sonia Allan commented:

There is great importance for having access to information concerning a biological parent’s medical history (e.g. whether or not there is a familial history of heart disease, diabetes, cancer, mental health issues, and/or other heritable diseases). Donor-conceived people who are denied access to familial medical histories are placed at increased risk as a result of not having access to information about their genetic heritage. This becomes very significant as people age. For example, a donor who donated in the 1970s or 1980s, when donor conception was shrouded in secrecy, may not until more recently have become aware that they are a carrier of certain diseases. Similarly, a donor-conceived individual may become aware of a heritable condition, but has no way presently to notify their donor(s) or half-siblings conceived using the same donor gametes. This may have ramifications not just for the person unaware of such information but for generations to come. (On the other hand, the release of medical information raises issues about health privacy and confidentiality which are generally protected in Australia – clear legislation permitting the release of information about the donor is therefore needed).\textsuperscript{54}

2.33. Mr Damian Adams, academic and donor-conceived person, commented:

... the donor’s medical records are also the medical records of the donor-conceived person. Not only does access to such medical information, which could be de-identified, provide the donor-conceived person with the knowledge to make lifestyle changes to

\textsuperscript{52} Submission No. 19, p3  
\textsuperscript{53} Submission No. 7, p1-2  
\textsuperscript{54} Submission No. 13, p9-11
improve health trajectories as well as the information required to inform medical practitioners fully to aid in their health treatment, it assists in reducing the financial and resource health care burden on the state of Tasmania.\textsuperscript{55}

2.34. Dr Bill Watkins, TasIVF, commented on the current screening practice:

My patients are receiving donor sperm, donor eggs, donor embryos and they receive much more information and more much risk factor than the average couple having a child on their own. When you fall in love you don't say, 'What's your family history? Have you been screened for cystic fibrosis?' - which all our donors are. They are already screened for more and that screening on the donor side will increase significantly. We are about to introduce two more common recessive disorders that we will screen for.\textsuperscript{56}

2.35. Dr Bill Watkins raised the potential in the near future for DNA testing will provide an individual with their medical history information:

The human genome project that took 12 years and millions and millions of dollars to plot the first human genome. It's now $1000 and three days. I am not sure whether this is a good thing, to be able to work out what your risk of this disease, that disease is and so forth and there is so many other environmental factors. It is not just genetics. I think that is going to change. They say within five years it will cost $100 to have your genome done and it will be less than three days.\textsuperscript{57}

2.36. The Committee notes the very real possibility that technology will be available that will allow a donor-conceived person to obtain genetic information about their potential health and future well-being from their DNA. This may reduce the necessity for donor-conceived persons to access their donor’s health records.

Rights of donor-conceived persons over the rights of donors

2.37. Many respondents argued that as the donor-conceived person had no choice in their conception (a third party to the contract that guaranteed the anonymity) their rights should be prioritised over those of the donor.

2.38. Ms Caroline Lorbach, Donor Conception Support Group of Australia, commented:

... because the donor-conceived person has no choice in all of this. They have no choice in the method of their conception and their birth, so we think they should be given priority in everything.\textsuperscript{58}

\textsuperscript{55} Submission No. 2, pp6-7
\textsuperscript{56} Transcript, 23 September 2016, p5
\textsuperscript{57} Transcript, 23 September 2016, p2
\textsuperscript{58} Transcript, 24 October 2016, p21
2.39. Ms Charlotte Smith, VANISH, commented:

    I think in terms of the promise that was made to donors, that was a violation of the
    rights of the donor-conceived child who becomes an adult. That promise should never
    have been made. What is paramount here is the rights of an individual to know who
    their biological parents are, and to be able to decide on both sides to form a relationship
    with them.59

2.40. Family Voice Australia commented:

    Donor-conceived children have a right to know their biological and genetic origin,
    including full identifying information about their genetic parents... This right should not
    be dependent on the date of the procedure which led to their conception or on any
    guarantees of anonymity given to sperm donors in the past. No one – neither clinic nor
    the state – has the right to offer anonymous fatherhood to a man in order to obtain his
    sperm to conceive a child.60

2.41. An anonymous witness commented:

    I would say the right to knowledge lies with donor-conceived children, not with donors.
    ... genetic donors make deliberate choices when they donate; IVF parents make
    deliberate choices when they use that process; but IVF offspring have had no choice in
    the process. To me it just feels fair for them now to have the option to know of their
    genetic heritage via IVF - even from the times of donor anonymity.61

2.42. Mark Brown, Australian Christian Lobby, commented:

    Government also has a duty to take measures through legislation and public policy that
    ensure important information about a child’s full identity is no longer be kept from
    donor-conceived persons. The current situation where some have a right to their
    genetic information and some don’t, based on the date of their conception is manifestly
    unjust. Hundreds to possibly thousands of Tasmanian children need the current law
    changed to rectify this injustice.62

Question as to whether the donor’s “contract” for anonymity is legally valid

2.43. The Committee received evidence that questioned whether the donor’s
    “contract” for anonymity was legally valid and or provided for donor
    anonymity.

2.44. Dr Fiona Kelly, La Trobe University, commented:

    There is some legal analysis of whether it is actually a contract or not. It is not entirely
    clear; the statement the donor made was primarily that they would not contact - if you

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59 Transcript, 23 September 2016, p26
60 Submission No. 6, p5
61 Submission No. 1, p2
62 Submission No. 11, p3
look at most of the paperwork - and that they wouldn’t search for their offspring, rather than the doctor not reveal their identity.

I recognise that concern. In order to create a system where consent can be provided or at least requested, it is better that it go through a government authority than through a clinic. I suspect the clinics wouldn’t want to be dealing with it either.

... I am not sure that I would even call it a contract or an agreement. It is what was clearly understood at the time. Whether someone is bound by it or not - particularly if they are not a party to the contract, they are obviously not bound by it. There would be the argument in favour of the simple release of the information. I guess I would shy away from that approach because it fails to recognise, I think, the genuine privacy concerns of donors. So, there may not be a contract. It may not be binding on the child who is now an adult, but to ignore what was clearly understood to be the case - which was the donor would remain anonymous - seems to be a violation of his privacy. Again, I would be very reluctant to support a situation where that privacy, that confidential personal information, is released by government.

Australia’s privacy laws are reasonably strong. I am aware of a province in Canada that attempted to do this in the adoption context - of the Victorian model in the adoption context - and it did not survive the constitutional scrutiny; it was shot down within two days. So it would be interesting to see if a case was ever brought under Australia’s privacy laws whether it would survive this or not - I do not know; I am not a privacy expert - but it is naïve to think there is not a privacy interest here on the part of the donor.63

2.45. Civil Liberties Australia argued that such agreements between donor and clinic must remain valid and that voiding any such agreement would make the law less certain and ultimately less fair.64

**Donor-conceived persons unaware**

2.46. Some submissions noted that not all donor-conceived persons are aware that they are donor-conceived.

2.47. Ms Andrea Peace, donor-conceived person, commented:

> The TasIVF submission suggests there are many offspring from Tasmania who do not know today they are donor-conceived. I am sad for them that they do not know. I hope more people will find out, which is part of again me being here today. I think it is really important for people to understand we are okay. We are not broken or anything like that.65

2.48. Anonymous commented:

> Allowing all donor-conceived people access to their genetic heritage probably assumes that those people know they are donor-conceived. But, apparently, some donor-

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63 Transcript, 10 May 2017, p12-14
64 Submission No. 17, p2
65 Transcript, 20 March 2017, p7
conceived people are not told about their genetic background by their parents. I was
tempted to slot in an exclamation mark there, but perhaps some of these parents have
good reasons for keeping their children unaware. But do or would or should these
children (I'm using this word in the general meaning of parent/child, rather than
necessarily referring to young people) have a legal or moral right to being advised by
their parents of their genetic heritage? I have no idea of the current legal situation, but
my gut response is, yes, of course. I was discussing this with someone who reminded
me that not all children born from 'standard' conception within a particular relationship
are genetically true to that relationship. That is, some children are fathered from
outside such relationships. Depending on which magazine or internet gossip you choose
to gasp at, it is supposed to be a significant proportion. What about these children?
Ought they to too have a legal right to be informed about their genetic heritage? There
would be understandable temptations to let such things stay quiet - versus the
openness that I'm saying seems straightforward enough to me in IVF instances. So, I
suppose if the arguments were straightforward then we wouldn't still be having
discussions.66

Right to information different from right to contact

2.49. Submissions highlighted the difference between access to information about
donors and contact with donors.

2.50. Mr Mark Morrissey, Commissioner for Children and Young People, commented:

It is important to acknowledge the distinction between access to identifying
information and contact, a distinction most pertinent to those who were donors at a
time when consent to disclose information existed. There may be a need for legislation
in the provision for access to genetic information by a child - under 18 years of age - in a
manner that is sensitive to the issues involved, and is supported. For example, a child
should be able to apply for access to information about a donor, perhaps with the
support and guidance of an adult or counsellor. I think it always needs to be provided in
a professional context and there needs to be ideally some minimum standards
prescribed.67

... The Victorian argument is convincing but my personal view is that a name may not be
necessary for the child to gain enough information. If I was to go on what I read in the
Victorian legislation, they make a very compelling argument to provide the name. My
comment is that I may be wrong in taking that personal view.68

2.51. Ms Caroline Lorbach, Donor Conception Support Group of Australia, stated in
adoption cases that access to information is distinguished from contact with
donors and supported such a scenario in donor conception matters:

66 Submission No. 1, p1-2
67 Transcript, 24 October 2016, p14
68 Transcript, 24 October 2016, p15
All adoption laws around Australia say that you can have that information, but there is only consent for contact. That is our position. Identity should be given, but contact is by consent of each party.  

Identity

2.52. Respondents spoke of an incomplete sense of identity suffered by donor-conceived persons and argued that access to information about donors would alleviate this suffering. A number of respondents labelled this experience as “genealogical bewilderment”.

2.53. Mr Michael Williams, donor-conceived person, commented:

I think it is so intrinsic to our identity and it is so much a part of who we are and who we take for granted that we are. It is reasonable that people feel a very strong urge to have that information. The donor-conceived people I have met who are still searching for that information, you can tell there is a huge hole in their life and they are trying desperately to fill it by finding out who their donor was, and a lot of that is about tracing back their ancestry. 

2.54. Mr Michael Williams further commented:

I appreciate why people underwent assisted reproduction in the 1980s. The urge for couples to have children, who otherwise cannot, is profound and compelling. I also understand the reason donor anonymity was encouraged, given the embarrassment for men about infertility, and the desire of the medical profession and broader society to preserve the idea of the biological family unit. But the culture of secrecy around donor insemination practices, which prevailed into the 1990s, has caused immense difficulties for donor-conceived people like myself.

2.55. Ms Priscilla Walters, donor-conceived person, commented:

I most definitely do not expect, if I do find my donor, to say, ‘Hey, welcome to the family’. I am more after my identify - just to know truly who I am, and especially since having children, any medical conditions. I have three daughters, and if one of these little ones ever became sick and we did not know what was the underlying cause - who knows, it could be the donor who has some medical history which I need to know. It is very important.

2.56. Dr Fiona Kelly, La Trobe University, commented:

Offspring have reported that when they’re told or discover they are donor-conceived and that their donor is unknown they often feel a sense of confused identity or that a piece of their identity is missing. We have a fair amount of research now, including a

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69 Transcript, 24 October 2016, p21
70 Transcript, 20 March 2017, p34
71 Submission No. 12, p1
72 Transcript, 20 March 2017, p23
recent systematic review of 13 empirical studies of donor-conceived children and adults. It concluded that a significant number of them have an interest in securing information about their genetic and biographical heritage, and that is more information than most of them are currently able to obtain. Knowledge of their genetic origin is considered integral to their identity formation. 73

2.57. Ms Charlotte Smith, VANISH, commented:

It’s not the right of a person to become a parent. It’s not their right to expect the state to facilitate that, but people who are born have the right to expect that the state will uphold their rights to preservation of their identity and preservation of connections with their family of origin. It’s complex, but just because there are a lot of prospective parents who desire very strongly and very understandably to create families and just because there are people who are willing to donate their gametes to enable that to happen, doesn’t mean that it should necessarily happen. If you are talking about balancing rights, always the person born of those processes, their rights come last. We are saying, that is really not good enough and the state, if it is going to provide laws that allow these processes to happen, have to try harder to ensure that the rights of the people born of these processes are upheld.74

2.58. Mr Damian Adams, academic and donor-conceived person, commented:

A lack of knowledge of our progenitors, our next of kin can lead to genealogical bewilderment, resulting in a person whose own identity and place in the world remains unclear to them. It is clear that for the general population that this sense of identity derived from kinship and desire to know our ancestry is extremely important… In numerous conversations I have had with other donor-conceived people, they have expressed great distress at how the rest of society celebrates the importance of genealogy, but that because they are actively deprived of information, they feel like second class citizens.75

2.59. Mr Mark Brown, Australian Christian Lobby, commented:

Researcher H.J. Sants argued as far back as 1964 that “a genealogically bewildered child is one who either has no knowledge of his natural parents or only uncertain knowledge of them. The ensuing state of confusion and uncertainty fundamentally undermines his security and affects his mental health.” In more recent decades, the use of this term has been extended to refer to children denied full knowledge of natural parents in the context of anonymous donor-conceived children.76

2.60. Dr Sonia Allan, Macquarie University, commented:

While academic literature has increasingly emphasised that relations based on blood are less important in shaping a child’s development than previously thought, some donor-conceived people report that on discovering they are not biologically related to their parent(s), that they feel a sense of “lost identity” and a corresponding desire to know more about their donor. This has been referred to as “genealogical bewilderment”.

73 Transcript, 10 May 2017, p10
74 Transcript, 23 September 2016, p29
75 Submission No. 2, pp5-6
76 Submission No. 11, p1
We can no longer therefore accept arguments that assume that because donor-conceived people were ‘wanted’ by their parent(s), and the donor was only acting to ‘help’ those parent(s) conceive, that a donor-conceived person has no interest or rights to access information about their biological heritage. This is particularly so as a person’s development of identity is viewed as fundamental to a sense of self.

Further, the curiosity about their donor and the propensity for donor-conceived people to search for information is not related to the desire to escape negative family issues; rather, most donor-conceived people report positive relationships with their parents. On the other hand, such feelings coexist with a strong desire to know about one’s donor and frustration at being denied information.77

2.61. Mr Ross Hunter, donor-conceived person, commented:

For me, I am trying not to take it as the ultimate rejection. It is in a sense, as he has implied pretty clearly that he has seen me, but he still doesn’t want contact. He probably has his reasons. He might not have told his wife. He probably has children of his own and is worried about what they are going to think about it.

For him, I would like to say I am nothing to be ashamed of. I am very grateful for his contribution. I would not be here without him and I don’t want to intrude on his life. I just want a little bit more information, because, like I said, I want to know my ethnicity and I would love to know his profession. Although he gave me a little bit more insight into that it is nothing that I couldn’t find.

... I just want to assure donors that for all donor-conceived people, although it may be a little bit intangible, the best intentions are there and we don’t want to disrupt people’s lives. But we also want to say we’re not a secret that you need to be ashamed of. We are humans that, in most situations, are incredible company. We love meeting together. They are all these really interesting people that have had interesting lives and I don’t find people with this intense, nasty wound of separation. At the same time we have a lingering curiosity that’s quite palpable and just a little bit of information will make a huge difference.78

Risk of Consanguineous Relationships

2.62. Being unaware of one’s half-siblings or cousins creates the potential of someone unknowingly forming sexual relationships with their relatives.

2.63. Dr Sonia Allan, Macquarie University, commented:

Some donor-conceived people report the fear of unknowingly forming relationships with siblings or possibly their unknown donor. While the actual probability of such an occurrence is unknown (as the actual number of donor-conceived people is unknown), such a risk may be significant within Australia, given the small population and the significant number of donor-conceived people in existence—this is particularly so in the even smaller regions such as Tasmania; may have legal ramifications – see for example,

77 Submission No. 13, pp8-9
78 Transcript, 21 March 2017, p4-5
the Marriage Act 1961 (Cth) which makes unlawful marriages between an individual and their parent, and an individual and their half-sibling; and may result in children being born to couples who are related, and therefore an increased risk of genetic or chromosomal difficulties in those children… there is also not just actual risk that need be considered. The fear, angst, and psychological impact of not knowing who one is related to has been described by many donor-conceived people. There have been instances of donor-conceived siblings going to school with each other, living in close vicinity to each other, and even being friends, without knowing they were first-degree relatives. Some have described how this has impacted them when forming relationships.79

2.64. Mr Damian Adams, academic and donor-conceived person, commented:

Australia precludes consanguineous relationships on moral and biological grounds and prohibits them by the Australian Marriage Act. The current ability of donor offspring to know who their siblings and half-siblings are is severely hampered. Not only must they have been informed of their conception status, they must also have access to the identity of their donor’s biological children—born both ‘naturally’ and via other donations. While current practice restricts the number of recipient families for one donor, for those conceived before restrictions were imposed there is concern about the possibility of a consanguine event, as records show that the number of donations for some donors exceeded several hundred. By allowing donor-conceived people access to identifying information on siblings, whether conceived through other donations or through the donor’s own natural family, they can avoid a consanguineous relationship. Not only does this then prevent them from breaking the law, but would prevent irreparable emotional trauma by finding out at a later date that they were related. In the latter case of knowing identifying information on the donor’s natural children this would be achieved through the release of identifying information of the donor themselves as the clinic or registry would not necessarily have information pertaining to his natural children.80

2.65. Family Voice Australia recommended that:

The sperm donated by any one man should only be used by one family. This is necessary to prevent the intentional conception of donor siblings who would be raised apart from one another.81

2.66. Mr Ross Hunter, donor-conceived person, commented:

For a lot of people the issue of consanguineous relationships - accidentally meeting and possibly courting a half-sibling - is a real fear and, even though statistically unlikely, it has happened before. You hear people from the donor-conceived groups who grew up in the same street or went to the same school as people they later found out were donor-conceived. That is a real fear, certainly not a dire one I suppose, but it does play round in your mind when you don’t know. It’s an interesting one. There’s a woman in

79 Submission No. 13, pp9-11
80 Submissions No. 2, pp8-9
81 Submission No. 6, pp4-5
our group who has 23 half-siblings and another one who discovered they had a similar number. That is just a huge discovery.\(^{83}\)

2.67. The Committee notes the Legal and Constitutional Affairs References Committee recommendation that donors should be able to assist a maximum of four families.\(^{83}\)

**Kinship and genetic family**

2.68. Donor-conceived persons who are unable to access information about their donors are unaware of any half-siblings and thus denied the ability to form a familial relationship with them. Many respondents spoke of the anguish experienced as a result.

2.69. Ms Priscilla Walters, donor-conceived person, commented:

> The only reason being, I do walk past a lot of people and I find people that looked at lot like me and I would think, I wonder if I could be related. It could be my first cousin or something. I am assuming back in the 1970s not a lot of people were donor-conceived, so there is probably a slim chance I do have a half sibling but that would certainly be amazing if I was to find out something like that.\(^{84}\)

2.70. Mr Michael Williams, donor-conceived person, commented:

> Having grown up as an only child it has always been something that has impacted on me, the thought I have half-siblings and potentially many half-siblings, depending on how many times my donor donated or was used by Dr Hardy Wilson. There could be circumstances where the offspring of the donors would very much like to have contact with me but the donor themselves may not be very interested in having an ongoing relationship or having any contact at all. But the interests of those people has to be considered in the mix, and the interests of those people is to have privacy and to not be contacted if they do not want to be contacted, but equally to have some formal mechanism in place whereby they can know about the fact they may have half siblings they might like to meet and have a relationship with.

> I think it would be right to say most of the donors I have met have by now told their families about what they did and this will probably include their offspring as well. So I think their interests should be considered and they are very important. I hope that answers the question.

> ... They would probably have a similar desire to connect and get information about potential offspring as donors would. It may not be the same intensity of not knowing about their background but the fact they have half-siblings would weigh on people's

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\(^{83}\) Transcript, 21 March 2017, p6

\(^{83}\) Senate Standing Committee on Legal and Constitutional Affairs, Donor conception practices in Australia, Parliament of Australia, Final report, 2011, pp 1, xi, and xvi

\(^{84}\) Transcript, 20 March 2017, p26
minds and they would absolutely like to connect. I would see a formal mechanism like a register as being something that would potentially be able to do that.\textsuperscript{85}

2.71. Mr Damian Adams, academic and donor-conceived person, commented:

All donor-conceived offspring, irrespective of their knowledge of their conception, are separated from their next of kin on their donor’s side. For some who are aware of their conception, this loss has the potential to be traumatic...the majority of offspring believe that they should know the identity of their donors and also the identity of any halfsiblings. The parity between the desire to know their progenitors and half-siblings exhibits the value that offspring put into all biological connections. Discussion regarding offspring’s right to genealogy has typically focused on the donor and only rarely has included consideration of the entire genetic family, which has been shown to be equally important to DC offspring. The search and desire for biological family is not borne out through poor sociological parent relationships, thereby also highlighting the importance of genetic kinship to offspring. It is therefore important and pertinent to consider the ability of donor-conceived people to be able to access information on their siblings in addition to that of the donor (biological father/mother).\textsuperscript{86}

DNA data is drawing back the curtain on anonymity

2.72. Some respondents argued that retrospective access be granted as anonymity was becoming increasingly impossible as the data, such as DNA information, becomes freely available.

2.73. The Committee notes that while data has become available, it requires work on behalf of the donor-conceived person to obtain such data.

2.74. Dr Karin Hammarberg, Monash University, commented:

We need to acknowledge that there were things done in the past that maybe now have a completely different consequence. In the days when we said, 'Don’t tell anyone and you’ll be right,' that might have worked, but it clearly does not work anymore. Now that people know that there are ways of finding out, even from historical records, or even with non-existing records, you might find a donor. People will pursue that. There is no doubt about it. There is a lot of data from the states and there is a whole register there for people who do want to find each other.

Even a donor who wants to remain anonymous, if he has been on ancestry.com and done a DNA test for some other person to find his great-grandmother or whatever, it could be that there are matches there that lead on to a donor-conceived person finding him.

Not grappling with it is not an option, but it is how you do it and what you do that is really what you have to come to some kind of conclusion about.\textsuperscript{87}

\textsuperscript{85} Transcript, 20 March 2017, pp30-31
\textsuperscript{86} Submission No. 2, pp4-5
\textsuperscript{87} Transcript, 10 May 2017, pp3-4
2.75. Mr Damian Adams, academic and donor-conceived person, commented:

Currently, with DNA technology and what is occurring, any agreement about anonymity is dead. We cannot prevent people from being found out, due to the genetic genealogy testing that donor-conceived people, and also donors, are currently undertaking to create those connections. 88

2.76. Dr Karin Hammarberg, Monash University, commented:

One of the major things we all need to consider is that, with the genetic testing today, there is no such thing as anonymity anymore. We know from anecdotal evidence and public literature that there are a lot of people who go online and buy a genetic test kit and through that they find out who they are related to. Quite often people have located their donor that way. 89

2.77. Dr Sonia Allan, Macquarie University, commented:

Many donor-conceived people are saying, 'While our laws are too slow and we're just going to go on ancestry.com and have our DNA tests. You cannot stop us from finding this information anyway.' There are no protections around that other than, as I said before, the laws that are already in place. The only other thing that I would say about that is that I people should probably be a little cautious about the information that they can get off some of these family-tracing websites. 90

2.78. Ms Priscilla Walters, donor-conceived person, commented:

I have done two DNA testings. Ancestry is my last one to do actually. I have done one called 23Me and Family Tree FTDNA. I have spent, I tried to work it out the other night, close to $500 so far for some DNA tests, postage and that kind of thing. I desperately want to do ancestry as well, but I need to wait a little longer and look at my other priorities to handle here at the moment.

From having those two DNA tests done, I have recently come into contact with two second cousins, but they are actually on mum's side, which is lovely. It was nice to find some relatives, but at the end of the day, my reasoning for having it done was purely paternal.

It has been interesting and it will be lovely to get the Ancestry one done and see if there are any closer matches. I have three of them, like it is worldwide tests from Tasmania, so that is quite amazing. One of them I still have not established whether it is on mum's side or my donor's side. She is a third or fourth cousin, so it is quite hard to work these things out unless mum has the test done. Then it can split it down the line for me which makes it much simpler. 91

2.79. TasIVF commented:

88 Transcript, 23 September 2016, p42
89 Transcript, 21 March 2017, p2
90 Transcript, 23 September 2016, p38
91 Transcript, 20 March 2017, p24
The evolution of DNA databases may change the landscape concerning identification dramatically. DNA databases contain the genetic fingerprint of thousands of people. Once you have submitted your DNA to a database, the database checks for matches. It is possible to discover people that you are related to, cousins, uncles, aunts and siblings who may also have submitted DNA to the database. This forum has the potential to link donor offspring to their donor parents outside any proposed legislation.92

2.80.  Ms Priscilla Walters, donor-conceived person, commented:

For the past 12 months or so my search has begun. It started with joining an Australian group for Donor-conceived people which has been a huge support network for me. Prior to joining this group I did not believe my own 'truth' and I had no idea how many people actually are Donor-conceived and will never find out. It also lead me to order a 23andme DNA test last September & have recently ordered FTDNA (FamilyTreeDNA) kit. I got into contact with TasIVF, had a counselling session there & even contacted the obstetrician who delivered me - I was getting nowhere... when you are told all records back in the 70s were destroyed what hope do you have??

From the 23andme results I found a 4th cousin match from Tasmania.93

2.81.  Mr Ross Hunter, donor-conceived person, commented:

I discovered I have 32 per cent eastern European DNA, when I am ostensibly Scottish, Australian Scottish before that. It is quite interesting that I can already find out that sort of information. I have a good clue that his parents were eastern European, even though that is a big geographical area. I would just like to know those two things. It would give me some kind of consolation to narrow down all the options in this world of limitless choice, which is a grounding to have just a few coordinates that help give me a bit of gravity. It's tough sometimes.94

Donors supporting retrospective access

2.82.  The Committee heard from donors who wanted their identifying information to be provided to their donor-conceived offspring. Many donors wanted to know their offspring or at least wanted their offspring to be aware that they wanted them to be known to them. Some donors argued that donor-conceived persons have a right to information, specifically information relating to their medical history.

2.83.  A number of donors gave evidence that they were never provided the opportunity to not be anonymous when they donated, an opportunity they now say they would have taken if possible.

2.84.  The Donor Conception Support Group of Australia commented:

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92 Submission No. 8, p2
93 Submission No. 7, p1
94 Transcript, 21 March 2017, p4
Anonymity has never been something that has been guaranteed by statute in Tasmania; it was a private arrangement between the donor and the clinic, parents had to agree to it in order to have a child and the vast majority had no idea of the huge implications this might have on their children. Also donors were never given an option of whether they would be anonymous or be able to be identified; clinics made the decision that all donation would be anonymous.

Our group has heard from donors who donated many years ago to help infertile couples who have said that they would have been happy to be identifiable donors but that this was never an option they donated under an anonymous system or not at all.95

2.85. Dr Karin Hammarberg, Monash University, commented:

I was involved some years ago in a study - this was in the first iteration when they were contemplating this retrospective change to the law for donors who had donated before 1998. We went about it by advertising on the radio and in the newspapers.

This was commissioned by Victorian Assisted Reproductive Technology. The study was done as part of Monash University. We advertised and donors came forward. These are people who would not normally - especially if they are a bit concerned about the anonymity - come forward.

We framed it as an opportunity to actually give us their views on what it would mean to them to have the law changed in the way that was potentially going to happen. This is some years ago now. We had an overwhelming response. We interviewed - I can't remember the exact number - 42 volunteers. They were mostly sperm donors, but there were some egg donors. What happened was they came down about pretty much in the middle. About half of them were opposed to this law change, but about half were in favour and they felt it was the right of the child to have this information about them. About half of those who were against it said they would personally be willing to give this information, but they did not think it should be imposed on donors and they were much more in favour of a voluntary thing where the donor was approached and if he was willing to, he would actually reveal his identity.

If you think about it, actually about three quarters of them were themselves willing and half of them were supportive of the whole idea that you would actually go back and change the law in a way that made it possible for children to find their donor.96

2.86. Dr Sonia Allan, Macquarie University, commented:

There are more donors on the voluntary register in Victoria than there are donor-conceived people. I think about three times as many. I think the situation is the same in New South Wales. There are many donors who come forward and say they are willing to share information.97

2.87. Mr Ian Smith, sperm donor, commented:

95 Submission No. 15, p4
96 Transcript, 10 May 2017, p2
97 Transcript, 23 September 2016, p36
I’m married, have children and can see before me the whole process of the development of a person who is the sum of so many genetic and familial influences. At times I feel quite anguished that I have seven other children somewhere in the world who carry a part of me and my genetic and family background but over whose lives I have no direct influence at all. I wonder if they are alive, if they are healthy, happy, well cared for and loved.98

... One of the reasons this is important is that people like me are getting older. I am probably at the younger end of the spectrum of some of the donors from that early period, and we may well die before our donor offspring want to get in touch with us, so having some sort of repository for that information is important.99

2.88. Dr Sonia Allan, Macquarie University, commented:

It is not necessarily the case that past donors wish to remain anonymous. The Donor Conception Support Group quoted in their submission to the Senate Committee Inquiry into the issue a former sperm donor:

“I was a sperm donor during 1997-1998. [M]y donations were during the period when [a] donors had to sign away any future contact. This was a condition of participation and I only wanted to help people – but at the back of my mind was the hope that the rules would change to allow the resultant children to trace their donor fathers, if they wished to do so.”

Similarly, the Victorian Assisted Reproductive Treatment Authority (VARTA) stated that the belief that secrecy was paramount to protect all parties to the arrangement was based on myths:

“[T]hat donors would not want to be contacted, that parents would not want to know more about their donor, and that donor-conceived people would not want information about their donor if they really loved their parents.”

VARTA stated that “donors do not forget they have donated and often wonder about the people they helped to create. Who are they? Are they healthy? Are they happy? Are they loved?”100

2.89. TasIVF commented:

Since 2010 seven donors have contacted TasIVF, many of them wanting to know how many offspring had been born. Six of the donors consented to be identified. One of these donors actually met offspring, and one exchanged photographs.

A sperm donor from Launceston rang asking if he had any donor children. He had been a donor in the north of the state and we do not have any records concerning donors at other clinics so TasIVF could not help. He wanted to know if he had any donor offspring so that he could allegedly leave his estate to them.

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98 Submission No. 4, p2
99 Transcript, 20 March 2017, p38
100 Submission No. 13, p12-13
One sperm donor contacted clinic consenting to be identified. The parents of the donor-conceived offspring were contacted with the change of status. They had not told their children they were donor-conceived and are not ever planning to tell their children.\textsuperscript{101}

2.90. Dr Fiona Kelly, La Trobe University, commented:

I am not supportive of the current Victorian model. The current model that came into force in March this year does not require donor consent. My preference is for the model that preceded Victoria’s existing model, which required consent. That is the model that has been used across many jurisdictions overseas in the adoption context. I do not believe the donors should be forced into having their identities revealed. I believe they should be actively counselled about the potential benefits, and also assisted in answering questions that are commonly raised. These are things like, ‘Will these children have a claim to my estate? Will they sue me for child support?’ If you look at the research that was conducted on the Victorian register when it was still a consent-based model; once counselled, the vast majority of donors do actually consent.\textsuperscript{102}

**Retrospective access only with donor’s consent**

Some respondents argued that donor’s consent should be required for retrospective access to be granted.

2.91. Dr Fiona Kelly, La Trobe University, commented:

... the introduction of retrospective access to a donor’s identity for those who are conceived before the date of any legislation, but only when the donor’s consent has been obtained. This retroactive law would need to be administered actively. The regulatory authority in charge of administering any new legislation would have the legal authority to contact previously anonymous donors, inform them of the donor-conceived person’s motivations and goals, and counsel them about the potential benefits of participation. What has been seen in other jurisdictions where this is the case that when contacted donors, who may have been reluctant to come forward, are often able to be counselled in a way that makes them understand the motivations and goals of those who are applying for information and the vast majority consent to its release. This would involve the Tasmanian government committing to resourcing the regulatory authority, including the provision of counseling staff and a central administrator to make sure the register operates actively rather than passively.\textsuperscript{103}

2.92. The Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) commented that it only supports retrospective change to donor conception practices if it is an ‘opt-in arrangement’:

RANZCOG is not supportive of the retrospective ability to identify donors who donated with the understanding that they would remain anonymous.\textsuperscript{104}

\textsuperscript{101} Submission No. 8, p6  
\textsuperscript{102} Transcript, 10 May 2017, p151  
\textsuperscript{103} Transcript, 10 May 2017, p10  
\textsuperscript{104} Submission No. 10, p1
2.93. Dr Fiona Kelly, La Trobe University, commented:

I do not believe the donors should be forced into having their identities revealed. I believe they should be actively counselled about the potential benefits, and also assisted in answering questions that are commonly raised. These are things like, ‘Will these children have a claim to my estate? Will they sue me for child support?’ If you look at the research that was conducted on the Victorian register when it was still a consent-based model; once counselled, the vast majority of donors do actually consent.

I very strongly believe that privacy is key here and that Australians expect, and are entitled to expect, that the government will not share confidential personal information without consent. I think that a model that actively encourages conversations, that allows the applicant to express their motivations for wanting to access the donor’s information creates a dialogue. Then, ultimately, it is the decision of the donor.

I want to make it clear that I am not supportive of the current Victorian model. In terms of overseas, the Netherlands has a similar model. At the same time they introduced their prospective legislation they also provided their statutory authority with the power to contact all previous donors and to ask them whether they would be willing to register. Again, they went through a process of talking about motivations of those who might apply for information and making the legal situation very clear that there was no doubt about claims on the donor’s estate.105

Arguments against retrospective access

2.94. The Committee heard arguments opposed to providing donor-conceived persons with retrospective access to identifying information about their donor. The majority of persons arguing against the release of such information were donors themselves.

2.95. The Committee also received evidence that some donors had not told their families and the release of this information could create secondary issues for them.

2.96. The Committee heard from an interstate respondent who was happy to provide information to a register or their donor-conceived child, but once legislation was passed that potentially removed the voluntary aspect of providing such information, he withdrew his consent for such information from the register.

2.97. Some donors argued that the release of this information would breach their rights to anonymity as guaranteed when they provided the donation.

2.98. Anonymous commented:

Back in about 1989 I banked[?] [sic] sperm as a sort of insurance following a vasectomy, then a couple of years later, I seem to remember, I was contacted to see if I would

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105 Transcript, 10 May 2017, p12
donate it for IVF. I was happy to do that and didn’t think much of it until a few years ago, when there were some prominent media cases that focused on the donor anonymity issue for older donations.\textsuperscript{106}

2.99. Some donors felt they were misled as to what the sperm they donated was to be used for.

2.100. Mr Ian Smith, sperm donor, commented:

When I was a donor - and this story is very common I found from talking to other donors - we were encouraged to not think too much about what we were doing and not really think about where the children would be born and quite actively told in many cases, ‘We won’t necessarily make children here, it might just be used for research’. So I put it out of my mind, not actively, but it just went out of my mind. It wasn’t until I got a letter from the Prince Henry Research Institute - this was back in about 1999, so 15 years after I had been a donor - which in passing mentioned that there were children. At that stage I had my own children from my marriage so it was a real shellshock moment when I suddenly realised.\textsuperscript{107}

**Impact on Donors – Relationships/Estate**

2.101. A number of donors were anguished as to the effect the release of such information would have on their relationships with their partners or other children and a number of donors expressed concern whether the donor-conceived persons would be entitled to compensation or a claim on the donor’s estate.

2.102. The Fertility Society of Australia commented:

Donors who donated some years ago are unlikely to be aware of the outcome of their donation. They are also likely to need reassurance that claims cannot be made against their estate as a result of an approach by a donor-conceived person and that they do not have legal obligations as a parent or guardian.\textsuperscript{108}

2.103. Anonymous commented:

From the perspective of genetic donors, I understand there might be apprehension that IVF offspring could make financial claims or other claims; but there must be something in place to manage the more recent instances, where donor-conceived children already do have rights to access their genetic heritage. If a donor were vehemently opposed to being contacted by their IVF offspring, you could wonder why those offspring would persist in wanting to make contact. In other words, in some instances there might be something of a self-limiting effect that would reduce potential conflict.\textsuperscript{109}

\textsuperscript{106} Submission No. 1, p1
\textsuperscript{107} Transcript, 20 March 2017, p38
\textsuperscript{108} Submission No. 3, p3
\textsuperscript{109} Submission No. 1, p2
2.104. Civil Liberties Australia commented:

It is possible that some donors wish to remain anonymous once they are contacted by a clinic under clause 6.13.1 due to fear being asked to financially support the conceived child. While the donor is unlikely to have any such legal obligation, the offer by the state of free legal information and advice to the donor on their legal obligations, if any, to the donor-conceived child may be useful in facilitating their consent.110

Rights of the Donor

2.105. A number of respondents argued that the release of information without the donor’s permission would breach the rights of the donor: specifically, their right to anonymity, their contractual rights, their right to consent to medical treatment and by enacting retroactive legislation is a breach of the Rule of Law.

2.106. TasIVF commented:

Informed consent is an important component of all medical procedures. Informed consent educates patients about the procedures that are about to take place and any associated risks. Prior to 2004 donors gave their informed consent to the use of the eggs, sperm and embryos assured they would maintain their anonymity now and into the future. To change the law and to apply these laws retrospectively results in donors no longer having their assured anonymity, which totally ignores their privacy rights. The impact on the donor and the donor’s family could be quite devastating.

The information kept on donors and offspring is highly confidential and subject to the doctor patient confidentiality that is expected in all patient doctor relationships.

Legislation that can breach this confidentiality agreement without the consent of either the patient or the doctor should only be considered for very compelling reasons.

We need to consider “who are we trying to help,” and “what is the best way to help as many of those people as possible?” If anonymity is retrospectively removed it may help some donor-conceived children but will certainly distress many of the previous donors and their extended families. It is unlikely to result in any help to those for whom records are not available. It will, however jeopardise the voluntary database by reducing the likelihood of donors coming forward in the knowledge that their anonymity cannot be guaranteed.111

2.107. Civil Liberties Australia commented that it did not:

... support laws with retrospective effect to overturn their decision at the time of donating, which has subsequently been re-confirmed. It is not reasonable for parliament to reach back in time to render the agreement between donor and clinic null and void. It is a fundamental principle of the rule of law that parliament should not retrospectively

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110 Submission No. 17, p2
111 Submission No. 8, p6
change legal rights and obligations... Retrospective laws make the law less certain and reliable and, ultimately, less fair. 112

2.108. Mr Mark Morrissey, Commissioner for Children and Young People, commented:

Mr MORRISSEY - I sought advice from three or four people in the human rights area on this very question. I said, you line up the right of the child to know and then you have the right of the adult. The overwhelming view is that the adult's right would probably be the one you would have to respect.

CHAIR - That is the donor?

Mr MORRISSEY - Yes.

Mr JAENSCH - Because it came first?

Mr MORRISSEY - Yes. 113

2.109. Mr Richard Griggs, Civil Liberties Australia, argued that while a child may have a right to know their heritage this right is limited to information about their genetic heritage and there is no right to contact their biological parents:

There are international covenants on the rights of children to - I think the phrasing is - 'wherever possible' know their biological parents. That is not an absolute right under international law, it can be balanced against other rights. On the other hand the right to be free from criminal punishment for retrospective laws, under international law that is an absolute right. Neither of those rights apply perfectly or purely to this case, but they are both illustrative of the balancing which we say should take place. 114

Adverse impacts from retrospective release of information

2.110. The Committee heard evidence that the introduction of retrospective legislation in relation to donors may impact on the potential future donors as they lose faith that the rules that apply today will change in the future and they may incur other obligations or burdens in relation to their donation.

2.111. RANZOG commented that it did not support the retrospective provision of identifying information on offspring or donors as it:

... believes that there may be a downstream unintended consequence through allowing identification of donors which is reduced donations due to lack of anonymity. It would be unfortunate for future families wishing to access donor oocytes, sperm or embryos if access was reduced due to this proposed legislative change. 115

112 Submission No. 17, p2
113 Transcript, 24 October 2016, p17
114 Transcript, 24 October 2016, p3
115 Submission No. 10, p2
Committee findings

2.112. The Committee finds that current NHMRC Guidelines allow for post-2004 donor-conceived persons in Tasmania to be provided non-identifying information about their donor.

2.113. The Committee finds that there is an absence of legislation in Tasmania governing donor conception practices and for this reason Tasmania relies on the NHMRC Guidelines, which donor conception practitioners are required to adhere to as a condition of their licence, to inform the rights of donor-conceived persons in relation to information about their biological parents post 2004.

2.114. The Committee finds that many donor-conceived persons have an express desire to know information about their genetic heritage, medical history, and the identity of their donor/s.

2.115. The Committee finds that a significant portion of a person's genetic predisposition can be discovered utilising DNA testing. However, DNA testing may not provide all of the medical information sought by donor-conceived persons.

2.116. The Committee finds that knowledge of parentage and heredity are also important in developing a sense of identity for many donor-conceived persons.

2.117. The Committee finds that many donor-conceived persons have suffered pain because of being denied knowledge of their biological parent/s, potential half-siblings as well as their medical history and heredity. The Committee accepts that for some donor-conceived persons this has also led to incomplete sense of identity.

2.118. The Committee finds that in Victoria, all donor-conceived persons have a right to identifying information, however donors have a right to veto contact with a child and there are legal consequences for a breach of that veto.

2.119. The Committee finds that in Victoria, donors have a right to de-identifying information and may apply for identifying information, which will only be supplied with the donor-conceived persons' permission (or recipient parent's permission if under age). If identifying information is supplied, the donor-conceived person will also state their contact preference and there are there are legal consequences for breaching this preference.

2.120. The Committee finds that international law provides donor conceived persons with the right to information about their genetic heritage but does not state a right for a child to have contact with their donor parent.
2.121. The Committee finds that some pre-2004 donors have tried, or would be happy to have contact with their donor-conceived child while others want no contact or other identifying information to be released.

2.122. The Committee finds that some donors have tried to contact their donor-conceived offspring but have been denied contact by either the parent of the donor-conceived person or the relevant fertility service provider.

2.123. The Committee finds that the creation of a repository of donor information could benefit both donor-conceived persons and donors.

2.124. The Committee finds that donors prior to 2004 were provided with a condition of anonymity and that many may not have donated were such a condition not provided.

2.125. The Committee finds a number of donors, in hindsight, would have been willing to provide identifying and non-identifying information if given the choice.

2.126. The Committee finds that the retrospective release of identifying information about donors could have significant effects for many persons should it be mandated.

2.127. The Committee finds that some donors may not have understood that their sperm donation was to be used to produce children but instead believed it was to be used for medical research purposes only.

2.128. The Committee finds that donor-conceived persons were not and could not be a party to any "contract" of anonymity, and as such, their rights were not considered in such agreements.

2.129. The Committee finds that some donor-conceived persons' searches have been hindered by the requirement that their mother's consent for information to be released by the medical practice that performed the donor conception procedure.

2.130. The Committee finds that there is broad acceptance that an individual has a right to know information about their genetic heritage, including the details of their biological parent, a right that is currently held by all persons in Australia except for donor-conceived persons born prior to 2004.
3. ADOPTION COMPARISON

3.1. The Committee received a number of submissions drawing a parallel between donor conception and adoption. In highlighting this parallel, these submissions argued that, as the Government has provided adopted persons with retrospective access to information about their biological parentage, it would be unfair to deny such access to donor-conceived people.

3.2. The Tasmanian Government commented:

Although it took 20 years for these changes to come about, the lessons from the history of adoptive practices are now obvious. It is widely understood that it is important for individuals to have access to information regarding their origins for their self-development and sense of identity. Having a formal mechanism that mediates and facilitates this information provision and any potential contact, including registering contact vetoes, has proved useful in overcoming the change from secrecy to openness. Issues regarding origins and access to information for adopted children and their birth parents are similar to those experienced by donor-conceived children and their donors.

Like the adopted child, a child born of a donor arrangement should have the right to know the facts of his or her conception and genetic history. Likewise, just as a relinquishing mother has a right to information regarding her adopted child, a donor should have the right to information relating to the outcome for their child. Both should have the right to seek information about the other should they wish to once the donor-conceived person has turned 18.16

3.3. The Donor Conception Support Group of Australia commented:

There are many similarities between adoption and donor conception but also some differences. The main difference is that the two areas have been under the control of very different groups. Adoption has always been under the main control of government or religious welfare services. Donor conception has been under the control of medical professional individuals and organisations. This has caused any legal examinations of donor conception to be conducted by health departments. While there may be medical long term implications of donor conception because of missing medical histories for the most part the long term implications are emotional and social and because of where legislation lies these important issues are often not fully explored.

It is ironic that the culture of secrecy was being promoted in donor conception practices during the same period that the wall of secrecy was being broken down in adoption. When governments attempt to legislate in certain areas there are often concerns by some people that the state is being paternalistic in its attitude. What we must remember is that the society has already accepted that the state should have a role in adoption. The role of the system in relation to adoption is to protect the needs and interests of the children and the adults they will become.

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16 Submission No. 18, p12
The adoption model of legislative and social reform provides a unique insight into some of those issues that will impact upon children born as a result of donor conception."117

3.4. The Donor Conception Support Group of Australia Inc. commented:

In Tasmania currently, an adopted person aged 18 years or over may apply for access to his or her pre-adoption birth record and information from the adoption record. Birth parents and birth relatives may obtain non-identifying information from the adoption record and may be given identifying information only with the written consent of the adopted person.

While there are a great many comparisons between adoption and donor conception there is one fundamental difference. While children are adopted because of tragedy or unintended mistakes donor-conceived people feel that their loss has been brought about by a deliberate arrangement that robs them of the right to have a connection with people to whom they are biologically related.118

3.5. Ms Charlotte Smith, VANISH, commented:

… the concerns that are being raised by the ART clinics and the doctors involved in donor conception are very similar to the concerns that were raised at the point of opening the records for adoption. They would refer to how birth mothers and birth fathers were promised secrecy, privacy and confidentiality... When the records did open and adopted people came forward and applied for their records, I think over the last 25-plus years, what we have found is that people have conducted themselves very appropriately. The protection has not been necessarily what the birth parents wanted, that was what they were told that they would be given. Yes, of course it is complex and there are instances where contact has been difficult to receive, but in the main, the outcome has been quite positive. It is important to recognise from the adoption experience whose interests are being protected here and why.119

3.6. Mr Damian Adams, academic and donor-conceived person, commented:

Sociological research over the decades has shown that this secrecy was harmful to adoptees. We as a society also recognised that it is vitally important to a person to know about their origins. Furthermore the rights of children and their need to know about their parents is enshrined in the United Nations “Convention on the Rights of the Child”, to which Australia is a signatory. It was deemed that the welfare of the adoptee was of paramount importance, which is the same level of importance that is stipulated to apply to donor-conceived people, and that therefore adoptees would have access to identifying information on their birth parents. This would occur regardless of when the adoptee was born and regardless of whether the parent had originally wanted to remain anonymous.

As there have been similarities drawn between adoption and donor conception in regards to various aspects, and as all children in Australia should be afforded the same

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117 Submission No. 15, p8
118 Submission No. 15, pp7-8
119 Transcript, 23 September 2016, p26

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rights regardless of how they came into being, then it would not only be logical but also equitable that donor-conceived people have access to identifying information on their biological father/mother (the gamete donor). To not do so would be discriminatory based on how a person was conceived. To only provide access to those conceived after a certain date as currently occurs is discrimination based on a person’s age.120

3.7. The Donor Conception Support Group of Australia commented:

The enactment of adoption legislation enabled the revealing of the adoptive status to an adoptee. Adoptees firmly voice their right to know of this information about themselves, and the belief that parents do not have a right to withhold such a fundamental piece of information about themselves. Adoptees who have discovered their adoption later in life have spoken of the sense of betrayal, the difficulty in redefining themselves, and in many cases the fact they always knew there was something different. The fact that some parents will choose not to tell their children the facts of their conception should not be used as a reason for opposing information rights and retrospectivity. In the adoption experience it is often voiced that it was the secrecy that past practices enshrined that has caused the most heart-ache.121

Committee findings

3.8. The Committee finds that all adopted persons have a right to identifying information about their biological parent/s from the age of 18.

3.9. The Committee finds there is a disparity in the rights of access to information about biological parents for those born through donor conception prior to 2004 and children born through adoption, despite their similarities.

3.10. The Committee finds that sociological research has shown that the secrecy involved in adoptions in the past was psychologically harmful to adoptees.

3.11. The Committee finds that despite concerns by some when adoption records were released allowing adopted persons to obtain information about their birth parents, there has been no evidence of adopted persons abusing the information provided.

120 Submissions No. 2, p9
121 Submission No. 15, pp7-8
4. CENTRAL REGISTRY AND RECORD MANAGEMENT

Record management

4.1. Prior to the introduction of the NHMRC Guidelines, record keeping practices in relation to donor conception varied greatly, including the amount of information recorded about the donors themselves as well as the maintenance of records.

4.2. The Committee heard of the suffering experienced by donor-conceived persons in their search for their donor as a result of poor maintenance of records or the destruction of records. The loss or absence of records has denied many donor-conceived persons of the opportunity to know their biological parent.

4.3. Dr Sonia Allan, Macquarie University, commented on donor insemination in general practices from the early 1970s until the mid-1990s, when an IVF clinic was established in Tasmania:

There is mixed information about record keeping from these times. Some donor-conceived people have been told records were destroyed, but those same people have also been told that the doctor(s) involved would never have destroyed such records. There are clearly people who know who the donors were—be they the doctors or employees of the clinics, and of course the donors themselves are aware of their involvement. Some such donors have come forward in an attempt to assist donor-conceived people searching for information; but they have only been able to do so in individual cases, as there is nowhere for them to record their details to say that they were a donor. \(^{122}\)

... There is great concern in Tasmania that some of the doctors involved in the 1970s, 80s, and 90s are very old or have passed away, and that if records are not called for and preserved, information will be forever lost. I have watched as donor-conceived people have continued to search for information their angst at being unsupported in their search, and their fear that information will be lost forever. \(^{123}\)

4.4. Mr Ian Smith, sperm donor, commented:

Searching for information about donor conception and former donors, in order to make connections between donor-conceived people and their donors, is an important and complex process. That process is made harder with the paucity of DC records and the often limited access to those records (where they exist).

... I advocate enhanced practice for locating and verifying records and working to redress gaps which exist in donor records. It is of vital importance that legislated requirements are put into place which can both discover and protect collations of donor records – including records held in private hands by clinicians (and potentially by the

\(^{122}\) Submission No. 13, pp5-6

\(^{123}\) Submission No. 13, pp5-6
families of clinicians who have died). Once again, the precedent set by legislation in Victoria, and the work done by VARTA in this regard, provides a good model for practice.\textsuperscript{124}

4.5. Ms Priscilla Walters, donor-conceived person, commented:

\begin{quote}
I got into contact with TasIVF, had a counselling session there & even contacted the obstetrician who delivered me - I was getting nowhere... when you are told all records back in the 70s were destroyed what hope do you have?

... I may never find out as my records were apparently destroyed - but there is hope for others out there. \textsuperscript{125}
\end{quote}

4.6. Dr Sonia Allan, Macquarie University, commented:

\begin{quote}
I think it is absolutely necessary to have clear legislative provisions prohibiting the destruction of records. At present, some of the records will fall under the standard medical record retention requirements, some of them will have already been lost and some of them will have already been destroyed. In moving towards this system, there are still, probably, many records in existence in one form or another. But it is really important that there is clear legislative provision saying that it is an offence to destroy these records wherever they are. We can look at other nations where that has happened as an indicator that having such laws is really important.\textsuperscript{126}
\end{quote}

4.7. Dr Fiona Kelly, La Trobe University, commented:

\begin{quote}
There hasn't been any suggestion of recent destruction of records. I don't think the March 2017 legislation has given rise to that. There was certainly destruction of records in the past, probably in the 1980s and 1990s, at a particular hospital in Melbourne where donor numbers were cut out.

Also, quite a few doctors would have conducted donor insemination just in their offices or local GPs, in the past, would have done it. They simply may not have those records. They may not have existed in the first place. There will be incomplete records and there may well be records from the past that were actively destroyed. But there is no suggestion that this has happened with the most recent changes.\textsuperscript{127}
\end{quote}

Audit of records required

4.8. Mr Michael Williams, donor-conceived person commented that an audit of records is required, requesting that:

\begin{quote}
... a Government Department or agency conduct a review to ascertain:
\begin{itemize}
  \item How many clinics offered donor insemination in Tasmania;
  \item Whether those clinics still exist; and
\end{itemize}
\end{quote}

\textsuperscript{124} Submission No. 4, p4
\textsuperscript{125} Submission No. 7, p1
\textsuperscript{126} Transcript, 23 September 2016, p34
\textsuperscript{127} Transcript, 10 May 2017, p13
• If those clinics have ceased operating, whether their records relating to donors have been retained and at which locations.

...If records still exist from the period when donor insemination was anonymous in Tasmania, it would enable a Government Department or statutory body to assume possession and control of those records. That Department or agency could then begin the process (backed by appropriate legislative functions and powers) of creating a register of donors.\textsuperscript{118}

Searching issues

4.9. The Committee heard from a number of donor-conceived persons about their difficulties in searching for information. The Committee also heard of instances of incorrect information being provided which has exacerbated the donor-conceived person’s suffering.

4.10. Mr Damian Adams, academic and donor-conceived person, commented:

I sought out that information, but we were told that, at the time, the records were destroyed. Later on, when I was at university, I contracted an illness and I had an immunologist speak to me and say that I should try to find out any medical history of the donor as that would make the diagnosis easier. We sought more information then and we got a different answer from the hospital saying that the records were lost. We had contradictory statements from the hospital about what state the records was. The first two requests were with my mother. Later on I did try to find out information on my own and, once again, was told that they didn’t know where the records were.

It wasn’t until later on - this was probably in my early 20s - that my mother put in a freedom of information request to the hospital and remarkably the records finally reappeared. So we were able to see the records that they used for my mother as well as the records regarding my birth, in that regard.\textsuperscript{129}

4.11. Mr Ross Hunter, donor-conceived person, commented:

An ongoing issue that DC people seem to encounter is a cold indifference from clinics, and excessive delays in waiting for information from government agencies. It is like we are viewed as petulant brats who should not be asking for such information from them, and causing them inconvenience by detracting from their core business which is something other than dealing with the psychological, medical and existential concerns of a process which occurred 30 years or more ago.\textsuperscript{130}

4.12. Mr Michael Williams, donor-conceived person, commented:

I began my search by contacting Dr Sutton. He informed me that Dr Hardy-Wilson’s records relating to donors had been destroyed. If this is the case, there is no possibility of me discovering the identity of, or any information about, my donor.

\textsuperscript{118} Submission No. 12, p5
\textsuperscript{129} Transcript, 23 September 2016, p38
\textsuperscript{130} Submission No. 5, pp2-3
The news that I am donor-conceived particularly affected me because (among other reasons) I am the only child in my family. This means that it is likely that I have half siblings (although of course I have no way of meeting them).

My search for information has meant going to extraordinary lengths. I have placed advertisements in Tasmanian newspapers calling for donors to contact me. I have done innumerable media interviews in the hope that my donor may come forward. I have even contacted Dr Hardy-Wilson’s own offspring to see if they have information (they do not).

I have, in response to media and advertisements, been contacted by men who donated at Dr Hardy-Wilson’s clinic. I underwent a DNA test with one of these donors, but unfortunately he was not my donor. Their contact with me illustrates that after placing advertisements in local newspapers asking for the donors to come forward, donors actually want to connect with their offspring. There is a much greater atmosphere of openness today, and I hope that if I more donors come forward then perhaps there is hope after all that I may find the information I am seeking. 131

4.13. Mr Ross Hunter, donor-conceived person, commented:

While I was coming to terms with the ramifications of my newfound knowledge, my wife discovered a support group for DC adults which I willingly attended. It was at the old ‘Vanish’ offices in the CBD of Melbourne. I have vivid memories of finding a place where people understood what I was going through and hearing their often painful stories of discovery about their DC identity strengthened my determination to see the legislative situation change in Victoria and beyond.

At each eagerly anticipated meeting, I learned more and more details about the politics of donor conception and Assisted Reproductive Technologies (ART) in Victoria and around the world. I discovered I was conceived at Prince Henry’s Hospital and that my records had been taken by either Births, Deaths and Marriages (BDM) or the Public Record Office. I was glad that they had not been heinously destroyed, or mysteriously ‘damaged’, as in some other clinics; however, I was told in no uncertain terms that I had no right to access them under current legislation. I discovered that there was non-identifying information that I could access, and after many months, found it very interesting to receive a skerrick of information about my donor. Unfortunately, any clues of my ethnic ancestry were not present. 132

4.14. Ms Priscilla Walters, donor-conceived person, commented:

I accepted this is how I got to be on the earth for so long, but I would like to know a bit more. As I said, I spend every day doing some sort of research, whether it is trying to Google med students from 1977-1978. I cannot work out how I can find a yearbook yet, but that is the kind of thing - I will even Google doctors in the area, knowing if he was a doctor, he may have gone to the mainland and be practicing over there now. I go to some ridiculous lengths trying to find something out. 133

131 Submission No. 12, p1
132 Submission No. 5, pp1-2
133 Transcript, 20 March 2017, p28
4.15. Mr Michael Williams, donor-conceived person, commented:

My search for information, like many people who are donor-conceived, has been enormously frustrating. There are constant dead ends. Unfortunately for donor-conceived Tasmanians in my position, there is simply no formal mechanism to obtain even the barest details about my donor.

Like many donor-conceived people, I feel half of my story is missing and I need information about my donor. I would also like to say that donor-conceived people have no interest in breaching the privacy of donors or negatively impacting on their lives. My experience with donors who have come forward to talk to me has been they wish to meet their donor offspring and I think it is important the interest of those donors in wanting to meet their offspring should also be considered.

For those donors who wish to have no contact at all, this must be respected and I think that is a position all donor-conceived people appreciate. But I believe the right to information about one’s background is fundamental.

...The search and being so public about it has taken a toll. It takes a toll on people's legal fathers for whom it is a very sensitive, and remains a very sensitive, issue and not something that people can talk about very easily. I am glad I did it because it has meant that people are then more willing to come forward and contact me, and get in contact with other people that I have connections with. It has just encouraged people being open about it, although it is quite difficult. It is a really personal thing.

It encourages this greater sense of openness and frankly, now, there is just a greater sense of openness about this issue. People, by and large, accept that there is that right to information and the difficulty is balancing the various interests of the people who are involved. I think now, or over the past 20 or even 25 years, as Dr Sutton said to me, anonymous donations are considered now to be unethical and they have been for some time. There is a greater sense of openness and people accept that it is time for people who do not have that information for there to be some mechanism for them to get it.\textsuperscript{134}

4.16. Mr Ross Hunter, donor-conceived person, commented:

But for me the really important thing is that I can get some information about my ethnicity because I look a bit different and am a bit darker and taller than anyone else in my family. I really want to know his profession; for some reason that’s very important. That’s kind of where I’m coming from. It makes it so much easier if you have an institution within the government trying to help you rather than shut you out, which has been the experience of people for the last 20 years.\textsuperscript{135}

... We are at this point now where donors are going to find things out in a way they are not comfortable. It is actually really important, because I do respect donors and their privacy. I am not trying to tear that away. I don't know [of] any donor-conceived people, and I know quite a few, that want to just unveil someone and ruin their lives. That is not at all our intention. We just want this basic information that most people take for granted.\textsuperscript{136}

\textsuperscript{134} Transcript, 20 March 2017, pp29-30, 35
\textsuperscript{135} Transcript, 21 March 2017, p1
\textsuperscript{136} Transcript, 21 March 2017, p4
Funding the cost of searches

4.17. The Committee heard that for many donor-conceived persons the search for their donor not only had an emotional toll on them, but they often had to bear significant financial cost.

4.18. Mr Ross Hunter, donor-conceived person, commented:

> Despite considerable sums of money spent on subsiding ART to the public via the Medicare system, it seems that the wellbeing of the ‘end product’ of this process, the real, live humans which grow up to be people like me- is largely ignored.\(^{137}\)

Birth certificates

4.19. Mr Mark Brown, Australian Christian Lobby commented:

> In general principle we believe that a birth certificate is a legal document that reflects a biological reality in terms of a fact. Every child has a mother and a father. A legal document that reflects biological truth is something that should detail a biological parent of whoever it is speaking about. That is the general principle. There are a lot of questions around that in terms of social parents, legal parents as opposed to biological parents, but that is our general principle. It is a legal document and it needs to reflect truth.

... It is taking a snapshot of someone's life, at their birth. You could say it like a photo. It is detailing the evidence and the reality of this person's birth. The fact is, genetically, this is who has made the person. Therefore, it needs to detail that truth. Things may change in future, for legal reasons, but that is the snapshot of that particular time and space and it needs to reflect truth.\(^{138}\)

4.20. Dr Sonia Allan commented:

> Tasmania should annotate the birth certificate of a donor-conceived individual to alert them to the fact that further information that they may wish to obtain is held on the Central Register.

... in Victoria, s153(1) of the Assisted Reproductive Treatment Act 2008 (Vic) provides for the birth certificate of a donor-conceived child to be annotated with the text ‘donor-conceived’ where a ‘birth registration statement’ specifies that the child was conceived by a donor treatment procedure.

Similarly in Ireland, when a person reaches 18 years of age and applies for a copy of his or her birth certificate an tArd-Chláraitheoir shall, when issuing a copy of the birth certificate requested, inform the person that further information relating to him or her is available from the Register. The note shall be released only to the child concerned. Information regarding donor-conceived status is now also recorded on the ‘base file’ to birth registration in Argentina.

\(^{137}\) Submission No. 5, p3
\(^{138}\) Transcript, 24 October 2016, pp10-11
Other approaches include:
- recording both the individual’s genetic and social parentage on the birth certificate of a donor-conceived person;
- the issue of a separate certificate to a donor-conceived person alerting them to the possibility of information held on the Register of Information;
- placing a code or symbol on the birth certificate of a donor-conceived person; or
- the issue of two certificates to all people – a ‘Certificate of Birth’, identifying an individual’s legal parentage and a ‘Certificate of Genetic Heritage’, indicating where an individual’s genetic and legal parentage are different.\(^{139}\)

**Central authority and central registry**

4.21. The Committee heard of significant support from the majority of witnesses for the establishment of a central registry of information in relation to donor-conceived persons.

4.22. A number of witnesses argued that Tasmania should introduce a registry similar to that established recently in Victoria.

4.23. Mr Mark Brown, Australian Christian Lobby, commented:

Tasmanian’s who were conceived through anonymous donor conception prior to 2004 need access to identifying information about their donor as a part of establishing their genetic identity. With the momentum from this inquiry, Tasmania now has a chance to rectify this inequality.

Tasmania should establish a central authority and a central register to store information relating to gamete donation both prior to and following the 2004 regulations. Clinics should be compelled to provide this information through the creation of a statutory authority to manage access to information about donors, log contact preferences and provide counselling and support for donors, donor-conceived people and their families... The statutory authority could be modelled on the Victorian Assisted Reproductive Treatment Authority. This positive step should be implemented to ensure Tasmanian’s who were donor-conceived have all the same rights to information that their Victorian counterparts enjoy.\(^{140}\)

4.24. Mr Michael Williams, donor-conceived person, commented:

What I would envisage would be that a government agency would properly resource the register but there would also be an education campaign encouraging people to tell their children they are donor-conceived. It would be a campaign that would encourage people to do that but to also to come forward and register their details on the register. It would have that ongoing function.\(^{141}\)

4.25. Mr Ian Smith, sperm donor, commented:

\(^{139}\) Submission No. 13, pp41, 29-30
\(^{140}\) Submission No. 11, p7
\(^{141}\) Transcript, 20 March 2017, p32
An issue for many gamete donors is that as we become older there is a greater risk that we may die before our donor offspring may seek to gain information from us. A donor linking collection — with provision for a variety of forms of information to be provided and lodged and curated in a variety of formats (e.g. documents, photographs, videos, audio recordings) — would serve a valuable purpose in this regard. This would be so for both donors and donor-conceived people. Looking again to Victoria for examples of practice, I understand that the Victorian Reproductive Treatment Authority is working to expand the current (Victorian) Voluntary Register to fulfil this kind of function. I encourage consideration of such a concept in Tasmania.\textsuperscript{142}

4.26. Dr Sonia Allan, Macquarie University, commented:

While some states have established central registers held by stand-alone government authorities (VARTA in Victoria); or health departments (NSW; WA), there is the issue in Tasmania—like South Australia, and the A.C.T.—of a much smaller population and resources. It is important to consider therefore where best to hold information. It is my view, having researched the issues extensively, that birth information, including donor conception status and information about the donor and donor siblings, should be held at the register of Births, Deaths, and Marriages. This will enable record keeping in perpetuity, and enable access to information by generations to come. I therefore submit that:

1. All records should be held at the same central register for donor conception regardless of when a person was conceived — and that this might best be placed at the register for Births, Deaths and Marriages;
2. Support services should be available for donor-conceived, recipient parents and donors in relation to the collection and release of such information if they need them...; and
3. ‘Contact vetos/preferences’ should be able to be placed at this register by donors who donated prior to 2004 (since when consent to release of information has been required under NHMRC Guidelines).\textsuperscript{143}

4.27. Dr Karin Hammarberg, Monash University, commented:

Whatever happened in Victoria didn’t happen overnight. It has been a very long process and where we are now has been informed by the previous. The fact that everything has now come back to one entity, which is VARTA, where there is the searching, the finding, the counselling and all the resources that are needed to make this as good as it can possibly be are located in one place. We have gone from having the Births, Deaths and Marriages to manage the records. I don’t think was ideal. They have a record keeping kind of obligation. This is different. This is something that has to do with people’s lives, mental health and wellbeing and all of that. It has to have more of a realistic approach and understanding of both sides. That is where VARTA has gathered experience over time. If ever you go down that track I think learning from them, getting people who are going to be running this to come, and see how it is run because I think they do a great job.\textsuperscript{144}

4.28. Mr Michael Williams, donor-conceived person, commented:

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\textsuperscript{142} Submission No. 4, p5
\textsuperscript{143} Submission No. 13, p28-29
\textsuperscript{144} Transcript, 10 May 2017, pp7-8

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Tasmania should establish a register to enable individuals in my position to potentially obtain information about, or connect with, their donors. A number of jurisdictions in Australia have established donor registers. In my view, a register of donors is a first, necessary step to enable donor offspring to access information about their genetic heritage. A register is likely to require a legislative basis to ensure that a Government Department or agency is able to establish the register; take inquiries from donors and donor offspring who wish to be part of the register; and, in appropriate circumstances, provide information to individuals who are [sic] seek it.

A register would greatly assist individuals who were conceived at clinics where records were destroyed or cannot be located. This is because it would enable donors to come forward and provide their information to the Department or agency responsible for entry on the register. It would also enable donor offspring, conceived at the same clinics, to potentially access information about, or meet, their half siblings.145

4.29. Mr Michael Williams, donor-conceived person, commented:

…the best response is legislative reform in which a Government Department or agency is given specific functions to establish and maintain a donor register. In cases where donor records exist, that same Department or agency can be responsible for providing identifying information about donors to donor offspring, facilitating contact, and receiving contact vetoes where donors do not wish to be contacted. I think such a scheme would appropriately balance the rights and interests of donors who do not wish to be contacted and of donor offspring to the crucial information about their genetic parentage and the possibility of connecting with their donors (including where information has been destroyed).146

4.30. Ms Andrea Peace, donor-conceived person, commented:

The establishment of a register in Tasmania, so that both donors and donor-conceived offspring can register and find out information specific to their situation (whether that be identifying or not). I feel that this is particularly important for those who don’t yet know that they are donor-conceived, so that when they find out, there is a place of truth that they can go to seek information, rather than reading the misinformation available online and believing, as I did for 17 years, that they could never find out any information.

…I feel guilty asking questions of TasIVF, because the time they spend searching for answers for me, is time that they are not helping people who need assistance having a baby right now. This is another reason why I believe that the establishment of a register, managed by a designated group, is important – to relieve TasIVF of the burden of assisting people in my position with their search, when it is not the responsibility of the TasIVF clinic.147

4.31. TasIVF commented:

A state-wide register would enable donors, recipients and offspring who received treatment at other sites in the past, a central point for information storage. A voluntary

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145 Submission No. 12, p5
146 Submission No. 12, p6-7
147 Submission No. 20, pp1-2
donor register would encourage donors and offspring to contact the register and submit their information for collection. This would allow information sharing of medical history and also the potential for identification of the donor. In order to attract the greatest number of registrants the release of identifying information only by consent would need to be guaranteed. There would undoubtedly be a number of past donors who would be willing to update medical information but may not wish to be identified. Reassuring them of that guarantee may be difficult in light of the current enquiry and recent changes to the Victorian legislation.

Establishment of the register could be accompanied by a strong publicity campaign to encourage past donors to come forward.\textsuperscript{148}

**Improved record maintenance**

4.32. Witnesses argued that the establishment of a central registry would ensure improved maintenance of existing records as well as protection against reckless or intentional destruction of records.

4.33. Dr Sonia Allan commented:

\begin{quote}
I believe that all records should be (electronically) transferred to the central register and that there should be a prohibition on destroying or tampering with records currently in existence... If all records were transferred to the register, then it would be of no consequence to the maintenance of records in perpetuity if a clinic closed or doctor holding records passes away... Law should be enacted to prohibit destruction of, or tampering with, such records.\textsuperscript{149}
\end{quote}

4.34. Ms Jessica Radford, Department of Health and Human Services, commented:

\begin{quote}
The other issue that makes it complicated in Tasmania is the lack of records that exist and government does not own those records. One of the benefits of licensing services is licensing has requirements for record keeping and if a service were to close we would have means of ensuring those records were protected. It is a difficult situation because there is a lot we can do now, for the future, but in terms of what has happened in the past it is difficult for government to take control of records that don’t exist or that we don’t know where they are if they do exist.\textsuperscript{150}
\end{quote}

**Central authority for records and services including counselling**

4.35. As well as maintaining the registry, there was also strong support for the central authority to provide services, including counselling, as discussed in Chapter 9.

4.36. Ms Louise Johnson, VARTA, commented:
It is a very different situation with the administration of the counselling services and the management of the donor registers under one roof. It means we are seeing both parties. Even if the subject of the information chooses not to come in, there is usually a conversation with a counsellor, which can also be via Skype or telephone, if they are now living interstate. We are able to provide some support so that they can talk through what they might want to do relating to bonding.\textsuperscript{91}

**Voluntary versus mandatory registry**

4.37. While there was significant support for the establishment of a central registry of donor information, witnesses varied in their opinion as to whether the registry should be voluntary or mandatory.

**Voluntary**

4.38. The Tasmanian Government argued in support of the registry being voluntary:

\textit{In principle, the Government supports the examination of models for information sharing arising from historical donor conceptions prior to 2004, for example, through the establishment of a voluntary register. To this end the Government has had productive talks with the State’s only ART provider, TasIVF, regarding a proposal to expand their existing register to include donation information from history donors and donor-conceived people who wish to provide information for linking on a voluntary basis. Since 2004, donor conception practices have been required to operate in accordance with the National Health and Medical Research Council’s Ethical Guidelines on the use of Assisted Reproductive Technology in clinical practice and research (the NHMRC Guideline), including having consent to information sharing prior to procedures being undertaken.}\textsuperscript{92}

4.39. The Tasmanian Government commented:

\textit{The Tasmanian Government recognises that establishing a voluntary register of identifying and non-identifying information for donors and donor-conceived people in circumstances where records have been destroyed, and allowing historical donors who have donated anonymously to come forward and identify themselves to their donor-conceived offspring will go some way to allowing donor-conceived people born prior to 2004 with information that is now required to be kept by all ART providers...}

A salient point in this regard was made during the 2011 Senate Committee, Dr Sonia Allan, a legal academic and research in the area of donor conception and the use of ART argued that "once we recognise the right of donor-conceived individuals to have access to information about their genetic heritage, that recognition cannot be applied only to a small subset of donor-conceived individuals or people who will be conceived via assisted reproductive technologies in the future. Once we make that recognition, we need to apply that recognition to all donor-conceived individuals."

... While the Tasmanian Government is respectful of the view of many donor-conceived persons that they were not a party to the agreement between the donor, their parents

\textsuperscript{91} Transcript, 10 May 2017, p19
\textsuperscript{92} Submission No. 18, p3
and the ART provider regarding confidentiality, the Government also acknowledges that donors made donations on the basis of anonymity.

Donor conception information collected either voluntarily or via a clinic will need to be kept in a secure repository, with clear, well-defined criteria that govern the handling and release of information. It may also be necessary to have clear guidelines in place for use when assessing applications where it may not be possible to obtain the desired consent.

Counselling and support would also need to be available to people who are seeking access to donor conception information.153

4.40. Dr Sonia Allan, Macquarie University, commented:

Voluntary registration of donor information should also be possible and encouraged – this should be available to known donors, and donors where records may have been destroyed to place their information on this register.154

4.41. The Fertility Society of Australia commented:

We also support the maintenance of a voluntary register whereby donor-conceived people can make contact with donor-conceived siblings or parents who have children by the same donor can connect.155

4.42. Ms Jessica Radford, Department of Health and Human Services, commented:

That is one of the practicalities as to why the submission favours at least a voluntary register as the first step. A compulsory register may not have any particular practical advantage in the sense of lack of certainty as to where the records are or if they exist. You can’t compel someone you don’t know about to come forward, for example.156

Mandatory

4.43. Dr Sonia Allan, Macquarie University, argued in support for creating a mandatory registry:

This submission calls for compulsory registration of both identifying and non-identifying information for all donor conceptions regardless of when the donation took place. That is, registration of all identifying and non-identifying information held by clinics, hospitals and doctors surgeries about past and present donations. It is noted that opponents of disclosing identifying donor information argue that donor privacy should be respected. However the right to privacy does not and should not trump a person’s ability to know important information about their genetic heritage. While retrospective release of information is a sensitive matter, it is not impossible. There is already a precedent set by the release of identifying information in the adoption context, and the possibility of

153 Submission No. 18, p13
154 Submission No. 13, p41
155 Submission No. 3, p3
156 Transcript, 21 March 2017, p13

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‘contact vetoes/preference statements’ as per this model. This would be consistent with the Tasmanian approach to release of information in such adoption contexts.

...Compulsory registration of both identifying and non-identifying information for all donor conceptions regardless of when the donation took place should occur (including registration of all identifying and non-identifying information held by clinics, hospitals and doctors surgeries about past donations).\textsuperscript{157}

**Applications forms including reasons**

4.44. Ms Louise Johnson, VARTA, proposed that application forms for information include the reasons for the donor-conceived person wanting to know information about their donor. This may encourage more donors to willingly provide their information:

> There is some recognition that it takes a lot of courage to make an application to the donor registers. What we are still putting into practice is asking the applicant to complete a statement of reasons. That is mandatory if consent is required from the subject of the application. To help the person who is affected by the application, people are writing down their reasons for applying and they put those reasons into their very own words. So the person who receives this information can see what the motivation and thinking the person has used to inform their decision. That is certainly a very positive part of the process.\textsuperscript{158}

**Contact veto system**

4.45. A number of submissions proposed for Tasmania to follow the Victorian model, which provides for a veto option that enables donors to express their desire to have no contact with their donor-conceived offspring and include the provision of penalties for any breaches of the veto.

4.46. Mr Michael Williams, donor-conceived person, commented:

> If those offspring or relatives do not want any contact with the donor offspring, that has to be respected. The legislation could deal with that by allowing other people to register contact vetoes to say they do not want any contact with donor offspring. The same principle would apply.\textsuperscript{159}

4.47. Dr Sonia Allan, Macquarie University, commented:

> There are penalties that apply should that contact veto be breached. It’s a step that in one sense provides a level of security but in another sense, if we look to the laws that we already have, may even be considered a little unnecessary. It is seen as something that makes people feel more comfortable and potentially more protected in terms of

\textsuperscript{157} Submission No. 13, p39
\textsuperscript{158} Transcript, 10 May 2017, p19
\textsuperscript{159} Transcript, 20 March 2017, p31
not being able to be stalked or not having somebody land on their doorstep, but we do have laws in every state of Australia that prohibit people from stalking other people.\textsuperscript{160}

4.48. Dr Sonia Allan in proposing a “contact veto/preference statement”:

A ‘Contact veto/preference statement’ system should be implemented in relation to pre2004 donations, which would allow for release of information while balancing the privacy interests of those who do not wish to have contact.\textsuperscript{161}

The contact veto/preference system is enforceable at law and protects the lodging person’s privacy by preventing interference with their intimate sphere of daily life or limiting contact to a form stipulated by a person (e.g. Via email, letters, with an intermediary present, or otherwise). It still however allows for information release. In this way, the donor-conceived person’s needs are met regarding identity formation, knowledge about their heritage, medical history, identity, and so on, however a relationship with the donor/donor-conceived person may not follow unless all parties agreed.

... I also note a study by Wayne E. Carp on whether opening adoption records had an adverse social impact, in which he considered the retroactive application of laws in the U.S., Great Britain and Australia between 1953-2007 and the implementation of a contact veto or preference system. The study concluded that a vast gap exists between the fear that was initially raised by birth parents and adopted adults that their privacy would be invaded and their family disrupted and the reality that few or no offenses are committed where a contact veto system has been operated. It is striking to me to compare that trajectory of arguments that were raised about retrospective release of information in relation to adoptees to the arguments which has occurred in relation to donor conception over the past years. I implore the committee to recognise the effectiveness that a contact veto system would have in balancing the rights of donor-conceived people and donors while allowing for information release.\textsuperscript{162}

4.49. Some witnesses expressed concern about the size of the penalties in the Victorian system for a breach of a contact veto as being too harsh considering the circumstances.

4.50. Mr Ross Hunter, donor-conceived person, commented:

I think the fine system in Victoria is a little excessive in that if I do make contact and breach that proviso I will be fined $7500. It’s there to give donors peace of mind but I don’t think it’s necessarily the most effective way. There has to be some kind of exchange of information system that could be more effective. I don’t know exactly what that is, but I’m not personally championing this. I’m playing devil’s advocate. If more donors would be comfortable coming forward knowing there are legal ramifications or a fine that might make them feel better, but ultimately if someone wants to find someone else they can. This idea of anonymity that people are hiding behind is debunked. I don’t know exactly what that system is like but I don’t think the

\textsuperscript{160} Transcript, 23 September 2016, p34
\textsuperscript{161} Submission No. 13, p41
\textsuperscript{162} Submission No. 13, pp25-26
fine is necessarily a great way to go. I just want to facilitate people finding out this really important information and hopefully maybe Tasmania can come up with a better system than Victoria has. I read in a news article that there are around 200 people so it might be more manageable in a smaller context but it’s by no means simple, that’s for sure.\footnote{Transcript, 21 March 2017, p5}

4.51. Mr Mark Brown, Australian Christian Lobby, commented:

Some donor-conceived children have been looking for years and years, and have been in investigative roles for that period. Even though this framework is seeking to couch it the best way possible in terms of keeping it professional and the counselling that is involved and looking at all the different people who might be implicated by some of this information that will be revealed, ultimately they are trying to claim a human right, but is it right that, in that process, if they step outside the framework, they are actually prosecuted and threatened with prosecution? That is why in our submission we did not focus on that point, because we are not completely happy with that idea. There needs to be some disincentive and it needs to be an advisory disincentive, such as, 'Do you realise the implications of this and how sensitive it is?’ To say, 'if you are going to do this you are going to get fined $8,000', we are not 100 per cent comfortable with that. I am not sure whether anyone else has commented on that aspect, but that is an important part.\footnote{Transcript, 24 October 2016, p12}

**Alternative methods to contact veto system**

4.52. Dr Sonia Allan proposed alternatives to introducing a contact veto system similar to the system in place in Victoria, including:

Releasing information retrospectively and not providing any form of veto (this is the approach taken in Victoria regarding retrospective release of information about birth parents in the adoption context). This may take the form of simply releasing information, or may entail contacting the donor first. An example of this exists in Switzerland, before personal data is disclosed, the donor is informed of the inquiry (if possible). If the donor does not wish to have personal contact, then the donor-conceived person must be informed and made aware of the donor’s rights of privacy and his family’s entitlement to protection. If the child insists on the right to obtain information, the information is provided.

In addition, here (or with other options) an ‘advanced notice’ system may be implemented in which donors may elect to be given advanced notice that information release will occur. In these instances the advanced notice gives the donor a time period (e.g. Two weeks) to inform his or her family or otherwise prepare for information release – but they may or may not elect to lodge a contact veto.

Allowing only for ‘contact preference’ statements based on good faith that are not enforceable at law;

Contacting the donor first and asking if he/she is willing to have their information released. (While I believe in always attempting to contact the donor first prior to
information release, I do not agree with a system that implements only partial release subject to consent/information vetoes as this negates the donor-conceived person’s rights or legal interests in having information, leaving the determination for information release in the donor’s hands alone and therefore not balancing the donor-conceived person’s interests with those of the donors).165

DNA Bank

4.53. Some respondents argued for the registry to include DNA records.

4.54. Mr Ian Smith, sperm donor, commented:

Despite best efforts to locate and preserve records it is inevitable that there will be gaps. In the absence of adequate records, DNA testing provides virtually the only means of verifying family genetic connections. I understand that the science around DNA testing is complex and I make no claim to understand that science.

Thus I do not propose any particular approach to DNA testing, record keeping and matching. I do though strongly advocate the establishment of a suitable form of Government supported, and funded, DNA testing and record keeping for donor-conceived people and donors. In this context I note that the 2011 Senate Legal and Constitutional Affairs References Committee on Donor Conception Practices in Australia recommended (Recommendation 12 7,76) that any voluntary registers incorporate a DNA databank in order to enable donors and donor-conceived individuals to have their details placed on the register for possible matching, in circumstances where records relating to their identities have been destroyed.

Once again Victoria provides some potential guidance. The legislation which is to come into effect in 2017 will enable VARTA to undertake DNA testing where required as part of the process of establishing donor/donor-conceived person linking. I understand that VARTA is putting in place such practice. A logical progression from the collection and matching of DNA records is to collate those records and to progressively build a database of DNA records. Ideally such a database would be a national undertaking.166

The age of person seeking access to a registry

4.55. The Committee heard from a number of respondents in relation to the age that a donor-person is permitted to access a registry.

4.56. Dr Sonia Allan, Macquarie University, commented:

In a number of international jurisdictions (Finland, New Zealand, Norway, Switzerland, the UK) eligibility to request disclosure of the donor’s identity is conferred when the donor-conceived person reaches the age of eighteen. This age however may be adjusted in some circumstances. For example, in New Zealand a donor-conceived person may apply to the Family Court from age sixteen to be treated as an eighteen year old, although the court will need to be satisfied that it is in the individual’s best interests to receive the information requested.

165 Submission No. 13, pp27-28
166 Submission No. 4, p4-5
In other jurisdictions the age is lower. For example, in Austria it is fourteen years, and in the Netherlands and Western Australia it is sixteen years. Sweden alone specifies no age at which the information may be requested, requiring instead that the donor-conceived person has ‘achieved sufficient maturity’.

In Western Australia, a donor-conceived individual younger than sixteen years may learn her or his donor’s identity, providing that the donor consents and the young person’s parent(s) consent on the young person’s behalf. Similarly in Victoria, a donor-conceived individual that has not yet turned eighteen may learn his or her donor’s identity providing the donor consents and the request is made via the young person’s parent(s).

Pursuant to the Assisted Reproductive Treatment Act 2008 (Vic), parental or guardian consent will not be required if the young person has received appropriate counselling and the counsellor judges the individual to be ‘sufficiently mature’ to understand the consequences of seeking the information.

It is recommended here that access to identifying and non-identifying information be available to donor-conceived individuals from the age of sixteen. Access to such information from a younger age should also be possible with the guidance/support of an adult – this may include a counsellor, youth worker, parent, guardian or other responsible adult.

... Access to identifying and non-identifying information should be made available to donor-conceived individuals from the age of sixteen. Access to such information from a younger age should also be possible with the guidance/support of an adult – this may include a counsellor, youth worker, parent, guardian or other responsible adult.167

4.57. Mr Mark Morrissey, Commissioner for Children and Young People, commented:

I would support lowering to 14 or 16. I think you have that principle of the mature minor. Kids are pretty aware at that age. If you hold on for, potentially, another four years that could be unsettling for the child when there could be resolution.168

4.58. Ms Caroline Lorbach, Donor Conception Support Group of Australia, commented:

Our group’s view has always been that it should be at 18, but there always have to be exceptions. If a young teenager is going through a lot of problems, it may be decided, with professional help, that they should have that information earlier. We think 18 is one of the best times because you are an adult for everything else, and you should be an adult as far as having access to information about your identity.

Part of the problem is that there is not enough support for parents in talking to their children about donor conception. The circumstances under which a donor-conceived child is told may not always be the best. The most common place for people to come for information about how to tell their children is our group. We are an unfunded,
volunteer base group. We have very limited resources in how we can help people. Whereas, if you adopt a child you have, basically, a lifelong support system in place helping you in talking to your child about their adoption and coping with any of the issues that might arise. That does not happen in donor conception, which puts a lot of donor-conceived parents at a great disadvantage. It can mean that many of them will opt not to tell their child because they are concerned about how to do it and what will happen once their child knows. Advertising, education and support are incredibly important in helping donor-conceived families.169

Committee findings

4.59. The Committee finds that the absence of regulation in relation to donor conception practices prior to 2004 has resulted in the poor maintenance of records, a lack of detailed records or and in some cases any records at all.

4.60. The Committee finds that the poor quality or absence of records has denied some donor-conceived persons the opportunity of knowing information about their donor or contacting their donor and extended family.

4.61. The Committee finds that a single authority would provide a central location to manage donor conception information. This authority would manage a central registry, which should provide improved record maintenance and improved information search capabilities for donor-conceived persons as well as links to counselling support.

4.62. The Committee finds that in order to establish the registry, the single authority should be tasked with undertaking an audit of all medical records relating to donor conception practices in Tasmania. As part of the audit, the registry should seek to conduct interviews with donors and any persons who have worked at medical practices that provided donor conception and sperm collection, to ensure as much information as possible is recorded before it is lost.

4.63. The Committee finds that a prohibition on the destruction of records relating to donor conception practices is required.

4.64. The Committee supports the immediate establishment of a voluntary registry with a contact veto system for pre-2004 donations subject to proposed review of the Victorian legislation in 2020.

4.65. The Committee finds that each contact veto should contain an expiration period, with the option to renew.

169 Transcript, 24 October 2016, p22
4.66. The Committee supports applications for information to the registry to include the option for the donor-conceived person to explain the reasons they are seeking information about their donor.

4.67. The Committee finds that birth records and birth certificates of donor-conceived persons do not allow for the inclusion of contemporary information their donors.

4.68. **Recommendation 2:** The Committee recommends that the Tasmania Government establish a central authority to:

1. Collect and maintain all donor conception records;
2. Operate a registry of donor conception records that provides the option of a contact veto, which expires but is renewable;
3. Assist donor-conceived persons to search for their donor;
4. Provide contact management between donors and donor-conceived persons;
5. Provide counselling services; and,
6. Deliver public education.

4.69. **Recommendation 3:** The Committee recommends the Government undertakes a national campaign to encourage pre-2004 donors and donor-conceived persons to come forward and be part of the registry.

4.70. **Recommendation 4:** The Committee recommends a review is conducted into the information contained in birth records and birth certificates to ensure donor-conceived persons are cognisant of their donor conception.
5. COUNSELLING AND SUPPORT SERVICES

5.1. The Committee observed widespread support for the need for services, including public education, counselling and search-assistance, to be provided for all parties to donor conception, including donor-conceived persons, donors, and their relatives during the process. Support for the provision of such services appeared universal irrespective of whether or not the person was in favour of retrospective access.

5.2. Dr Karin Hammarberg, Monash University, commented:

*If you are going to do things that open up new avenues for people to connect, you really have to have a very solid support base where people who are affected by this - and they could be half siblings or they could be - it actually affects more than just a donor and donor-assisted person. There are potentially others who might have an interest in this as well.*

*You need to have very experienced people who can guide, direct and support the process of finding. Again, we need to recognise a lot of those who yearn to find out will never find out because the records are incomplete. There may be other hurdles - they may not be able to find the donor; the donor might be dead. There is all sorts of things.*

*Entering into this, I think means you have to have a solid system set up in advance that can deal with the outcomes.*

Provision of counselling

5.3. Dr Sonia Allan argued that counselling in relation to donor conception should be readily available for recipient parents, donors and offspring, be available on an ongoing basis and not only occur prior to conception on a needs basis. She also argued that counselling should be available:

*“to assist parents in telling their children about how they were conceived, helping the family address any issues they face in relation to donor conception, and for the donor-conceived.”*

5.4. Dr Sonia Allan also argued that counselling be available to pre-2004 donors to support them in recognising that their donation has resulted in the life of another person, who may wish to access information about their genetic heritage.

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170 Transcript, 10 May 2017, p3
171 Submission No. 13, pp31-32
172 Submission No. 13, pp31-32
5.5. TasIVF commented that counselling is an essential component for both donors and offspring prior to voluntary participation in their registry. TasIVF outlined the issues discussed in various circumstances:

**Issues discussed at registration with donors**
- Their offspring may never be found
- Impact on their current partner and children
- Number of offspring
- Number of families
- Consent (or not) to release non-identifying and identifying information to the offspring.
- Contact or no contact with donor offspring

**Issues to discuss at registration with offspring**
- A match may not ever be found
- If a match is found minimal information may be available,
- The donor may be deceased
- Number of families
- Number of half siblings
- Consent (or not) to release information non-identifying and identifying information to the donor.
- Contact or no contact with donor

**Issues to be discussed with offspring if a match is found**
- Has the donor agreed to identification
- The possibility that the donor may never be identified
- Reaction of their parents or their own offspring
- Contact or no contact with donor.\(^{173}\)

5.6. Mr Damian Adams, academic and donor-conceived person, argued against mandatory counselling as is required under the Victorian legislation:

*I do not necessarily believe that a person has to receive counselling before receiving the information. They are adults. I believe that counselling should be available if they want to receive it.*\(^{174}\)

5.7. Ms Rita Alesi, Monash IVF and Fertility Society of Australia, commented that if retrospective access is granted:

*The first thing, I think, is having a very solid education process in place for all the parties. I think, also equally important, for the person making the application for information - most commonly that would be the donor-conceived person - is to provide counselling in looking at what information they are actually wanting and managing their expectations. Part of that would include the fact that a donor may not wish to make contact, may not wish to even release non-identifying information. If contact is made with a donor on the part of a third party, an intermediary, then similar education and counselling support is provided to that donor to get them to a point where they are comfortable enough to release information that they feel is appropriate. That may only be non-identifying*

\(^{173}\) Submission No. 8, p4

\(^{174}\) Transcript, 23 September 2016, p43
information or medical history information, or perhaps over a period of time to provide them with support to help them inform their own families and the consequences for them and ultimately assist in how face to face contact may be facilitated. In practice that takes a fair amount of time to get to that point, if it gets to that point at all.175

5.8. Dr Fiona Kelly, La Trobe University, highlighted the research conducted in relation to the Victorian register, which demonstrated that despite the registry being voluntary (at that time), after being counselled, the vast majority of donors consented to being registered.176

Community education

5.9. Mr Ian Smith, sperm donor, spoke of the importance of community education in relation to any changes in the process:

That work has led me to the strongly held view that change is a long term task – and one best achieved through cooperation rather than coercion. In my experience, coercion breeds anger and resistance. Conversely engagement, conversation, collaboration generally yields sustainable results.

I advocate pro-active publicity and community education regarding any changes that are to be considered in this area of policy and practice and active engagement with both donor-conceived people and former sperm and egg donors about any changes to policy and practice. There is a need for advice, counselling, support to enable all those impacted – the donors, the donor-conceived people, and their families – to make their way through these complex matters.

The work undertaken by the Victorian Reproductive Treatment Authority (VARTA), and currently being developed further to take account of legislative change which comes into effect in mid-2017, provides an excellent model of practice in this regard.177

5.10. The Fertility Society of Australia agreed that education and counselling should be provided:

The process of donor-conceived persons accessing identifying information about their genetic origins is relatively new and unchartered territory and people need support and education to guide them through what is usually a very challenging process. If changes occur there should counselling provided and a public education campaign to educate people of the altered legal situation and the implications this may have for them and supportive facilitative counseling should be an integral part of any attempt to link parties.178

175 Transcript, 23 September 2016, p20
176 Transcript, 10 May 2017, p151
177 Submission No. 4, p2
178 Submission No. 3, p3
5.11. Ms Rita Alesi, Monash IVF and Fertility Society of Australia, commented that if retrospective access is granted:

While obviously that will elicit some concerns for past donors and also for the clinicians who made that promise, I think that can actually be managed very well with lots of public education.\(^{179}\)

**Contact management**

5.12. The Fertility Society of Australia commented on the need for contact to be well managed and preferably provided by a counsellor:

In the early days of donor treatment, it was accepted and understood that parties would remain anonymous to each other. This reflected the current community views of that era. Consequently, donors volunteered to donate on that basis. It is now recognised that donor-conceived individuals have a natural and healthy interest in knowing who their donor is. We therefore recommend that donors be contacted in an extremely sensitive, confidential and respectful manner and asked their wishes in relation to this.\(^{180}\)

5.13. Ms Rita Alesi, Monash IVF and Fertility Society of Australia, argued that contact be conducted by persons with counselling training:

... who would have experience in being able to manage a distressed person and be able to provide empathy and support to the angry person. In that context it would be hearing that person out as to what their concerns are, but also then providing them with what the process would involve and outlining that there would be some protective mechanisms in place.\(^{181}\)

**Support services for donors**

5.14. Dr Sonia Allan, Macquarie University, spoke to the importance of support systems to be provided to donors if retrospective access is provided:

How do I deal with this? How do I tell my family? What do I do now because potentially there are numerous children in numerous different families? Not even potentially, likely. It is a big thing for everybody so I don't think any changes should be taken lightly. I certainly think that any system that will be put in place should be very mindful of the sorts of support systems that should be available to people if they need it.

For example, in the Netherlands they have a system of information release. The first person who is contacted is the donor, and the first person who is offered support via their social workers and intermediary services is the donor. They have set out to help families and they need to be treated with great sensitivity. They need to be supported in knowing that if this information is released, how it is going to be released, what it means, and what their rights are in being able to say, 'I understand the donor-conceived

\(^{179}\) Transcript, 23 September 2016, p20

\(^{180}\) Submission No. 3, pp2-3

\(^{181}\) Transcript, 23 September 2016, p20
person needs this information, but what does it mean for me?’. They are making sure those sorts of systems are in place for the donor.\textsuperscript{182}

5.15. Mr Richard Griggs, Civil Liberties Australia, argued for the provision of free legal services for donors to assist donors being identified:

… all steps should be taken to encourage and facilitate consent from donors to the sharing of their personal information. One example for your consideration is the idea of free legal advice. For some, we understand there would be concerns about potential legal ramifications in being identified and what kind of responsibility do they have. They will probably depend on a case-by-case basis but that might be something which will get more donors across the line to provide their consent.\textsuperscript{183}

Committee findings

5.16. The Committee finds that there is widespread support for counselling services to be provided to donors and donor-conceived persons throughout the process of identification.

5.17. The Committee finds contact should be managed by central authority staff with counselling training as this process may be distressing for those involved.

5.18. The Committee finds that public education, including promoting a central registry and any changes in the management of information relating to donor conception practices, may alleviate affected persons’ anguish and ensure a successful implementation of the registry and the central authority.

Parliament House
HOBART
8 December 2017

Joan Rylah MP
CHAIR

\textsuperscript{182} Transcript, 23 September 2016, p35
\textsuperscript{183} Transcript, 24 October 2016, p3
APPENDIX

Submissions Received

- Anonymous
- Damian Adams
- Fertility Society of Australia
- Ian Smith
- Ross Hunter
- Family Voice Australia
- Priscilla Walters
- TasIVF
- VANISH
- RANZOG
- Australian Christian Lobby
- Michael Williams
- Sonia Allan
- John Monash
- The Donor Conception Support Group of Australia
- Hon. Greg Donnelly MLC, NSW Legislative Council
- Civil Liberties Australia
- Tasmania Government
- Commissioner for Children and Young People
- Andrea Peace