



LAW REFORM COMMITTEE

Media Release

From Clem Newton-Brown, MP, Chair

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COMMITTEE RECOMMENDS ALL DONOR-CONCEIVED PEOPLE HAVE ACCESS TO DONOR INFORMATION

The Victorian Parliament's Law Reform Committee today tabled its final report on the Inquiry into Access by Donor-Conceived People to Information about Donors.

The Committee's key recommendation is that the Victorian Government introduce legislation to allow all donor-conceived people to obtain identifying information about their donors.

Under current Victorian legislation, people who were conceived using gametes donated before 1 July 1988 have no rights to any information about their donors. People conceived using gametes donated between 1 July 1988 and 31 December 1997 can access information about donors if the donor consents to release of that information. By contrast, people conceived using gametes donated after 1 January 1998 have unconditional access to identifying information about their donors.

"While the Committee recognises that donors who donated their gametes before 1988 did so on the basis of anonymity, the Committee considers that donor-conceived people have a right to know the identity of the person who contributed half of their biological makeup," said the Committee's Chair, Mr Clem Newton-Brown, MP.

"The Committee is convinced that this right must be given precedence, even over the wishes of those donors who would like to remain anonymous."

However, the Committee wants to ensure that donors are not unreasonably affected by the release of identifying information about them, and recommends that some protections should be provided for those donors who do not wish to be contacted. Donors should have the option of placing a contact veto, and there should be a transition period before new legislation becomes effective.

"The Committee recognises that donors were acting altruistically when they made their donations, and that they were promised anonymity. The Committee has sought to ensure that appropriate protections are provided for those donors who are concerned about what may happen when identifying information is released," Mr Newton-Brown said.

It is also important that donors, donor-conceived people, and all those affected by donor-conception have access to comprehensive counselling and support services, and the Committee has made several recommendations in this regard.

The Victorian Government has six months to respond to the Committee's report.

For further comment, contact Mr Clem Newton-Brown MP, Chair, Victorian Parliament Law Reform Committee: 0411 255 179.

Copies of the report are available from the Papers Office, Parliament House, or at www.parliament.vic.gov.au/lawreform

Inquiry into Access by Donor-Conceived People to Information about Donors

Recommendations

Recommendation 1:

That the Victorian Government introduce legislation to allow all donor-conceived people to obtain identifying information about their donors.

Recommendation 2:

That, in implementing Recommendation 1, the Victorian Government require that a child applying for identifying information about his or her donor only be provided with that information if:

1. the child's parents have consented to the application; or
2. a counsellor has provided counselling to the child and has confirmed in writing that the person is sufficiently mature to understand the consequences of the disclosure.

Recommendation 3:

That, with the introduction of the legislation described in Recommendation 1, the Victorian Government require donor-conceived people to attend counselling prior to obtaining identifying information about donors.

Recommendation 4:

That, with the introduction of the legislation described in Recommendation 1, the Victorian Government introduce provisions for contact vetoes that may be lodged by a donor or a donor-conceived person following counselling, with the following features:

- that contact vetoes only be available to people conceived from gametes donated prior to 1998, and the donors of those gametes;
- that donors may only lodge a contact veto after they have been informed that a donor-conceived person has lodged an application for identifying information about them;
- that a veto prohibits contact between the donor and the donor-conceived person;
- that suitable penalties be established for breach of a veto;
- that a veto lapses within five years if not renewed by the person who lodged it; and
- that the person who lodged a veto may withdraw it at any time.

Recommendation 5:

That, with the introduction of the legislation described in Recommendation 1, the Victorian Government introduce provisions for donors to lodge a contact preference form for presentation to a donor-conceived person.

Recommendation 6:

That the Victorian Government introduce the measures proposed in Recommendation 1 through Recommendation 5 following a period of time sufficient to publicise and inform the Victorian community of retrospective changes to donor-conception arrangements. 83

Recommendation 7:

That the Victorian Government encourage organisations, agencies and persons holding information on donor-conception to release, upon request, non-identifying information about a donor to a donor-conceived person, his or her parents, and his or her descendants.

Recommendation 8:

That the Victorian Government encourage organisations, agencies and persons holding information on donor-conception to release to a donor upon request, non-identifying information about his or her donor-conceived offspring.

Recommendation 9:

That the Victorian Government introduce a mechanism for medical information from a donor to be provided to a donor-conceived person, where there is evidence of hereditary or genetic disease or risks to the health of the donor-conceived person.

Recommendation 10:

That the agency managing the donor registers be empowered to release to a donor-conceived person, upon request, non-identifying information about his or her donor-conceived siblings.

Recommendation 11:

That the agency managing the donor registers be empowered to release to the parents of a donor-conceived person, upon request, non-identifying information about that person's donor-conceived siblings.

Recommendation 12:

That the voluntary register remain the only means for donor-conceived people to seek identifying information about their donor-conceived siblings.

Recommendation 13:

That the Victorian Government introduce a mechanism for medical information from a donor-conceived person to be provided to that person's donor-conceived siblings where there is evidence of hereditary or genetic disease or risks to the health of the donor-conceived person.

Recommendation 14:

That the Victorian 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.

Recommendation 15:

That the agency referred to in Recommendation 14 be granted access to the Victorian register of electors in order to conduct its functions.

Recommendation 16: That VARTA assume the responsibilities of the agency referred to in Recommendation 14.

Recommendation 17:

That the Victorian Government introduce legislation to transfer ownership of, and responsibility for, the donor register databases currently held by the Victorian Registry of Births, Deaths and Marriages, to the agency referred to in Recommendation 14.

Recommendation 18:

That the agency referred to in Recommendation 14 offer comprehensive and ongoing counselling and support services, in association with managing the donor registers, to all donor-conceived people, recipient parents and donors, and their relatives, and that counselling be compulsory for:

- a donor-conceived person who is seeking identifying information about his or her donor;
- a donor who is seeking identifying information about his or her donor conceived offspring; and
- a donor or donor-conceived person who applies to lodge a contact veto.

Recommendation 19:

That the Victorian Government introduce a mechanism by which identifying information about a donor can be released directly to a donor-conceived person, in appropriate circumstances.

Recommendation 20:

That the agency referred to in Recommendation 14 provide a letterbox service for donor-conception stakeholders, based on the service previously provided by the ITA.

Recommendation 21:

That if the Committee's recommendations are implemented, VARTA conduct a public information and awareness campaign advising the public of relevant changes in the provision of information to donor-conception stakeholders, particularly targeting pre-1998 donors.

Recommendation 22:

That VARTA continue its education and public campaigns role, with a particular focus on encouraging and supporting the parents of older donor-conceived children to tell their children about the circumstances of their conception.

Recommendation 23:

That the Victorian Government introduce legislation to provide that destruction of, falsifying or tampering with, any records that identify parties to donor-conception, is an offence.

Recommendation 24:

That the Victorian Government introduce legislation to require that persons or organisations that hold records containing information on pre-1988 donor-conception provide copies of the records to a central agency, and in the case of PROV, that pre-1988 donor-conception records be transferred to a central agency.

Recommendation 25:

That the legislative changes proposed in Recommendation 24 be advertised in a public campaign targeting the medical profession.

Recommendation 26:

That the agency referred to in Recommendation 24 approach individual doctors who are known to have provided donor insemination services and obtain copies of records held by them, if any, containing information on parties to donor-conception.

Recommendation 27:

That the Victorian Government introduce legislation to transfer responsibility for the central and voluntary registers from the Victorian Registry of Births, Deaths and Marriages to the agency described in Recommendation 14.

Recommendation 28:

That the Victorian Government provide a facility within the voluntary register for DNA matching.

Recommendation 29:

That where records for donors or donor-conceived people are unavailable, incomplete, or ambiguous, the Victorian Government offer a concession for DNA testing if that person wishes to lodge DNA matching data on the voluntary register.

Recommendation 30:

That the Victorian Government provide regular reports to an appropriate inter-jurisdictional body, such as the Standing Committee of Attorneys-General or the Council of Australian Governments, on progress with the development and implementation of reforms to donor-conception legislation.