

CORRECTED VERSION

LAW REFORM COMMITTEE

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

Melbourne — 10 October 2011

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Witnesses

Mr I. Smith
Mr M. Linden

The CHAIR —Thanks very much for coming. Were you in the room when I gave the preamble for the last witness?

Mr SMITH — Yes.

The CHAIR — So I do not need to go through that again. The other point that is important to remember is that there is Parliamentary privilege here but not outside the room.

Mr SMITH — Yes.

The CHAIR — If you could start with your names and addresses and then perhaps talk us through your submissions.

Mr SMITH — Full name, Ian Smith.

Mr LINDEN — Michael Linden.

Mr SMITH — I might start and what I would like to do is speak briefly to my submission. I have brought copies of my agreement information from Prince Henry's which I think might be useful. I can see from the previous report you have got some examples there but from the versions of it I have seen, there are multiple versions of these documents and what I have found interesting when I looked at mine when I got them from the Public Records Office, is there is no anonymity clause in my agreement.

I was a donor in Prince Henry's program, I was an example of what Professor Kovacs was talking about marketing and soliciting donors and I was one of those people. I responded to a piece in the press that he had done in the mid 1980s and so I was a sperm donor at the program at Prince Henry's.

He is correct in that the anonymity was emphasised, that was part of the deal; that is what I understood when I signed up. In fact technically the document I signed was largely concerned with medical information about me and my physical characteristics, genetic characteristics and so on.

There are copies, if you would like those, there are copies for you to have there.

I am really pleased to be able to talk to you, because one of the things that strikes me when I look at the discussion in your report, the previous Committee's report, and the Senate report is the paucity of direct views from donors and if you look at the coverage in the press, there are often misconceptions, there are inflated stories of what donors think.

Both Michael and I are sperm donors. Obviously we will give our own perspective. We are speaking just on behalf of two sperm donors in this case, but I think it is really important to hear directly from some of the people who are part of the equation.

The core proposition that I have put together in my submission is that this issue is about people. Absolutely there are technical and scientific and medical issues in here but to me, speaking as a sperm donor, the human rights issue in there is paramount for me.

I have said in my submission that if it comes to the point of having to weigh the rights of the donors, who undoubtedly, as I was, was promised anonymity, weighing that right with the right of donor-conceived people who wish to have access to that information, I think the decision has to come down on the side of the donor-conceived people.

I noticed Professor Kovacs saying there are relatively small numbers, I think 3000 people he quoted he had treated, so 3000 pregnancies presumably. If you look at the numbers in the most recent report available from VARTA, the numbers of people registered there are relatively small compared with that. I think last year there were about 150 donors, 100 and something parents and a smaller number of donor-conceived people.

So the numbers are relatively small but for those people the issue really is critical and for those donor-conceived people I think the ones who do want to know that information, it is essential for them and I can understand why that is.

The CHAIR — You have never had any of your offspring seek to contact you?

Mr SMITH — One of them has made preliminary contact through the register. I have nine children in all, biological children, two children live with me and seven through the donor program. One of those, a young woman, has made initial contact through the register. I have shared with her two letters at her request. I know her first name; that is all I know. I may never know more than that.

The CHAIR — Is she seeking more than that?

Mr SMITH — It is up to her. The rules that apply to me are that I cannot initiate contact.

The CHAIR — Do you think that is fair? Do you have a desire to contact your offspring?

Mr SMITH — I would, if I could I would like to and it is apparent in that I say I can understand why the donor-conceived people want to know that information. I can see it from the other side.

I have talked about this in my submission, that when I was a donor, as many of the donors were I believe, I was single and I did not see any prospect of having children and I did not know what it was like to have children.

I have got my own children now, they have grown up and I know that I have seven other children who are half of me. I would dearly love to know something about them, to at least meet them once, but I may never do so. If I had the opportunity to do so, yes, I certainly would wish to.

Ms PETROVICH — I have actually asked the same question a number of times, because I think we all have a pre-conceived idea when you are young about what is right and where we are at this moment in time. What you have just expressed then has

actually probably articulated what I have been trying to for some time, which is that if donors were given the opportunity, if there was contact made and we have heard many times that there are very few of these people like you who made these donations, if there was a concerted effort to actually contact people, they may be, like you, perhaps willing to put themselves on the register and make themselves available. I think you have articulated that very well. It is not really a question.

Mr SMITH — No, it is an observation. I would agree with that and it is certainly clear from at least one of the people who responded to the first inquiry who is a donor who clearly is quite frightened of the prospect of his family being disrupted and I can understand that. I have been very clear with the whole of my family about this and there are no secrets but it was quite an impact on them; there is no doubt; so that I can understand people being concerned.

What I have said in the submission there is that I believe that if there is a change, then it has got to be handled carefully and sensitively. The key to what I am talking about there is if the legislation and the procedures are changed, there has to be a really thorough and careful counselling and support process that supports all of the people who are affected.

But I do, as I said before, come down on the side of saying: If you weigh up the two competing sets of rights, I believe that the donor-conceived people come out on top with that, but then the flow on is that one ought to deal with that, recognise it is a really complex issue and set up the process and the procedures to deal with it carefully.

While I am on that thread, one of the other comments I have made in the report in responding to your terms of reference was the impact that there has been with the current arrangements with the transfer of responsibility from VARTA to BDM. Without being at all critical of BDM, I think that system is not working as well as it did with VARTA.

I had some experience with that. The contact from the young woman who is one of my biological children occurred under VARTA and the process was done really well. It was really thorough, it was really careful. BDM is just not set up, as I understand it, to do that as well and I think that is really unfortunate because it will potentially not lead to some good outcomes. It will make it hard for people.

Again, as I said before, if you do, and I do hope you change the arrangements, build into it a careful process to support everybody through it.

Ms GARRETT — Do you have contact with other people in your situation?

Mr SMITH — I have met Michael.

Ms GARRETT — I very much appreciate your submissions, because it is extremely helpful for us to actually hear the story. Do you think the best way to approach the situation, and I agree with you that it seems to be a situation of competing rights, so say there was a move to strengthen the system, give people more

access and information, would you see the first point of contact as being a sensitive contact, with: would you agree to meet your biological child?

Mr SMITH — Yes.

Ms GARRETT — Failing that agreement, would you see a compulsory identifying information with a contact veto as something that could work?

Mr SMITH — Yes, I think that model would work well because if you work backwards, you have got in there a veto at the endpoint that says, okay, let's assume we have identified you and your offspring knows your identity, they know something about you. I think you do have to accept that some donors will not want to meet those people and I do not think you can force that.

There was reference before to the adoption mechanisms, I do not know the detail of those but I presume that they have a contact veto. I would not think you can force somebody to meet somebody else if they do not want to. But your middle point, I think there should be identification and I like your approach there of: Okay, you do not go straight to the fairly heavy handed option, you approach the person and you say: Look, we have had this request, would you be prepared to identify yourself? With the back stop that there is some fail safe mechanism which says that ultimately the state will grant this access to this information.

But I like that approach of a sensitive approach first, would you please rather than you must.

Mr CARBINES — Ian, as a donor what is driving your thinking around potentially providing greater access to information for donor-conceived people?

Mr SMITH — It is probably two things. When I became aware that I did have these seven children and first of all learnt their dates of birth, then that was one step. I signed up for the register because as I thought it through myself and processed that; I have got seven other children. I thought it through and I got to the point of being quite clear in my mind that if they wanted to know about me then they should be able to do so.

Recognising that it is going to be quite challenging if that ever happens for me and for my children who live with me and my wife and the rest of my family. There will be these seven people potentially who are new to our lives who are connected but at the base of it, it is a fundamental view that they should have access to that information.

It was taken a step further with getting that preliminary contact with one of my offspring and sharing some information with her. It was taken a step further when you asked me before if I had met any other people in this circle, I have also met a number of donor-conceived people, so Narelle who you were speaking of before, I have met Narelle; Lauren who has spoken to you before and who is here today.

Meeting those young people was really quite instructive for me because I could hear from them what it is like from the other side and that fundamental need for knowledge of identity and self.

So those are the things that drive me to say this is really important and I must make myself available.

The CHAIR — Michael, did you want to say anything?

Mr LINDEN — Yes, I had prepared just two pages and could I do that as a verbal submission now and then you can ask me questions after it. It is sort of anecdotal going back to when I donated et cetera.

I am a former sperm donor and a co-founder of TangledWebs, the first Australian organisation exclusively dedicated to supporting the human rights of donor-conceived children and adults. However, I am appearing today as a private individual.

In October 1977, when I was 26 years old, I signed a donor contract with the andrology clinic at the Royal Women's Hospital in Carlton. I believe this clinic, I am certain, was the precursor of what is now known as Melbourne IVF.

In fulfilment of my contract I agreed to provide the clinic with 10 samples of my semen over the course of the subsequent two months.

At that time, both my wife and I were full-time students at Melbourne University attempting to support ourselves and our two infant children on a research grant and a student allowance respectively.

So the grand total of \$100, which I was given as accrued compensation for the presumed incidental costs of providing my donations, was therefore a welcome supplement to our family income.

At no point during my induction into the donor program, neither whilst I was being medically examined or otherwise interviewed, was I given any counselling to my memory, no counselling whatsoever in order to ascertain whether I fully understood the long term implications for myself and any children that might result from my donations.

I am also willing to admit that despite already having fathered children of my own, I was equally lacking in giving any personal consideration to the consequences. My motives, I must admit, were not at all altruistic.

In fact, in retrospect, I do not believe altruism characterised the clinic's professional culture either. Ultimately it seems it was all about harvesting our sperm and providing it to willing recipients.

My enduring impression was that the donor program was administered in a somewhat obfuscatory, if not intentionally misleading manner.

For instance, despite my contract stating so, it was never unequivocally confirmed to me that my sperm would definitely be used to produce children. In fact, on one occasion in a rather offhand way I was verbally informed that it might only be used for research purposes instead.

This almost amateurish prevarication of the program's raison d'etre is, I think, also reflected in the wording and format of my so-called donor statement and consent form. I have just realised you have reproduced that on page 8 of your interim report, which was a surprise to me.

This document, whilst primarily seeming to be concerned with ascertaining my past and present health and gaining my consent to a medical examination, at the same time contains two paragraphs of far greater import. These paragraphs interpolated within the body of the document, I think, in such a way as to suggest that what they are asking me to consent to is of equal consensual weight as those sections dealing purely with medical disclosure and therefore making them appear to be of equal consequence.

The first paragraph I refer to exhorted me to "understand that the identity of any recipient shall not be disclosed to me, nor shall you" (that is the clinic) "voluntarily reveal my identity to any recipient."

The second paragraph a lot further down the page, in fact it is the last section in that document as you will see it, asked me to "agree never to seek the identity of any child or children born following upon the artificial insemination of any recipient of my sperm or seek to make any claim in respect of any such child or children in any circumstances whatsoever."

I believe that Dr Sonia Allan may have already in her submission to this inquiry, alluded to the dubious legality of this and similar documents from that era. Even as a relative layman years ago when I took my first analytic look at this document, it was glaringly obvious in terms of how it either attempts to constrain or fails to properly constrain access to identity, it is seriously flawed.

By that time, November 2001, I had already been fortunate enough to have met and developed an ongoing relationship with two of the children who were eventually conceived by my donated sperm, namely Myfanwy Cummerford and her younger brother, Michael.

At the same time, at my request, Melbourne IVF provided me with non-identifying information regarding a further three female children and their family backgrounds at the time of the donation. All of the children whom, despite the clinical mediation, I had effectively fathered.

In fact, as far as these missing children are concerned, I feel there is no difference between my circumstance and that of the relinquishing parent in the context of adoption. My need to connect with them and my curiosity about their whereabouts and how their lives have transpired is of the same order I believe and likewise should not be summarily negated because I somehow gave them away.

By the same token, I recognise and understand the yearning of and fundamental necessity for donor-conceived people to know who their biological parent is, both from my early experience in meeting Myfanwy and Michael and my subsequent friendships with other donor-conceived adults who are still seeking their donors.

Consequently, I have also recorded my name on VARTA's voluntary register for pre-1988 donors.

The extent of the relationship which I am prepared to offer any of my remaining three children who might come forward will be as much as they themselves want and need to have. It is their call; not mine.

In fact, I believe it is my moral obligation to give them a relationship, irrespective of any legal compulsion.

In terms of this inquiry, I would like to emphasise that even if indeed my donor contract should prove to be legally binding, there is no reason why my identity and that of other donors who signed identical contracts should not be considered available to the children conceived by our semen because, as stated, the clinic only agreed not to reveal my identity to the recipient rather than the child, and even then, only voluntarily which does not, to my mind, prevent them from revealing it were they legally compelled to do so.

Finally, just as reform to adoption legislation was in no small part predicated on correcting the chronic shortcomings of a so-called social service demonstrably driven by mis-information, outright deceit and a summary violation of human rights, so should the relatively unlegislated practice of assisted reproduction in this state prior to 1988 be made subject to an equally retrospective and rigorously legislated righting of wrongs.

That is all, thanks. I guess there are some questions.

Mr NORTHE — I have one for either you or Ian, just around the rigour of making sure the donor and the donor-conceived person are biologically aligned if you like. Do we have to go as far as making sure that we have DNA to verify that; with some concern about the records that have been kept in the past?

Mr LINDEN — Can I just state, in my case I discovered Myfanwy on the front page of a newspaper in an article where Myfanwy was looking for her donor. I was never DNA checked. In fact, she was seeking the person — Melbourne IVF had actually done a bit of work trying to find me but I had changed my surname and on the following Monday, the first business day of the week after I found out on the weekend, Melbourne IVF rang me and I was able to confirm who I was simply by telling them my previous surname and address. That is as far as it went. It never went beyond that.

Mr NORTHE — I guess in further to that, should we go even further making sure that we have absolutely that definitive — —

Mr LINDEN — But it is usually matched with a donor code anyway.

Mr NORTHE — Getting back to I guess the records that have been kept in the past, how accurate are they and additional verification to support that.

Mr SMITH — I think you are probably right in what you are saying and it would not be that complicated. Thinking about that for both parties it would be dreadful.

Two things I was interested in, and a bit alarmed by what Professor Kovacs was saying about in some small number of cases they could not be absolutely sure who they thought the biological parent was.

There is also the issue from what I have read, again, what Professor Kovacs says, they ran a tight ship there, their records were good and thorough. There were a lot of clinics operating on my understanding and not all of them operated as tightly. It could well be that the records are shonky. I think your point is right and technologically, medically that would not be difficult I would think to do DNA testing to just be absolutely sure.

Ms PETROVICH — Thank you both for your submissions. It has been very informative. It is a huge moral dilemma for everybody who has to face these questions.

Michael, you identified one of your children — —

Mr LINDEN — Two, Myfanwy and her brother, yes.

Ms PETROVICH — You are obviously very willing to have your details and your identity listed.

Mr LINDEN — Yes.

Ms PETROVICH — Have there been any other children come forward?

Mr LINDEN — None that — I presume the three women now mentioned in this document that I was sent from Melbourne IVF, I presume — no they haven't. I presume the policy, way back then, as you have probably heard from other people, the recipients or the parents were counselled not to tell and I presume none of them had told their children or the child may know and does not feel compelled to find out who their biological father is.

Ms PETROVICH — We definitely heard that too, that in many cases the children do not know they were donor-conceived.

Mr LINDEN — Exactly and that is just — it is outrageous really. I think it goes beyond our not interfering in the way families operate. I really do think it is a violation of basic human rights, given some of the sections in the UN Convention on the Rights of the Child, rights of human beings.

Ms PETROVICH — You say you are a founding member of TangledWebs?

Mr LINDEN — Yes.

Ms PETROVICH — Are there other donors or dads like you who have come forward through your organisation?

Mr LINDEN — I have spoken on the phone to some donors, when I was more active. I have been out of the loop so to speak with TangledWebs and also the whole issue for quite a while for various reasons. I have personally met one or two others apart from Ian and also when I was more involved in campaigning, the early campaigning stages in the early part of this decade, I did contact a few donors or was contacted by donors when I was just researching exactly what was going on and how it transpired. You do not meet a lot of them. They are not putting their hands up.

The CHAIR — You both obviously think very deeply about your circumstances. Can you make any comment as to whether that would be the norm or whether there are heaps of guys out there who donated and they have not thought twice about it for the last 20 years? They are unlikely to be contacting us to come and talk about their experiences.

Mr LINDEN — My feeling is there must be plenty out there who thought more than twice about it, given the amount of publicity we have had in the last almost decade now, with changes to the legislation and just the amount of publicity that has been generated by campaigns like TangledWebs and other people that I have been involved with, they must be not unaware and presumably — my feeling is the vast majority just do not want to be known and do not want to know about it. That is my suspicion.

The CHAIR — The vast majority?

Mr LINDEN — Yes, that is my suspicion.

Mr SMITH — If I could comment on that one, I think it is correct; Michael and I are probably an unusual sample. We have thought about it deeply, we are active.

One test for me would be the number of donors who are registered with the voluntary register. It is voluntary, so they have actively come forward and made themselves known. There were about 150 last year; I believe it is a bit more now. So it is still a small proportion in the total scheme of things.

The CHAIR — How many donors do you think?

Mr SMITH — That is 150 odd donors. The numbers I saw in the 2010 report were something like 150 odd donors, 100 and something recipient parents and about 60 I think donor-conceived.

Mr LINDEN — Do we know overall how many donors there ever have been since the 70s?

Ms GARRETT — The evidence we have got today is there are not that many. We had from Melbourne IVF that was in the 10s, as in 80 or 90 and then we had evidence from Professor Kovacs there was 150 or whatever he said.

Mr SMITH — Of donors coming forward?

Ms GARRETT — No, donors.

Mr LINDEN — This is what, since the 70s?

Ms GARRETT — Pre-1988, Melbourne IVF said for pre-1988 the number of donors that they have in their files was in the 10s.

Mr SMITH — In my case there are seven conceptions from my donations. In your case five, so 150, 200 donors by seven or more.

Mr LINDEN — I have got the feeling there were more than 10 people involved when I was involved.

Ms GARRETT — Tens as in 90, not 100s.

Mr LINDEN — I guess if they only did 10 a year, yes, maybe.

Ms GARRETT — Maybe 80, 90.

Mr SMITH — Still to your question Mr Chair, my sense is that if men were approached and it was done very sensitively and they were approached and they said: Here are the circumstances, you were a donor, you won't forget that. You may not have thought about it for a long time. Here is the situation. You actually have these biological offspring and some of them are wanting to know something about you.

I will be very surprised if the large majority of them were not to respond to that. As I said before, I know from reading the submissions, there are some men who are frightened and I can understand why, but looking at it from my personal circumstances because I have talked before how I came to be at the position I am at now, the starting point for that was me getting a letter from Monash IVF who had taken over from Prince Henry's — this was in 1999 — a letter just out of the blue, registered post, saying: Hello Mr Smith, just to let you know, we have still got some vials of your sperm here. We won't use them again unless the families who have conceived children wish to have more children.

This was 10, 12, 13 years after I had been a donor. I had not given it any thought up to that point and at that point I had my own children. Suddenly I get this letter that I realise: Oh, okay, I've got seven other children and that is what started me on that track of thinking: Okay, what do I think about them and what might they think about me.

I think if men who have been donors were contacted carefully, sensitively with a lot of support, and not in an aggressive fashion, it could be very powerful.

Mr CARBINES — I was just wondering Ian if one of the reasons potentially that some donors may not even put their name on a voluntary register is potentially in some ways the donors do not particularly have their hands on the levers around — if you are motivated to want to meet donor-conceived offspring, then I suppose you will put your name down on a voluntary register, but even at the moment under that current arrangement, you could put your name down on the voluntary register but you are still

— might more people come forward if there were more proactive ways in which they might be able to come into contact with donor-conceived offspring?

Are some people saying: Well, if there is not a way — trying to empathise with the situation, are they not coming forward because even if I go on the voluntary register, there is no guarantee, no one is putting a pathway here that is going to guarantee me any information or connection, so I'll not take any action potentially.

Mr SMITH — Is your question about how to encourage donors to come forward?

Mr CARBINES — Yes or is it really just coming down to well if you are motivated to find out, and that is your motive, that is the only avenue you potentially have at the moment.

Mr SMITH — Yes, so in my case I was motivated. As soon as the voluntary register was open I registered because I had thought that through. I guess I come back to this thing that there will be many men who were donors — I think Michael touched on it — who did that a long time ago, many of them were quite young. In my case I was in my thirties but Michael was young and they just have not thought about it since then. If they don't know — and it is quite possible they don't know that they have genetic offspring; that nobody has ever told them, that it has not triggered them to think about it.

Perhaps again in terms of greater publicity, perhaps taking the experience of people like Narelle and Lauren and Myf who are articulate people who are donor-conceived, for them to talk about why it is so important for them to find their donors, that might bring people forward.

Mr CARBINES — In the same way that donor-conceived offspring and yourself may not have made contact in the other direction because they as well may not know that they are donor-conceived, your other offspring have not sought to contact you?

Mr SMITH — Exactly, they may not know and the legislation for me is such that I cannot initiate contact with those people. The current legislation, as you know, is quite different, so that if I was a donor now I would sign the form on the basis that when those people turned 18 I could initiate contact with them.

Mr CARBINES — And part of your thinking around wanting to be on the donor register comes out of knowing that you have donor-conceived offspring?

Mr SMITH — That is why I have registered.

Mr CARBINES — As well as perhaps I suppose as you have said, having met donor-conceived offspring, you can see there is a dilemma some have who cannot find their donor, that you feel — if I am observing it rightly — it is a dilemma that you could avoid for your donor-conceived offspring if they were choosing to find information?

Mr SMITH — That is exactly it. I am there. It is up to them if they want to know anything about me. In the case of one of them, she knows some basic information

about me. She has two letters from me that talk about my motivations for joining the program; it talks about my family, their family history. She has got that. It is entirely up to her if she wants more of that and I am absolutely open if any more of them come forward, to share that, right through to I am very happy to meet any of them if they want to. It is entirely up to them in my mind; that is philosophical for me, that is a major driver, that it is them who will determine what they want and when they want it.

As much as I would love to meet all of them, they have got the power in this and to me that is very important.

Mr CARBINES — The situation that you are outlining as well, we have heard different instances or examples that people have sought to give us who are not donors as to what may or may not be when a potential connection is made, it is not as though people are coming banging your door down, there is obviously a very — trying to empathise with this, from what people who are not donors tried to tell us in terms of what the engagement is, it sounds like this is a slow — —

Mr SMITH — I think it is very gentle and respectful.

Mr CARBINES — The time the connection might take from a first contact to whether or not there is ever a meeting is really — there is just a — it is all very different.

Mr SMITH — And they are not there to steal your inheritance.

Mr CARBINES — Each relationship is different.

Mr SMITH — I think the media does a real disservice to this issue by getting hold of that very alarmist mindset that they are going to be banging on your door, they want your inheritance; they want you to pay to put them through university. I do not believe that is the case. I have never seen that in any of the people that I have met or anything that I have read.

Legally they cannot, so it is a furphy but it is commonly painted that way and I think that is really unfortunate.

Mr NORTHE — I have actually asked this question a couple of times before to other people, and I will ask it again now, in the fact of providing information, whether you are a donor or a donor-conceived person or the recipient, is there enough information if we are going to do a marketing or educational exercise to get people to register for the voluntary register about the legal aspects of what the legal entitlements are of the donor?

Maybe I am wrong, but maybe there is a reluctance of donors coming forward because they are worried about estates and assets.

Mr SMITH — I think you are absolutely right. When I told my mother, who is 90, when I learnt about this that I had these children and told her about it, the immediate thing she said was: Oh my God, they're not going to be after you, are they? It is that mindset, it is there and I think you are absolutely right. If that was

made clear to people, that this is not about these people coming in and making financial demands on you; that is just precluded, they cannot do it. Whether they do or not, it cannot happen and if you could reassure people of that; that is one thing.

I think the other one and it comes through in the submission of the previous inquiry, there was one man who wrote who said that he was a donor and he said that he did not want this access because he was worried about the impact on his family.

I can understand people being concerned about that. In my case I have discussed it thoroughly with my family, with my children, with my wife, with my broader family and they are not perturbed by it. They understand it is complex but they are not perturbed by it.

I can understand that in some families it really could be quite difficult. There probably will be some men who have not ever told their families about this, or even if they have, that their family are not as accepting of it as they are in my case.

So I think you would have to be very mindful of that. It goes back to the issue of having really good support mechanisms there so that you can work it through.

Again, in my circumstance, when the young woman who came forward to make contact with me, I said, yes, go ahead, VARTA were very careful. They counselled not just me, but my wife. They were also very cognisant of my children. My children at that stage were about 15 and 18. They offered counselling to them. The kids did not want that but it was offered to them, because they realised there are impacts all down the line. It is not just the person who is at the centre of it.

Mr NORTHE — Michael, how does your family feel about having donor-conceived offspring?

Mr LINDEN — As part of the mix. Yes, well as opposed to the process that Ian has just described, extensive counselling, as I pointed out, I found out in the space of one weekend that I had a daughter and a son that I had not previously known about. There was a short space of time in which we mediated with Melbourne IVF by mail.

She had a letter she had sent to them, which was passed on to me. I wrote a letter to her via them, which was passed on to her. Then there was some kind of little breakdown or slowness on their part so on her end and my end it was like: Is this going to really actually happen because there was a bit of a gap there.

Then neither of us were ever called in to be counselled or whatever. Ultimately we just decided we are going to meet face to face and we are going to just do it like that, and she did. She just came round one morning to where I was living at the time with Lia, my partner, and we just spent the day together, all of us, Lia and Lia's son, my stepson, and the family and myself and we just actually took her around Fitzroy and showed her where I was living at the time of the donations. It was kind of like that.

I guess that was pretty insipid in terms of the process that Ian described, I guess that's the way it goes now. I am just wondering what is better, whether you have got some

kind of formalised idea about how it should go and what you have got to tell to each participant in the process or whether you just throw yourself in?

As it has transpired, it was a very intense period in my life of course and my partner's life, my wife's life, and for her son because I just entered the relationship a couple of years previously and Lia's son was developing this father/son relationship with me as far as it could go in a stepfather/stepson relationship and that got disrupted to a certain extent, and similarly my relationship with Lia underwent a change, a bit of tension.

But that makes it sound like you do not want to do this kind of thing but ultimately you have got to work your way through that. I am sure it has happened in the adoption sphere as well. There are challenges you have to confront, relationships that need to be reconfigured or taken on board. I do not think it is any reason not to enable these reunions, let's call them, to happen.

Ultimately the relationship is an ongoing one. I have a good relationship with Myfanwy and Michael. I probably have, given the age differences, as much to do with them as I do with my other children from my previous marriage. I think on a balance it has actually worked out quite well, despite any hiccups along the way.

Does that answer your question?

Mr NORTHE — Yes.

Ms PETROVICH — Just one final question if I may. We have talked about perhaps making donors more aware and perhaps they might come forward to this voluntary register. We have also heard previous submissions that many of the donor-conceived children actually do not know that they are donor-conceived. How do we ensure the protection of those children, because we may then find that the donors want to meet these offspring, how do we ensure that we protect them?

Mr SMITH — You have got to protect them is my view. I think I said in the submission that the interests of the children — most of them in fact would be grown up — is in my mind paramount, so I think you are right to be wary of that.

Another answer is that in the case of the legislation that covers me, that precludes me from making any contact with those children, so it is a non-issue for me, but it does not really answer your question.

Say hypothetically if the legislation were to change and it would allow me to make contact with those people, I personally would be very reticent in initiating that in as much as I do want to, I would love to meet those people, but it comes from my philosophy that they are at the core of this and it is their human rights that are paramount.

So I would say that that must be dealt with very carefully. From the donor-conceived people who I have spoken to, many of them have been told in their 20s the truth of their conception, it is a huge shock. So to have that just come out of the blue and to have somebody contact you and say: Hi, I am actually your father, that could be very, very disruptive. I think whatever you do, you have to avoid that sort of outcome.

The CHAIR — One final question, obviously this is the source of some inner turmoil for you as well, are you glad that you donated despite that?

Mr SMITH — No. I wish I had not.

Mr LINDEN — I would not do it again.

Mr SMITH — I would not do it again, because one of the things that Michael said before, there was no counselling for us. We were really treated like spare parts.

Ms GARRETT — Which is different now.

Mr SMITH — It is different now, it is absolutely different now and I am so thankful that it is.

Mr LINDEN — I was thinking myself earlier, ultimately because it is an intentional separation of a child from its genetic parent, then I just do not think it stands up ever at all. You have to have some sort of connection, you have to have some sort of ongoing connection and it is just an intentional severing of fundamental ties.

Mr SMITH — I would not do it again.

The CHAIR — Is that only because you do not know who they are or under the new legislation you are more likely to.

Mr SMITH — The new legislation I would perhaps take a different view, I would have to think that through, but I am personally unhappy that I find myself in the circumstance where with the best of intentions I stepped forward to help infertile people conceive not realising the impact of what I was doing.

Essentially what I have done is I have given away seven of my children and having children who live with me now and living with that knowledge that there are seven children who I have given away and who may never know — well I know at least one of them knows a little of me — but the other six, they may never know anything and that does anguish me. So I would not be a donor again in the same circumstances that I was back then. Thank goodness that it is different now.

I guess that leads to what you are trying to grapple with, which is a recognition that it was not handled well back in the 70s when Michael was a donor and the early 80s when I was a donor, and you are now grappling with that problem.

The CHAIR — Thank you very much, it has been very helpful.

Mr SMITH — Would you like copies of my donor records?

Ms GARRETT — Yes, thank you.

Committee Adjourned.