

CORRECTED VERSION

LAW REFORM COMMITTEE

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

Melbourne — 21 November 2011

Members

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Ms J. Garrett

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Witness

Ms M. Tumino, former Manager, Family Information Networks and Discovery (FIND),
Department of Human Services;

Ms A. Karavidas, Manager, Family Information Networks and Discovery (FIND), Department
of Human Services;

Mr K. Smith, Manager of Children, Youth and Families (Southern Region), Department of
Human Services.

The CHAIR — Thank you very much for coming. My name is Clem Newton-Brown, I'm the Chair of the Law Reform Committee. This is a joint parliamentary committee and we've been given references to investigate and report back to Parliament about changes that could be made to improve the legislative framework. On the committee is myself; Jane Garrett, who is the Deputy Chair; Anthony Carbines, he's the member for Ivanhoe and is an apology today. Also with us is Russell Northe and Donna Petrovich, who are from Morwell and Northern Victoria.

Everything gets recorded and you will be given a transcript of what's said in the next couple of weeks. For the purposes of the transcript if you could start with going through each of your names and professional addresses and who you represent and then perhaps talking us through your submission, not reading through it, just highlighting the bits and pieces which you want us to focus on and we will probably ask you some questions along the way.

One last thing, you're protected by parliamentary privilege in the committee but not outside the committee room. Perhaps if we could start with your names.

Mr SMITH — I'm Keith Smith, I'm the Manager of Children, Youth and Families in the southern region and I've got line management responsibility for the FIND Program that picks up a number of programs, including this one you're talking about today.

The CHAIR — And your professional address?

Mr SMITH — My professional address is 122 Thomas Street, Dandenong.

Ms TUMINO — Hello, my name is Mariaelisa Tumino, I am the former Manager at FIND. The address is Level 20, 570 Bourke Street, Melbourne.

Ms KARAVIDAS — Hi, I'm Angela Karavidas, I'm the current FIND Manager. Just so we won't confuse you, I've been on maternity leave for 14 months and Mariaelisa has been in that role. My address is Level 20, 570 Bourke Street, Melbourne.

The CHAIR — How do you want to do this? Have you worked out who is going to speak?

Mr SMITH — We thought it best to keep it from an operational perspective and given Mariaelisa's experience over recent times, she should lead the conversation.

The CHAIR — Perhaps if you can start by telling us a little bit about FIND and what it is and what it does.

Ms TUMINO — FIND is a program that's run through the Department of Human Services. It's actually looked after by the Southern Metropolitan Region of the Department of Human Services. We do three types of work generally. Our first is the adoption information services, and that's where we maintain a central register of people who are wanting to be in contact with other parts of their adoption triangle, if

they've been affected by adoption. What we do is we get information from Births, Deaths and Marriages to confirm that there's been an adoption and then we will go through that information, we will assess and edit that information for release. The Adoption Act mandates us to provide a counselling session to the person that's coming to us for their information or another's information. Usually that session is centred around discussing what their expectations might be, whether they're realistic expectations or not, and just kind of give them a guiding way through the system of trying to find the person that they're looking for and referring them onto services that can assist them further.

Under the Adoption Act, if birth parents are seeking their adopted children, adopted children do not have to automatically give their permission for that. So if we receive applications from birth parents we will undertake the intermediary part of the service, which is basically outreaching to the adopted person to see if they want contact to occur. Contact can occur through our department, through FIND, or it can happen independently through them if they're prepared to share that information. So that's the adoption information service, we're the main peak body of the Department that does that, there are other agencies that provide a service like that, there are three non-government agencies in Victoria. These are Anglicare, Connections and Catholic Care.

The other part of our service is the former ward service and that's basically where we provide records to people who have been affected by a former wardship and were perhaps in the system when being brought up in state children's institutions. We get those people's files, we assess and edit those files under the Freedom of Information Act and we also send that information out to those former wards. We also refer them onto other services for support, if necessary, but there's no legislation that mandates us to have that counselling with them in the way that we would have with adoption.

The third part of our work, which is the smallest part, is assisted reproductive treatment work. From there what we do is we receive referrals from Birth, Deaths and Marriages, or rather it's a notification to tell us that someone is going to come and contact us for their session of counselling. We will make a time with that person when we contact them, we will gather some information and then we will make a time for that person to come in and we will talk to them. Again, it will generally be about the expectations of the information that they're looking for, what they might get, what they might not get, and it's about managing expectations.

The CHAIR — All right. Talk us through your submission.

Ms TUMINO — In terms of the referrals that we've received, we took on this work from 1 January 2010 and in that time we've had 28 referrals for counselling; 19 of these were sperm recipients; one was an egg recipient; three were from donor-conceived persons; three were sperm donors and one was an egg donor. In relation to the proportion of the donor-conceived people referred to FIND in terms of when they were conceived, we don't actually hold that information, we could make a guess but realistically we don't have a way of saying under which legislation their episode of conception has occurred as we don't gather those statistics.

We have 10 staff, they're called Family Information Case Managers. They have experience in providing counselling to people who have been affected by adoption or former wardship. We have three specific counsellors that we have given extra training to, to do the assisted reproductive treatment counselling for people. All of our counsellors are well versed in the issues around grief and loss and separation that is parallel to the issues of assisted reproduction, as they are for adoption and even former wardship, so our staff have that experience and that body of knowledge in that work.

Ms GARRETT — May I ask a question. Just in the people who have come to you who are donor-conceived, are they coming in the main because they've just found out or is it they've known for a while?

Ms TUMINO — No, they've generally known. My sense is that it's been people who have had the conception experience more recently, I suppose, and they're aware that to get their information that they need to come to us.

Mrs PETROVICH — Through you, Chair. From that it's more of a process issue or is it a part of their journey, is that what you're saying?

Ms TUMINO — Yes, I think so, it is part of the journey. Our three counsellors that have experience and training in this area — we're committed to sending them off to continued training when that's available. We send them to VARTA information days, and they happen roughly once every six months, so our staff, on a rotation basis, will go to that. We've also begun attending the counsellors' meeting between VARTA and the IVF counsellors, so we go to get more information about what's happening in the IVF world so that our staff can be more knowledgeable about it.

In terms of our one-off counselling session, the legislation actually mandates counselling, it doesn't say whether it's one-off or not, but we generally provide one counselling session. We have modelled our service on what we do for our adoption clients. What we found is that in most cases one session has been enough. I think in two situations we've had people contact us again to ask further questions and get further information and we've been able to provide that, but we've done that over the phone not because they've come to us in a one-to-one meeting. We can keep doing that on an as-needs basis, that's okay.

There's no capacity for donor conception stakeholders to actually approach FIND directly. Our part in this service, I would say, is probably not well publicised because it's part of a process that members of the public would go to Births, Deaths and Marriages and then Births, Deaths and Marriages would refer people onto us. So it's not something that we advertise that we do, which means we don't get any members of the public just independently contacting us for information.

In terms of whether there's any capacity for ongoing counselling to be provided by us, we haven't received any referrals for longer term ongoing counselling. I suppose when we talk about counselling we're not talking about that therapeutic kind of counselling, we're talking more about provision of information that assists to manage expectations, so therapy is not what we offer. If anyone is looking for that, though,

we would try and refer them onto someone who would be able to take up that role with them.

In terms of our experience for services for adopted people in terms of the counselling, seeking identifying information and the linking of individuals, so those people who are a part of the triangle, being the natural relatives, the adoptive parents and the adopted child, they can all seek particular types of information under the Adoption Act. Birth parents can only receive non-identifying information whereas an adopted child can receive all identifying information.

Ms GARRETT — Just another question, through you, Chair. Just to go back to your earlier point about not holding the information as to when people were born as to what legislation they fall under, we've had evidence from people who were involved when the counselling was at VARTA and there seemed to be a coordination between people looking for the information, the records and the counselling of the individual. I'm concerned that because currently there's three different systems, how do you approach individuals coming for counselling on issues as you have no right to get information or do you have the right to get information?

Ms TUMINO — We have to speak about it very generally rather than specifically.

Ms GARRETT — Do you think that's a deficiency from your perspective operationally?

Ms TUMINO — Yes, I think so because what it means is that we can't actually tailor the counselling session to the exact needs of the person.

Mr SMITH — We were talking about that just before actually, about some of the tensions about going through the process of counselling and then walking into a counselling session and the counsellor not actually understanding what part in the process that person has played, so some of the initial questions and discussions are trying to work out where they fit which can sometimes create a bit of hostility and frustration on the assumption that we've been given information about their situation, and of course we haven't.

Ms KARAVIDAS — Whilst we've got a good intake, the capacity for our counsellors to withdraw that information from the individual without them knowing that we don't know can become very awkward.

Mr NORTHE — Just to tie this all in, you mentioned earlier about having to refer counselling to other services as well. Just taking up Jane's point, is that ideal in the scenario as well? I would have thought that it seems like people are going from there to there to there and that might not be an ideal scenario either.

Ms TUMINO — I suppose it depends on how you see our role. If it's around access to information and preparing them for what they might or might not receive, then I would say that what we do is quite relevant and useful. Even with cases of adoption where there's less information or there's no information or there's very little information and people can't be contacted, again that's always around managing those

expectations and so referring someone on to have that more therapeutic experience for themselves, independently, is something that they need, and I don't necessarily think in that case we're the best people to provide that.

Those affected by adoption can seek information about their adoption under the Adoption Act. They attend the mandatory interview with us and in that interview they can find out whether there is anyone else that has applied for information about them. If they have, then they will be asked to apply under that relevant section so we can pass that information onto them.

Ms KARAVIDAS — We hold the register, like we have an adoption register within our program, to maintain all of that information.

Ms TUMINO — Yes. So any eligible party can request for information off that register, which is basically their application to us. Again, we see whether there is a link there and there's people there that want to contact them. Some might agree to meet, others would prefer to have the contact be mediated through our service and that's something that's pretty usual, that they would want us to be doing the intermediary.

For birth parents and eligible birth relatives FIND undertakes the search for the adopted person on their behalf because they're only eligible for the non-identifying information. They would only receive the information if that person has signed for them to have that information. We will also refer people to VANISH, which is a DHS funded service that assists people to search for their natural relatives, or for the person that they're seeking. At the moment, with our donor conception clients, there is no way that we can do any of the linking or the contacting or intermediary and that's because it's not legislated and therefore we can't manage the feelings and reactions of people in relation to that process.

Adult adopted persons and adult children of adopted persons will receive their original birth certificate, their adoption records — court records that is — and any adoption agency records so they actually get a good cache of information, and then they can go and undertake their own search for their birth family and, again, they're assisted with that through VANISH. VANISH is also able to assist people who have been affected by donor conception but we are aware that their services haven't been requested or utilised, which is probably something to do with the issue of secrecy.

In terms of what is FIND's role in providing adoption counselling and does our experience in adoption matters assist in donor conception counselling, we would say yes because it assists to prepare all parties to give them realistic expectations of any emotional or psychological factors that are triggered when they're going to find out about their adoption. The counselling will assist adopted persons to consider the impact of the information on their identity and any feelings of rejection or uncertainty about past or future actions. If the records are available the applicant is informed of the circumstances in which they were adopted and our counselling will also address the historical and social context of the times, things like single mums didn't have sole parents' benefit; we'll talk about things like the stigma and lack of financial assistance, as I said, around unplanned pregnancy out of wedlock and also the issue that adoption

in a lot of ways was considered a solution for unmarried mothers and infertile married couples.

The adopted person will be advised of how they can search for the person they're looking for and we give them guides to assist them. We also encourage them to be very sensitive around the privacy issues for that person, given that adoption may have occurred in complete secrecy, it might be something that the family have never known about.

Ms GARRETT — Just on that point, through you Chair, that's not something you can do for donor-conceived people?

Ms TUMINO — Not at all.

Ms GARRETT — So you're really flying blind?

Ms TUMINO — Yes. As I said, some adoptive parents have not told their children that they are adopted so our counselling seeks to address some of those issues. For a birth parent who is looking for their child the counselling is there to really look at whether that adopted person knows of their adoption in the first place or not, and also then to see whether they want to have contact with their child and we'll also inform them if we find out that that child has died, for example. Again, preparing them around the possibility that they may or may not develop a relationship with that adult child.

The similarities between adoption and donor conception for us are the issues of genetic origins, grief, loss, identity and also about how to give people the information about how they should search discreetly in a way to respect people's privacy and being sensitive. Adopted persons will often talk about the conflicts they have in wanting to seek information about their genetic origins whilst they've also had a really nice life with their adopted parents and not wanting to hurt them and really having that tension around should I be looking for them or not? I suppose there's a significant number of our clients that would actually come forward and undertake that search when their adopted parents are deceased, which indicates that there is that conflict there for them. I've talked also there about the similarity of experiences around the Seven Core Issues of Adoption and how they're similar to donor conception.

In terms of how we interact with the agencies that we work with, by that I mean VARTA and BDM, and we generally have quarterly catch-ups where we talk about how our services are going and anything that's happening, any cases that have stood out for whatever reason, and talk about anything that we need to tweak in terms of our process and our work. Like I said before, we're committed to our staff attending VARTA-run information sessions so they continue to build on their knowledge and information about the area. BDM have asked for one of their staff to come into one of our counselling sessions and we're in the process of organising that.

In terms of the criticism around the current system being that FIND are unable to access information on the registers when providing the counselling services so we have no background, and is there any current mechanism that will allow counsellors

access to this information and does it affect the quality, we would say that the legislation currently doesn't allow for BDM to provide us with the background information about the applicant to FIND and that leaves us in a position of having to gather that information ourselves. That depends on how knowledgeable that applicant is about the legislation and their understanding of it, for us to then be able to provide good counselling for them. We don't hold the registers and for that reason our counselling session might be general rather than specific.

The CHAIR — Thank you. Any questions?

Mrs PETROVICH — Obviously quite a contrast between adoptive information services and those for donor-conceived. I suppose the question for me is at the end of their one-off session, how many of these people are going away feeling that they've received very good information and how difficult does that make your job?

Ms TUMINO — We do have a client feedback system in place but it's not — —

Ms KARAVIDAS — It's not inclusive of donor-conceived people purely because it's not advertised out there that the FIND program provides this form of counselling. We're now in the process of redrafting the client survey feedback form and adding that as a component. What we will be doing is I've spoken to the three staff members and the team leader that's running the program and when they do speak to that specific individual that they will just let them know, or give it to them after the session to take home and send it back to us. A lot of the questions will come out with not a lot of answers for us purely because most of the questions are: were you happy with the records you were provided with? If you're not getting anything from us it's going to be really vague and limited and we don't want to frustrate somebody by coming in and having something that they've really not got any feedback to provide other than that one-off.

Again, we've had those couple of people that have rung back so that's been positive for us, that they're actually quite confident to ring back and query whatever questions they've had for our specific workers.

Ms TUMINO — I think in that case they expressed a frustration that for them they were very knowledgeable about the system and, in their view, FIND had not added to that for them. But a lot of that can be quite subjective, I suppose.

Mrs PETROVICH — I suppose if there is that point of contact you actually refer a large percentage of these people for other forms of counselling?

Ms TUMINO — Yes, we would, if they asked. In this case, there would be no use us telling them to go to VARTA because they already knew about VARTA so it would be about giving them some referral information about how you might want to go to your GP and seek a Mental Health Care Plan, for example, and being provided those options as well.

Ms KARAVIDAS — We have a little package that we do provide them, and I'm quite happy to provide the panel with one if you want a copy. That's just a bit of

information for them to go and read back on, and I know it's probably things that are repetitive to them but things like the legislation, why they've actually come to us, where they can go to, whether it is VANISH or VARTA again for therapeutic counselling services. So it's giving them a feeling that they're taking away something that they can read rather than them just coming into our office for that one-off session.

Ms TUMINO — I don't know if we've answered that question properly.

Mrs PETROVICH — Not a bad attempt.

Mr NORTHE — Just a generic question, a bit of a wish list, if you like. Given that we as a committee have to come up with some recommendations to put forward, are there any recommendations or otherwise that you think we should consider?

Ms TUMINO — Yes.

Mr NORTHE — If you're in the Chairman's position, we're happy to hear you.

Ms TUMINO — I think at FIND our staff are the experts in being able to provide the counselling that's around managing expectations and that provision of information and counselling around the ways that they can go and look for people if they need to. I think with our experience in adoption work we're in the best place to do that. In terms of linking, that's what we do with our adoption clients so it's pretty much our bread and butter and I think that it's something that we could also look at doing.

Ms KARAVIDAS — I guess further information from BDM would give us the best interview and just the best service that we can provide for that applicant when they come in, rather than individual workers feeling quite vague and trying to fish out that information. A bit like a status check, if we get all that information from BDM then we can work with that client and give them that myth and reality of how we work with adoption issues.

Ms TUMINO — Just a more tailored approach.

Ms GARRETT — Just in terms of where you're dealing with adopted children and there have been requests from the biological parents to contact the adopted child, the child that was relinquished, how do you go about determining whether the child knows they're adopted?

Ms TUMINO — We don't. We basically do a general outreach letter that is kind of vague enough.

Ms GARRETT — To the child or to the parent?

Ms TUMINO — To the child in the first instance, if we can.

Ms KARAVIDAS — But to the child that's over 18.

Mr SMITH — Adult child.

Ms TUMINO — Yes. So we do a general outreach letter to them. The way that we would get that information is perhaps through the electoral roll. We send them a very general letter, they will respond or not respond.

Ms GARRETT — What would be the content of that letter?

Ms TUMINO — It doesn't say: "by the way, you're adopted".

Ms KARAVIDAS — It just says: we've received information in relation to you, we would like to discuss this further with you. This is where they might ring us. It might take them a couple of months to sit on a departmental letter, for whatever reason, and they will ring us and what our workers will do is that they will request for them to come in and have this information given to them face-to-face. Some could assume that they know what it's about.

Ms GARRETT — What do you find in circumstances when they have no idea they were adopted?

Ms TUMINO — Are you asking for numbers or just a general sense of how — —

Ms GARRETT — Both, because obviously in the context of donor-conceived people it appears from the information that people have been able to obtain that there's probably not a huge rate of people being told they are donor-conceived pre-88, obviously now there's a requirement they be told.

Ms TUMINO — I don't know how the numbers would look but it would probably be about a third.

Ms KARAVIDAS — We're quite happy to give you that number because we do have a database that collects that.

Ms GARRETT — How does it go?

Ms TUMINO — Well, there's that shock — there's either that they know about it and they've been aware from a really small age and they've kind of coped with it okay. You will always have exceptions to the rule where they did know about it and in a way they feel like they've been isolated from their family, it's kind of been the start of many problems and they might not even be in contact with their families anymore, so you kind of have the whole gamut.

Of the ones that know, there can be that conflict of, well, do I want to start finding out about my birth family if I'm actually happy with this family? I don't want to upset them and they've looked after me so well after all these years. Again, you have the whole gamut there. And then saying: I knew I was different. And having a sense that something wasn't quite right, that perhaps they weren't seen in the same way as their other siblings may have been. You kind of get the whole gamut of responses generally.

Ms KARAVIDAS — We also do have some adopted children who come to us with their adoptive parents so they could be in their 40s or 30s or 50s and come with their

parents and say: we know what this is about and we're welcoming of this information. So they've actually been supported but they might be the few and the good news story, but they're the ones that actually come to be supported by their adoptive parents to seek out their biological parents.

Ms TUMINO — What we know about the research is that if a child has known that they were adopted from a young age they're more likely to have better outcomes when they're older than those that don't. For example, in Western Australia part of their legislation requires they need to let the rest of the adoption triangle know, so the birth parents know if the adopted child has died. What they're finding, just anecdotally, is that there's a lot of those people, mainly men, that have been adopted and have had psychiatric problems, drug and alcohol problems, sort of just disenfranchised in other ways. That's kind of anecdotal information rather than anything set in stone.

Ms GARRETT — As I said before, obviously the evidence that has been before us here is you would have to say the majority of people don't know they're donor-conceived, particularly in that cohort pre-88, and that's the reality for that group so when we're talking about what do we do with that group of people and whether the recommendations are about retrospective access to information, etcetera, and then I suppose the corollary question is what rights does the donor have to contact the donor-conceived person, or are we just talking about the donor-conceived person's right to get information about the donor?

Ms TUMINO — I suppose the way the Adoption Act works is to place, for want of a better word, the best interests or the importance of placing the best interests with the adopted person, that's where the focus needs to be and that's how the legislation works. I suppose if you had something similar in the donor conception legislation then it would still be the donor-conceived child's interests and needs that would be paramount.

Ms GARRETT — But clearly in the adoption situation, from what you've said, if the parents come seeking the child you write to the child.

Ms TUMINO — Yes.

MS KARAVIDAS — So that's what you're saying, though, would happen in a donor-conceived world. If it was an ideal register we would have contact with that donor, we would contact the donor-conceived person. They might say they want contact or not.

Ms TUMINO — But we do that counselling first.

Ms KARAVIDAS — We do that counselling, that's right.

Ms GARRETT — But that is a major issue within this, the situation we're dealing with, because there is by the stats quite a large number of donor-conceived people who don't know. We had evidence earlier where there was a situation where there was a hereditary illness issue, major illness, and the way that the hospital approached that was to contact the parents and say: you need to tell your child they're

donor-conceived because of this major issue. That took a fair amount of time for that to happen. I just think it's an interesting question as to what the process would be.

Ms TUMINO — The staff that have worked at our service for a long time often talk about how back in the early days of the Adoption Act there was a real sense of it's going to be bad if this secrecy comes out and it's open and it's going to be really bad, and actually that's not what's happened; it has not been the case because if you manage it carefully at that point then you're trying to limit the damage, I suppose.

Ms KARAVIDAS — And it takes away the secrecy.

Ms TUMINO — Yes, that's right.

Ms KARAVIDAS — I think that's where that then becomes what you're saying from the donor-conceived world that it's another world of secrecy.

Ms TUMINO — That you're perpetuating it if you're leaving it as it is, I suppose.

Ms GARRETT — On this issue, I think it is important because I suppose there's a complicating factor in donor conception in that we know a single donor can have multiple children, which then raises the question of multiple siblings. If you have got seven children there's seven connections out there, including your own. Do you think that makes a difference in terms of the donor's rights to access information about offspring?

Ms TUMINO — I'd say not.

Ms KARAVIDAS — It's happened in adoption or we would even have Forgotten Australians whose siblings were separated, they didn't even know they existed. That whole grief and loss about not even knowing you had siblings could potentially happen, so whilst the donor knows that they've provided this many gametes, a donor-conceived person might not know that they've got this many siblings, just as an adopted person may not know that they've got other siblings, so I think it probably sits on the same scale, in my opinion.

The CHAIR — Thank you very much.

Witnesses withdrew.