

# CORRECTED VERSION

## LAW REFORM COMMITTEE

### **Inquiry into access by donor-conceived people to information about donors**

Melbourne — 5 December 2011

#### Members

Mr A. Carbines  
Ms J. Garrett  
Mr C. Newton-Brown

Mr R. Northe  
Mrs D. Petrovich

Chair: Mr C. Newton-Brown  
Deputy Chair: Ms J. Garrett

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#### Witnesses

Ms R. Rossi; and  
Ms B. Burns.

**The CHAIR** — Welcome! My name is Clem Newton-Brown; I am the chair of the Law Reform Committee. This is a cross-party committee where we get given references to investigate, and we come up with a report that makes recommendations to Parliament. We record everything that is said here. You have parliamentary privilege in the room, but not outside the room, so bear that in mind if you are speaking to journalists. If you could start by each giving us your name and your address and then launch into your submissions, that would be great.

**Ms BURNS** — My name is Barbara Burns.

**Ms ROSSI** — I am Romana Rossi.

**The CHAIR** — As you have probably gathered, we ask questions as they arise. Perhaps you could start by talking us through — not reading — your story and highlighting the things that you wanted to highlight.

**Ms BURNS** — Maybe I will start. I am extremely nervous about appearing before this committee, because I am not very articulate. I rarely ever know what I think until I write things down, but I convinced myself to do it because of the situation of people like Narelle and Kimberley. I actually had a look at my donor's submission as well, and I had a look at it before I came here. I realised that it is inexplicable to me that for people like them — so sincere — someone has not been able to organise something as simple as them writing a letter to their biological father over a 10-year period.

So that is what motivates me, because if it had not been for the generosity of Professor de Kretser my daughters would be in the same position that Narelle and Kimberley are in.

I have watched them go through the legal minefield. I have been a spectator to everything they have done — approaching the doctor, freedom of information, equal opportunity, the media, speaking to politicians — but none of it has worked. I was at the last hearing of this committee, and I heard Dr Kovacs say that the information on donors is now shut away in the Public Records and cannot be unlocked in the current legal system. I really believe that. They have just done everything that they possibly could do and it has come to nothing.

The only solution I see is for the law to change. Basically that is why I have come here. This committee, as you all know, has the power to achieve that through making a clear recommendation to allow pre-1988 children to have access to identifying information about their donors. I hope you will see that any other approach is not going to work.

**The CHAIR** — Barbara, how do you think that could best be done? If we have the records there, would there be safeguards for or constraints on that information being given to kids or do they just get their file and do with that information whatever they wish?

**Ms BURNS** — I just think that yes, openness is the way forward. The law tries to micromanage the rights of different groups. What might be fair to one person is not fair to the other. Pre-1988 children have been in the situation of being micromanaged. It is very difficult for them.

I do not know about the practicalities of it, but I just know that the secrecy has not got us anywhere. I seem to be in a unique position; I have not met anyone else who has told their children at the ages of 21 and 24, as I did. I think, Romana, even you told your children early on. That option really was not open to me because of the situation in the 1980s — the secrecy, the lack of counselling and so on — and also my ex-husband was an incredibly secretive person, to the point of obsession. He would change his job and I would not even know until I got a letter or something or a phone call. That was what he was like. He just did not want other people to know his private business, so there was no possibility of me ever telling the children. Yet I am a person who hates lies. I am a very open person, and it has always weighed heavily on me.

One of the reasons I told them is because I thought they were entitled to the information, but I also believed they would eventually find out. I have not really seen that in a lot of the submissions. But I just realised that down the track they would be involved with their social father's medical treatment, there might even be death-bed revelations, they might be going through my papers when I died and they would suddenly find out. I played out that scenario in my mind and it was the worst thing I could think could happen. I thought that anything was better than that happening.

**The CHAIR** — Have they contacted their biological father?

**Ms BURNS** — They have. You have not read my submission? Lauren has. Lauren is my daughter and she has spoken in front of this committee.

**The CHAIR** — Yes, okay.

**Ms BURNS** — Through the kindness of Professor de Kretser and through her own amazing efforts, she has contacted her biological father.

**The CHAIR** — Yes, sorry. We are aware of that situation. We did not realise you were related.

**Ms BURNS** — Yes, we are. I am her mum. She inspires me to be here. As I said, despite the secrecy and so on, people find out. In my life secrets have never worked. People do find out. If the law is not changed, many children are going to find out in one of these ways perhaps many years down the track. That is going to be absolutely shocking for them.

**Ms GARRETT** — On that point, Barbara, you have obviously told your children and you have worked through that as a family unit. Clearly, as we have heard, many people have not been told — —

**Ms BURNS** — No, they have not.

**Ms GARRETT** — — and there have been education campaigns. Do you, as a mother who has been involved in this, have thoughts about how best the message about this could be put to people to encourage openness?

**Ms BURNS** — I have been to one of Kate Bourne's sessions with VARTA, which used to be the ITA. She is just amazing in the advice that she gives and the ways that you can talk about it. It is always going to be a shock, but you can move on. I think a lot of the trauma for Lauren, and she can speak on this, was not only the revelation, it was the fact that she could not find out the name of her biological father. The records were locked up and by law she was not allowed to access them. I think that was more of an ongoing trauma than the actual revelations.

**Ms GARRETT** — But you feel that the support you were given from an educative and counselling perspective was adequate or not adequate?

**Ms BURNS** — No, it was not adequate. I really only spoke to a lady from the Donor Conception Support Group once on the telephone, then many, many months after I told the kids I had one session with Kate and that was it. We managed to get through it on our own, so if we managed to get through it on our own, other people can — and there is a lot more support around these days. There are the VANISH support groups, and I think it is coming out in the open a lot more. There is a lot more on the internet. VARTA is doing a great job. There is a lot more support; people are not on their own any more.

There was one other thing I was going to say. I was listening to the gentleman just before me and he said something. It was something that I was thinking about, a question you might ask me. Maybe I am being presumptuous, but it is about whether the 1988 donors should be allowed to contact their adult offspring, so the other way around. Of course it is going to be a shock if parents have not told their children, and it is an extremely hard question to answer. Lauren and I and Lauren's boyfriend, Gerry, talked about it one night; we found it difficult. In my opinion, I think they should be allowed to. As I said, I basically think the secrets have to stop. There is no use trying to protect people; it just does not work. As I said, I recognise the possibility that many donor children will find out anyway many years in the future through incompatible blood or DNA, through going through their parents' papers.

As you have said, in my own case there was initial shock and distress, but I really wanted to tell them. I think a lot of other people do too. But the big barrier was that it was against the law to contact the donor. That was the biggest hurdle I had to overcome.

**The CHAIR** — Going back to the issue about the donor contacting Lauren, do you think that the donor should be able to contact you or Lauren regardless of whether you have told Lauren or whether you are prepared for it?

**Ms BURNS** — I think they should have that right. I believe that most would not; in fact I believe nearly all would not. I think with adoption they have that right and I do not think there have been any great problems. Originally the donation was altruistic and they do not want to hurt their children. I think they would be very responsible. Yes, I do think so.

One of the other reasons was that the post-1988 donors have the right to contact their children. The best thing with the law is to keep it as simple as possible. We do not know what the future circumstances will be. As I said, you might be protecting one group but you are causing great hardship to another group. That was my conclusion. We did think about it for quite a while, but I would opt for the truth and no more concealment and cover-ups. That is what I would choose.

**Mrs PETROVICH** — Barbara, thank you very much for that. You are an advocate for the truth and I think that is admirable. One of the questions I have is around the situation that we have heard of from a number of submissions, that there are many young adults out there who do not know that they are donor-conceived. From our perspective, a legislative perspective, is it creating more harm to those people to tell them late in their life, and how do we couch that?

**Ms BURNS** — As I say, I believe that ‘ignorance is bliss’ is probably a myth in many cases. People do find out. Family members tell; you find out through documentation; you find out through deathbed confessions. These days there is that medical possibility of the incompatibility of DNA and blood donations, you know, when parents are getting older. I am not sure they will forever remain in ignorance. That was a huge motivation with me — they will probably find out somewhere along the line, so it is better for me to tell them now. We concentrate on that short-term trauma, but you really have to think of the long term. I mean, we have got through it. We are in a better place now because I told. You get over it. You get used to it.

**Mrs PETROVICH** — The only point I was making with that is, that is terrific and I think it should be encouraged to inform children, perhaps when they are younger; but we know there is a cohort of people out there who do not know, and they are perhaps the ones who may be in for a heck of a shock.

**Ms ROSSI** — Is that so bad? In a sense, if you do not tell them, it is almost like patronising them. You are saying, ‘You can’t handle this, and I am the expert to tell you that you can’t handle this’. We do not treat people like that, so I think that it is — —

**Mrs PETROVICH** — I am not suggesting that that is my view.

**Ms ROSSI** — I know, I am just saying that, because in a way that is what the question intimates.

**Ms GARRETT** — I think one of the very important things that has come out from what you have talked about is that, for you personally, as a mother, knowing that the child could not access the records was a major stumbling block to you telling. Now, that is a very interesting factor. It may be that might be very similar for other people, and if there is a change, that may in itself encourage parents to tell. Is that your understanding?

**Ms BURNS** — Yes, exactly, but it also comes back to the children, and any of the children that I have spoken to as adults have said that they would rather be told. That is what they all say. I have never heard anyone say, ‘I would rather have lived a lie my whole life’.

**The CHAIR** — Romana, would you like to talk us through your submission?

**Ms GARRETT** — Thank you, Barbara.

**Ms ROSSI** — I had a speech — but it is in a big font, so don’t panic. I might make it even shorter.

**The CHAIR** — There is no need to read it out. If you want, you can just talk to us about the bits that you wanted to highlight.

**Ms ROSSI** — First is that the biggest mistake in donor conception is that it intentionally deprives people of their family. I think that we do not allow this to happen anymore. There is an act, the Assisted Reproductive Treatment Act 2008, that says we cannot do that anymore; so I think the answer to this inquiry is really simple — that is, to give all donor-conceived people unqualified access to identifying information about their father. This provides equality before the law, and it follows the adoption precedent that both parties are now

adults and able to negotiate what level of contact is mutually desirable. I am unequivocal in saying that donor-conceived people should have that information. I have an 18-year-old son who was conceived using donor sperm. I also have experience because for eight years I was one of the coordinators for the Donor Conception Support Group for the state of Victoria, and I have been a member of TangledWebs since its inception.

The reason I bring up my personal life and my advocacy work is that I have been able to meet with a lot of people in our donor conception community: hundreds of recipient parents, many donors, lots of medical people and lots of donor-conceived people. When I listen to this, what I hear most is that the manner of their conception hurts donor-conceived people. I know it is not a competition of who hurts the most, but I think their pain is a lot greater. I started to read the transcripts and I noticed that it was Narelle Grech in one of the transcripts, somebody on the committee suggested to her that perhaps she could look at doing media again and targeting the Maltese community. When I read that, I was a bit worried that the atmosphere here was that she yet again has to do the work. I am suggesting to you that she should not have to do this anymore. It is now your role, or the role of the powers that be, to give Narelle that identifying information about her father. She cannot do it anymore because she is too busy fighting for her life, and I ask you to please give her that right. She has worked really hard over the years.

The personal problem with this is that my son's biological father is sick as well. He has cancer. He was told a few years ago that he had six months to live, and this is very hard for us because we are very close to him. This was a man who came forward before the laws allowed it or anything, and he has been part of our life since Desmond was six years old. We met at the Fairfield Boathouse. I remember at the Fairfield Boathouse we had a good day, and at the end of it our son said that he wanted to take a photo of just him and his biological father. I nearly brought the photo today. Why that is important is that it is a community, and if we do not give people the right to know their family — Kev has got five donor daughters, and they will never be able to take a photo with him. They will never look him in the eye. That is going to hurt them and we want to meet them too, you know; and Kev really is an important part of our lives. I was going to bring the photo album, with Christmas, Easter, and stuff like that. What I want to say is that his donor daughters will only know about him, rather than know him; and that is not fair.

Why I think it is important to change the legislation — there are four things. Everybody wins. First, it gives parents — it gives us — permission to tell their adult donor offspring that they are conceived that way, because the information will be there. It gives donors the opportunity to do what is the ultimate altruistic act — to give of themselves, and not just a body part. It will prevent clinicians from breaking past promises of anonymity. Legislation will take the decisions out of their hands, thereby removing the dilemma for them — so they get away from it too. And donor-conceived people can know their identity. They can know their father and mother. So I say, we have been at this forever. I think we have to give permission to allow our children to search for their biological parent and we have to have the information there for them, and this legislation will enshrine that. It will make us courageous and allow us to do the unthinkable, which is to give donor-conceived people what is rightfully theirs and end the tragedy of depriving people of their family and their history.

I am ending now with this. On Friday night, TangledWebs members met. We all met to welcome Damian Adams. You will meet him next. Narelle was there, and Lauren and Myf — you have met them too. We were all there, as was Pauline, and a whole bunch of other donor-conceived people were there. I wanted to say that I heard something in that room that I have never heard before. There was a very quiet hope that this is the Parliament that will deliver to donor-conceived people what is rightfully theirs — that is, the identity of their father. Please don't let them down.

**The CHAIR** — Thanks, Romana.

**Mr CARBINES** — I will just ask Romana.

**Ms ROSSI** — Yes. I am fine now.

**Mr CARBINES** — Obviously you have been advocating or working in this area for a long time, and you have your own experiences as well. Picking up on some of your last points, have you noticed any change in some of the issues or the — 'demands' is not the right word, but the — needs, perhaps, of the different component parts of the community who have a stake in this? Have any of those needs or desires changed around the information, how these matters are dealt with or the sorts of issues, given that we now have a group

of donor-conceived people who are adults and donors who we have met are now older, have families of their own and have other insights into how they might want to deal with these matters? I suppose I am looking at your perspectives over a period of time.

**Ms ROSSI** — I think everybody has changed but the medical profession. I remember when I used to run education programs for the Donor Conception Support Group. We had a group for new parents thinking about going who had not had their children yet. I think people were trying to be honest. This is in the last 16 years. They wanted to tell, but it is just the medical profession which does not want to do that. I include the infertility counsellors. They do not have an understanding of the issues in relation to post-baby. They are really good with the stuff before but not after. I think the only people who have not changed are those in the medical profession.

**The CHAIR** — Romana, you made reference to a comment that was made in relation to Narelle Grech suggesting that she focus on her Maltese background. That was a comment I made which, I suppose, was a practical suggestion. It certainly does not form part of our role as a committee to be giving media advice to people.

**Ms GARRETT** — Which is good.

**The CHAIR** — It struck me that that was a very identified piece of information that, from what I could gather, had not been in any of the media I have seen that she had done. I thought that may be something that might assist her going on in that vein, but the terms of our reference are clear. We are providing advice to Parliament, and we will be considering what changes are required and whether they are appropriate to be making them. I cannot pre-empt the inquiry, but we are certainly very sympathetic to the issues that Narelle and others have. I think it is reasonably clear there will be recommendations made which will suggest changes. I do not think any of us have a preliminary view that nothing needs to change. We will see early next year that our report will come out.

**Ms ROSSI** — I wrote that it was a kind suggestion. You were trying to help.

**The CHAIR** — I was not being disrespectful to her generally or anything like that.

**Ms ROSSI** — I know that, and I said in my paper, you can read it, that it was kindly suggested. But she has done enough, and it should not be up to her to do the work. We are the ones who inflict it. I speak for myself. We are the ones who inflicted this on donor-conceived people. The least we can do is to give them what they want. They all want this.

Oftentimes DC people have to present to the world as being perfect. They cannot admit there are problems and that they really hurt that much, because people might think, 'Oh my God, there is a mental illness here or there is something wrong with the person'. They have to prove they are good citizens.

In 2008 and 2009 Myf and I spoke to 62 politicians. I do not think it was any of you actually. In a sense she had to prove to people that it hurt her. We have to take that away. It should not be up to DC people to prove that they need and want this information. We have to give it to them.

I have met donors. There has not been one who has wanted to shut a door. There was one man. We ran a Father's Day phone-in. We got six phone calls. One of the men said to me he wanted to know, but he did not want to sit in an office with a social worker having a book in front of them saying to him, 'I cannot give you that information'. That is why he was not going to do a search, media or whatever. I sat in that office with that book. I watched where the social worker put it, because if worse had come to worst I do not know what I would have done. I knew where that book was with the information. It is an extremely humiliating situation to sit across from this vital information, sit this far from it and you are trying to do this. Watching the flipping of the pages; it is humiliating. It is my son's information. Pauline raised a point — she says it is nobody's information; it is everybody's information. Donors want to know who their children are.

**The CHAIR** — Thank you very much for coming in. It is great to have got your perspective on all of the issues we are grappling with.

**Ms GARRETT** — It was really helpful.

#### **Witnesses withdrew.**