Submission to the Inquiry into access by donor-conceived people to information about donors

August 2011
Introduction

The Victorian Equal Opportunity and Human Rights Commission (Commission) welcomes the opportunity to make a submission to the Inquiry into access by donor-conceived people to information about donors (Inquiry) being conducted by the Victorian Parliament’s Law Reform Committee’s (LRC).

The Commission is an independent statutory body that has functions under the Equal Opportunity Act 2010, the Racial and Religious Tolerance Act 2001 and the Charter of Human Rights and Responsibilities Act 2006 (Charter). Our functions include dispute resolution, providing education about human rights and equality of opportunity, undertaking projects and activities aimed at eliminating discrimination and promoting human rights, conducting research, and providing legal and policy advice. In addition, the Commission has a role in reporting to the Attorney-General on the operation of the Charter and, at the request of public authorities, conducting compliance reviews.

The Commission’s interest in the Inquiry

The Commission recognises the importance of the Inquiry and acknowledges that the challenge before the Inquiry is a significant one, made more complex by changes over time to the recognition of the rights of donors-conceived people to access information about their donors and donor-siblings in Victoria within the Assisted Reproductive Treatment Act 2008 (Act).

Over the past forty years, shifts in community attitudes have led to new laws that have incrementally increased the focus on protecting the welfare of people born as a result of donor conception. Yet whilst Victoria is widely regarded as having a progressive model of assisted reproductive treatment (ART) regulation, the Act still contains provisions which are donor-centric, and limit the rights of donor-conceived people.

The Commission does not underestimate the task before the LRC and believes strongly that taking a human rights approach in your deliberations will assist in finding workable solutions to the challenges facing the current system. This is for two reasons.

First, compliance with human rights is the law in Victoria and the Charter provides a framework that public authorities must work with when preparing laws and implementing them, and making decisions. Public authorities are legally obliged to observe the human rights of donor-conceived children, donors and families with whom they have contact. Any breach of these rights offends international law, and unless limitations can be reasonably and demonstrably justified, is also unlawful under the Charter.

All donor-conception policy and practice, including the recommendations of this Inquiry, must be measured against the Charter. Specifically, any legislative reforms proposed by this Inquiry will be subject to human rights scrutiny by the Parliament.

Second, the Charter provides clear, considered and principled guidance for public policy and systems reform. It keeps the focus on giving proper consideration to relevant human rights, and ensuring that any limitations on rights can be reasonably and demonstrably justified.

Taking a rights-based approach to your deliberations can help to cut through the ambiguity that can result from attempting to balance competing interests. When it is
accepted that a child’s full range of human rights should be guaranteed then the solutions can be brought more sharply into focus.

As Victoria’s human rights agency, the Commission welcomes the opportunity to contribute its expertise to the Inquiry, both regarding human rights compliance and in focusing attention on reform that will best protect donor-conceived people whilst recognising the rights of others.

In order to provide that human rights analysis, this submission is in two parts:

Section 1 focuses on compliance. It briefly sets out a human rights analysis of donor-conception issues, with specific reference to the Charter.

Section 2 briefly responds to the terms of reference. The Commission does not provide detailed comments on all the terms of reference. Instead, we provide our insights into key issues that relate to our areas of responsibility under the Charter. In particular, we examine options for changes to the current arrangements and principles for a more rights-consistent approach to donor-conception practice and policy, and outline two options for reform.

Recommendations

The Commission recommends that the following reforms should be made:

Option 1

Recommendation 1
Amend the Act to require the disclosure of reasonably available identifying information about a donor upon request from approved persons (such as donor-conceived people and donor recipients), as occurs with retrospective access to identifying information about birth details for adopted people.

Recommendation 2
Amend the Act to permit donor-conceived people to access information about their donor independent of their parents at an age of sufficient maturity, but no later than 18 years.

Option 2
If Option 1 is not applied, then:

Recommendation 3
Amend the Act to require that that on request by approved persons (such as donor-conceived people and donor recipients) the responsible authority (such as a central authority) must make all reasonable attempts to contact a donor and ask them to:

- provide identifying and non-identifying information, and
- consent to the release of the information to an approved person.

Recommendation 4
Where consent is not provided or cannot be obtained, permit an appropriate authority (such as a central agency, court or tribunal) to release donor information to approved persons where:

- information is reasonably available, and
- disclosure would be in the best interests of a donor-conceived person, and
- counselling has been provided to the approved person.
**Recommendation 5**
Amend the Act to enable a court or tribunal to review decisions made in relation to the Act, including decisions made by a responsible authority (such as a central authority or clinic) in relation to:

- requests by an approved person to contact a donor and obtain donor information, and
- the release of donor information.

**Recommendation 6**
Amend the Act to require the Registrar to publicise the Register to the public.
Using the Charter in this Inquiry

The Charter provides a means by which the rights of all persons involved in ART can be considered and actioned. This is of particular value where common law protections are not well developed, and where a cogent decision-making framework is needed to resolve complex policy questions.

In legal terms, the Charter requires the consideration of human rights across all laws and policies, and a shift towards a more systematic approach to rights.

It sets the minimum standards below which the system must not fall and provides a means to hold the ART systems to account if they do by demanding explicit consideration of human rights in all decision making. This accountability is multifaceted and includes an obligation on:

- the Parliament to formally consider the consistency of proposed legislation with human rights protected under the Charter;¹
- courts and tribunals to consider whether laws are consistent with Charter rights, to interpret laws consistently with Charter rights as far as possible, and to consider international human rights laws and judgements when interpreting Victorian laws;² and
- public authorities to act in a way that is compatible with human rights, and give proper consideration to Charter rights when making decisions.³

These are not remote legal obligations but ones which, when applied correctly impacts on how services are delivered on the ground. Accordingly, all ART legislation, policy and practice, including the recommendations of this Inquiry and any possible unintended consequences must be measured against human rights.

Although the Charter is the primary means available to the Inquiry for considering human rights in the context of donor conception, the Convention on the Rights of the Child (Convention), which underpins some of the rights in the Charter, provides a useful framework for examining solutions to current challenges. The Commission notes that the Victorian Law Reform Commission’s Occasional Paper on the Convention⁴ provides a comprehensive analysis of the scope and engagement of rights relevant to this Inquiry and so we have not attempted replicate these discussions here.

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² Charter of Human Rights and Responsibilities Act 2006 s 32
³ Charter of Human Rights and Responsibilities Act 2006 s 38
Human rights compliance and donor-conception

The Charter

The Charter has relevance to many aspects of donor-conception, especially:

- need to respect the best interests of the child
- respect for identity, family and private life
- access to information, and
- protection from discrimination.

The Charter is useful when dealing with difficult issues such as ART because it helps Parliament and government consider the needs of the community and the impact on an individual person. Knowing where rights are engaged and limited builds transparency into the process of law-making and helps those who have to administer and enforce the law work out how best to address the practical issues they will be faced with. We can therefore be clear about where the challenges are and where the laws may impact on rights of all individuals involved in the ART process.

Furthermore, it is appropriate when dealing with decision-making that restricts rights, that there are appropriate checks and balances in place.

The Interim Report correctly identifies that the Act engages the following rights:

Recognition and equality before the law, which protects the right of all Victorians, including children, to enjoy their human rights free from discrimination. This right is engaged when donor-conceived children are provided with different rights to obtain information about their donor parent and siblings based on when they were conceived.

Privacy and reputation, which provides protection from unlawful or arbitrary interference with privacy or family life, including any “unjustified interference with personal and social individuality and identity.” Whilst this right may be engaged when there is an “unlawful” or “arbitrary” interference with a donor or donor family’s right to privacy and reputation, it is less likely that carefully crafted and well adapted legislative limitations on privacy would limit donor’s privacy rights under the Charter because of the caveats on “lawfulness” and “non-arbitrariness”. By contrast, the privacy rights of donor-conceived children – in the broader sense of that right – are more likely to be “arbitrarily” limited because of the serious psychological issues at stake for them.

Freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds, whether within or outside Victoria.

Protection of families. The Charter recognises that families are the fundamental group unit of society and are entitled to be protected by society and the State. The right to family protection is not only a parental right, but also a right of the child.

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5 Charter of Human Rights and Responsibilities Act 2006 s 8. This is reinforced by the right, without discrimination, of every child to such protection as is in his or her best interests contained in section 17(2) of the Charter.


7 It protects the individual’s interest in the freedom of their personal and social sphere in the broad sense. This encompasses their right to individual identity (including sexual identity) and personal development, to establish and develop meaningful social relations and to physical and psychological integrity, including personal security and mental stability: see Kracke v Mental Health Review Board [2009] VCAT 646, [619]-[620].

8 Charter of Human Rights and Responsibilities Act 2006 s15
Protection of children, because “every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child”.\textsuperscript{11}

The best interest principle is also reflected in the Act which states that the welfare and interests of persons born or to be born as a result of treatment procedures are paramount, and children born as the result of the use of donated gametes have a right to information about their genetic parents.\textsuperscript{12} Further, the Children, Youth and Families Act 2005 (Vic) provides that “when determining whether a decision or action is in the best interest of the child, the need to protect the child from harm, to protect his or her rights and to promote his or her development (taking into account his or her age and stage of development) must always be considered”.\textsuperscript{13}

Cultural rights including the child’s right to practice their religion, enjoy their culture and use their language. The distinct cultural rights of Aboriginal people are also protected.\textsuperscript{14} This right may be engaged where a donor-conceived person is denied information about their donor’s background and heritage.

Reasonable limitations and justification

Human rights protections are vital safeguards to incorporate into revised donor-conception laws, however sometimes there is a tension between the rights of different people or between rights and other important public policy objectives. The general limitation provision contained in section 7(2) of the Charter provides the mechanism for considering when rights can be limited. However, section 7(2) of the Charter provides that any limits on human rights must be reasonable and demonstrably justified in a free, democratic society based on human dignity, equality and freedom taking into account the nature of the right, the purpose of the interference, and applying the least restrictive means of limiting the right. It has been said that a limit will be reasonable where the exercise of a human right would be “inimical to the realisation of collective goals of fundamental importance”.\textsuperscript{15}

In Victoria, the rights of donor-conceived people vary depending on when the gametes leading to their conception were donated:

- Because the Act does not mention people conceived using gametes prior to 1 July 1988, these people have no right to access information about their donors under the legislation;\textsuperscript{16}

- People conceived using gametes donated between 1 July 1988 and 31 December 1997 can access information about their donors provided that the donor has consented to the disclosure of any identifying information;\textsuperscript{17} and

- Donor-conceived people can access identifying information about their donors if the person was conceived using gametes donated after 31 December 1997.\textsuperscript{18}

\textsuperscript{9} Charter of Human Rights and Responsibilities Act 2006 s 17(1).
\textsuperscript{10} This contrasts with the Children, Youth and Families Act 2005 s 10 (3) (a), where it is the “parent and child”, not “family”, that is described as the fundamental group unit of society.
\textsuperscript{11} Charter of Human Rights and Responsibilities Act 2006 s 17(2).
\textsuperscript{12} Assisted Reproductive Treatment Act 2008, section 5(a), (c).
\textsuperscript{13} Children, Youth and Families Act 2005 s 10(2). Section 10(3) also sets out in more detail the factors to consider in determining the best interests of the child. These include the need to protect the relationship of the parent and child and to limit interference to that necessary to secure the safety and wellbeing of the child and the need to promote positive relationships between the child, parents, family and other significant persons.
\textsuperscript{14} Charter of Human Rights and Responsibilities Act 2006 s 19.
\textsuperscript{17} Assisted Reproductive Treatment Act 2008 (Vic), s59(b)(ii)
\textsuperscript{18} Assisted Reproductive Treatment Act 2008 (Vic), s59(b)(ii)
The interference with, and inconsistent recognition of, the rights of donor-conceived people to access information about their donors is typically justified on the basis that donors prior to 1997 were guaranteed anonymity, and any waiver of that confidentiality could intrude into the donor's privacy and family life.19 In practice, this has meant that a donor's right to privacy and family life has been protected at the expense of a donor-conceived person's right to equality and freedom from discrimination, access to information, privacy and reputation, and protection in their best interests.

Further, the Act contains no discretion to release this information where disclosure is in a child's best interests or where necessary for the welfare or safety of the donor-conceived person. This has had the unintended consequence of denying donor-conceived people the right to access information about donor-siblings, as well as medical information about their donor-parent that would help to identify and avert hereditary medical problems.

This Inquiry must now consider whether the limits on the rights of donor-conceived people are justified under section 7(2) of the Charter. Whilst the Inquiry will no doubt inform itself about the reasonableness of any limits on the privacy of donors in the general sense, it may not be necessary to undertake a formal assessment of any limit under section 7(2). The Charter privacy right of donors will not be limited if legislation provides for that invasion of privacy and the legislation is not “arbitrary” in its application.

In order to avoid two classes of donor-conceived people, those whose donors gave consent to the release of identifying information and those whose did not, the Commission strongly considers that a mechanism should be put in place to ensure that all efforts are made to address the latter’s lack of information about their genetic and biographical heritage.

Response to the Terms of Reference

The way forward

The Interim Report identifies three key options for changes to the current arrangements:

- Contact all donors prior to 1988 and ask them to consent to being identified irrespective of whether the donor-conceived person sought access to the information (Option 1);
- Release identifying information about a donor upon request from approved persons such as donor-conceived people and donor recipients, as occurs with retrospective access to identifying information about birth details for adopted people (Option 2); and
- Contact donors and ask them to consent to the release of information upon request by a donor-conceived person (Option 3).

The current legislative regime as it applies to persons conceived by gametes donated prior to 1997 gives primacy to the donor's right to privacy - a position which the Commission considers can no longer be justified. Having regard to the Charter, the most appropriate option for reform would involve the release of "reasonably available" information about a donor upon request from approved persons (such as donor-conceived people and donor recipients), as is the case with retrospective access to identifying information about birth details for adopted people. Limiting this requirement to the information that is "reasonably available" would make allowance for the fact that prior to the introduction of legislative requirements or consistent procedures around the collection and retention of donor records, there was significant variation in the way that donor records were maintained and whether they were kept or destroyed when clinics closed down.

In its current form, the Act's limitations on the rights of donor-conceived people are inconsistent with its guiding principles which, as noted above, require that the welfare and interests of any person born or to be born as a result of a treatment procedure are paramount. Despite this overriding requirement, access to information about a donor is determined solely by reference to whether a person was conceived by gametes donated prior to 1988, and for those conceived between 1988 and 1997, whether the donor has consented to disclosure. This creates a donor-centric test that involves no assessment of the rights and interests of the child who may be born as a result of such as procedure.

If the test for eligibility for access to information about a donor is to be truly consistent with the rights of children under the Convention and the Charter (and reflect the guiding principles under the Act), the date at which gametes were donated and prior assurances of anonymity would not be the sole consideration as to whether access to information should be granted. As such, there is a need to reassess whether the limitations on the rights and best interests of those born as a result of such procedures are reasonable, justifiable and proportionate, taking into account the nature of the right, the purpose of the interference, and applying the least restrictive means of limiting the right.

The Victorian Charter's protection of children provision reflects Australia's obligations under the Convention, stating that all actions concerning the child should take full
account of his or her best interests. Implicit in this is a human rights approach to what constitutes best interests. This requires reframing the traditional, narrow view of the child’s best interests in child protection or safety terms only, to a more comprehensive approach that considers all the child’s human rights and their interdependence with others, so that best interests are no longer viewed in isolation from the child’s full range of rights. In policy and practice terms this means shifting from an ART ‘system’ that facilitates the birth of children to a system that protects the rights of those conceived through such practice.

Donor-conceived children must not only have the right to receive and impart information, including information about their origins and the identity of their donor, and the right to enjoy their rights without discrimination, and but also the protection of law to ensure that children can autonomously exercise these rights in practice. A review of empirical literature provides compelling evidence to suggest that the lack of access to identifying information of a donor can have a seriously detrimental affect on donor-conceived people. Access to donor information is important in order to reduce the risk of consanguine relationships with unknown relatives, to create opportunities to form meaningful relationships with donors and half-siblings, to have a more complete sense of identity, and for medical purposes.

Introducing retrospective application of access to donor information would also bring donor-conception in line with adoption law, which provides adopted children with the right to obtain information about their biological parents irrespective of whether consent was obtained. These changes reflect an understanding that denying children access to information about their biological parents can have a serious and disproportionate impact on their physical, social and emotional wellbeing compared with the impact of the release of that information on a parent.

It is in society’s interests that children grow up to be autonomous and well-adjusted individuals. If this development is unreasonably jeopardised, the State may have an obligation to step in to protect the rights of the child. In Australia, the Federal Government has accepted a responsibility to honour the Convention. The High Court has indicated that ratification of a convention gives rise to a legitimate expectation that those obligations will be given sufficient consideration and not simply disregarded as “a merely platitudinous or ineffectual act”.

Age of disclosure

Assuming that a donor-conceived person is entitled to access to identifying information, the question remains whether they should enjoy this right before or after they turn 18. In Victoria and under the National Health and Medical Research Council Guidelines, a donor-conceived person may access donor information from the age of 18. The Convention requires that in assessment of a child’s best interests, the views of children must be given due weight according to their age and level of maturity. Fixing the arbitrary age of 18 is not reasonable for children who have developed the maturity and autonomy to appreciate earlier disclosure. Accordingly, donor-conceived

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22 Adoption Act 1984 (Vic) Part VI
23 Vienna Convention on the Law of Treaties, art 26—‘every treaty is binding upon the parties to it and must be performed by them in good faith’.
24 Minister for Immigration & Ethnic Affairs v Teoh (1995) 183 CLR 273 at 291; 128 ALR 353 at 365 per Mason CJ and Deane J.
25 Assisted Reproductive Treatment Act s 59.
people should have access to the identity of their donor independent of their parents, and that this should be facilitated at an age close to the crucial adolescent period when identity formation occurs.\textsuperscript{27}

**Recommendation 1**
Amend the Act to require the disclosure of reasonably available identifying information about a donor upon request from approved persons (such as donor-conceived people and donor recipients), as occurs with retrospective access to identifying information about birth details for adopted people.

**Recommendation 2**
Amend the Act to permit donor-conceived people to access information about their donor independent of their parents at an age of sufficient maturity, but no later than 18 years.

Options for implementing any changes to the current arrangements

In the alternative, the Commission considers that Option 3 (contact donors and ask them to consent to the release of information upon request by a donor-conceived person) with additional qualifications and reforms outlined below, would provide a less restrictive means of limiting the rights of people conceived by gametes donated prior to 1997.

Developments in Australia and abroad provide some guidance on additional opportunities for reform that may help to address the donor-centric provisions of the Act, and better empower and strengthen the autonomy of persons conceived using gametes donated prior to 1997.

Permitting disclosure irrespective of consent: a case-by-case approach

Some jurisdictions provide exceptions to their general rule about when a donor-conceived person can access information about his or her donor. For example, Austria, Switzerland, New Zealand and New South Wales permit disclosure at an age younger than the majority in special circumstances, most usually where it is necessary to save the life of the child or prevent serious injury to the child’s health. 28

Disclosure of a donor’s identity for “medical necessity” or by a court order is also mandated in some jurisdictions where donor anonymity is generally protected by law. 29 In addition, a survey conducted by the Council of Europe suggests that more than 13 States allow the identity of the donor to be disclosed (although not necessarily to the recipient of the donor) “in order to analyse a possible hereditary risk to the child”. 30 In the absence of potential medical risks, eight States provide donor-conceived people with the right to request information on his/her conception “at an appropriate age”. 31

Other States have taken a more rights-protective approach to the position of donor-conceived people. In Switzerland, a person may request identifying information about a donor “if the person has an interest in this which is to be protected”. 32 Before providing this information the authority must, if possible, ascertain the donor’s intentions regarding any personal contact. The donor-conceived person will be informed if the donor does not agree to contact but the request must be honoured if the donor-conceived person continues to request the information. A donor-conceived person over 18 years old does not have to demonstrate any interest in order to obtain the details of the donor’s identity. 33

Similarly in the Netherlands, legislation on ART provides that:

In the event that the donor objects to the provision of information identifying him, [the Foundation for Donor Data] weighs the pros and cons […] Unless there are strong

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29 Council of Europe, Medically Assisted Procreation and the Protection of Human Embryo Comparative Study on the Situation in 39 States (Strassberg, Council of Europe, 1998) 121. See also Eric Blyth and Lucy Frith, Ibid.
30 Ibid, 123, cited in Eric Blyth and Abigail Farrand, above n 19, 92.
31 Ibid, 121.
32 Article 27(2), cited in Eric Blyth and Lucy Frith, above n 29, 182.
33 Eric Blyth and Lucy Frith, above n 29, 180.
counter-arguments (not further specified in law) the wish of the donor offspring will prevail.\textsuperscript{34}

Whilst these approaches appear to facilitate the disclosure of information where appropriate for the welfare and safety of the child, they still fall short of recognising and protecting all of the rights held by donor-conceived people. At best, they provide a donor-conceived person with the right to request information, without a right to obtain it. Providing an authority (such as a court or tribunal) with the power to order the disclosure of donor information in the offspring’s best interests would help address the existing limitations on disclosure of information held on the Voluntary Register of Births, Deaths and Marriages (Register) under the Act, and would provide an opportunity to obtain donor information held by other ART institutions.\textsuperscript{35}

**Promoting the ability of donor-conceived people to obtain information about donors**

At present, the Register and Central Register represent the only way in which donors and people conceived by gametes donated prior to 1988 and between 1998 and 1997 respectively can lodge information and attempt to access information about their donors and donor-siblings.

Whilst the Act established a Register and Central Register for donors to be administered by the Registrar of Births, Deaths and Marriages (Registrar), the Act contains no specific obligation to publicise the Register to the public, or to advise a specific donor about the Register on the request of a donor-conceived person.\textsuperscript{36}

Responsibility for promoting the Register is couched in more general terms: “the registrar may from time to time publicise the establishment and purpose of the voluntary register”. In addition, there is no explicit obligation on agencies with data on donors to make reasonable attempts to contact a donor on request by a donor-conceived person and obtain further information about their genetic and biographical history. This is partly because in the early years of ART there was an inconsistent approach to the collection and storage of donor information.

In practice, this has meant that persons conceived using gametes donated prior to 1997 have had no way to encourage their donor to lodge their genetic and biographical information with the Register.

A clear responsibility for promoting the Register to the public as well as to specific donors on the request of a donor offspring will be essential to help reduce existing barriers to obtaining donor-information and help to address the discriminatory provisions in the Act.

These issues were recently raised in the matter of *Springfield v. Registrar of Births, Deaths and Marriages*\textsuperscript{37}. The case concerned an application by Ms Springfield to the Victorian Civil and Administrative Tribunal (VCAT) to review the Registrar’s decision to deny her request that the Registrar seek the donor’s identity from a medical institution, and then write to the donor advocating the purpose and benefit of the voluntary Register. Submissions for the applicant provided that the general discretion to publicise the Register from time to time needs to be read in accordance with the


\textsuperscript{35} See *Births, Deaths and Marriages Registration Act 1996*, s 72 - Disclosure is only permitted in accordance with the wishes of a donor.

\textsuperscript{36} Note that the *Births, Deaths and Marriages Registration Act 1996* provides that the Registrars general functions include “to perform functions given to the Registrar by [the ART Act].”

\textsuperscript{37} *Springfield v. Registrar of Births, Deaths and Marriages (General)* [2011] VCAT 130
Registrar's general functions under the *Births, Deaths and Marriages Registration Act 1996*, which provides that the Registrar's general functions include "to perform functions given to the Registrar by [the ART Act]." VCAT dismissed the application on the basis that it lacked the jurisdiction to review the Registrar's decision noting that "it would require clear words for Parliament to provide in one Act that decisions that are in reality decisions made under another Act are reviewable".39

**Reviewable decisions**

The decision in *Springfield v. Registrar of Births, Deaths and Marriages* clearly highlights additional opportunities for legislative reform to enable the review of decision in relation to the Act. This would enable donor-conceived individuals to challenge decisions made under the Act, such as decisions in relation to requests by approved persons to for a responsible authority to contact a specific donor and seek information and the release of donor information.

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38 *Assisted Reproductive Treatment Act 2008*, s 71(2)
39 *Springfield v. Registrar of Births, Deaths and Marriages (General) [2011] VCAT 130* [9]. Note also that VCAT has power under the *Births, Deaths and Marriages Registration Act 1996* to review decisions by the Registrar under that Act, but does not have the power under the *Assisted Reproductive Technology Act 2008* to review decisions by the Registrar under that Act.
Recommendations

Option 2
If Option 1 is not applied, then:

Recommendation 3
Amend the Act to require that that on request by approved persons (such as donor-conceived people and donor recipients) the responsible authority (such as a central authority) must make all reasonable attempts to contact a donor and ask them to:

- provide identifying and non-identifying information, and
- consent to the release of the information to an approved person.

Recommendation 4
Where consent is not provided or cannot be obtained, permit an appropriate authority (such as a central agency, court or tribunal) to release donor information to approved persons where:

- information is reasonably available, and
- disclosure would be in the best interests of a donor-conceived person, and
- counselling has been provided to the approved person.

Recommendation 5
Amend the Act to enable a court or tribunal to review decisions made in relation to the Act, including decisions made by a responsible authority (such as a central authority or clinic) in relation to:

- requests by an approved person to contact a donor and obtain donor information, and
- the release of donor information.

Recommendation 6
Amend the Act to require the Registrar to publicise the Register to the public.

Contact
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