

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

***Submission by VANISH Inc, PO Box 112 Carlton South 3053
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Introduction:

This submission is made to support the motion passed in the Victorian Legislative Council of 23 June 2010 that the Law Reform Committee (LRC) consider and report upon a suite of donor conception matters, viz:

- (a) the legal, practical and other issues that would arise if all donor-conceived people were given access to identifying information about their donors and their donor-conceived siblings, regardless of the date that the donation was made;
- (b) the relevance of a donor's consent or otherwise to the release of identifying information and the National Health and Medical Research Council's ethical guidelines on the use of assisted reproductive technology in clinical practice and research;
- (c) any practical difficulties in releasing information about donors who provided their gametes before 1 July 1988, because in many cases records are not available either because the procedure was carried out privately or records were not stored centrally;
- (d) the options for implementing any changes to the current arrangements, including non-legislative options;
- (e) the impact that any such changes may have on the donor, the donor-conceived person and future donor programs;
- (f) the impacts of the transfer of the donor registers held by the Infertility Treatment Authority to the registrar of births, deaths and marriages; and
- (g) the possible implications under the Charter of Human Rights and Responsibilities Act 2006.

The following draws upon VANISH's extensive experience in providing services to persons who were separated from members of their family of origin. The knowledge we have accumulated, is we believe, pertinent to the discussions taking place within the LRC. Our submission focuses on point (a) and fundamentally addresses two matters: the impact of information being withheld from the donor-conceived, and the suitability of VANISH as a service provider, in the event that all donor-conceived people are allowed access to identifying information.

Summary:

The material that follows is informed by the present legislation in Victoria and VANISH's experience in providing services to persons who have been raised in settings where at least one consanguineous parent was not present.

Our key findings are:

- The donor-conceived and adopted persons have many post-separation issues in common.
- The access to identifying information, irrespective of time-lines, is a right which should be bestowed upon all members of families who have undergone separation by adoption and/or donor conception.

- Access to information has direct links to identity (confusion, where not allowed and settlement when available and utilized), connection and potentially, to personal well-being.
- Separation from family results in loss and the associated grief responses, the influence of which can be diminished through counselling. Victoria has not allocated funding for what we consider to be this essential service.
- VANISH has more than twenty years of experience in providing search and support services to families who were separated either prior to birth, at birth or soon afterwards; the organisation is well placed to offer search and support services to donor-conceived people.

About VANISH:

When Victoria took the lead within Australia to amend adoption legislation, the Bill proposed equal access to the adopted person and the birth family for the release of identifying information. However, adoptive parents (many of whom had not informed their children of their adoption) were concerned that this would reveal the truth about their children's origins. They were opposed to this measure and wanted a veto enshrined in the Act, which would have prohibited either party from gaining identifying information and/or making contact. Adopted people and relinquishing parents opposed a veto and a compromise was reached. This allowed adopted persons access to identifying information, but withheld it from birth families. Birth parents believed that this would be a short term arrangement, which would be reversed once adoptive parents realised the benefits that would accrue for their adopted adult children as the result of learning about their genetic origins and meeting their birth families. Twenty-six years later, this anomaly is still to be redressed.

Victoria is now the only Australian state that selectively prevents birth families from obtaining identifying information about the children they have lost to adoption. In all other jurisdictions adopted persons and their birth family have equal rights to access identifying information.

Just as a critical group ie birth parents within the adoption community has suffered discrimination as the result restrictive legislation, so for the children of donor conception there is a hurtful sense of injustice that arises from the fact that at present, some are able to know their biological origins and some are not. It all depends on when the gametes were donated. This is cruel and arbitrary:

- If you were conceived from gametes donated up to 1988, you can't get identifying information about the donor parent.
- If you were conceived from gametes donated between 1989 and 1998, you can't get identifying information without the consent of the donor parent.
- If you were conceived from gametes donated from 1999 on, you can of right get identifying information about the donor parent.

We at VANISH hold that this is an appalling, inequitable state of affairs.

The case for VANISH:

VANISH was established as the result of the demand for a dedicated search and support service, which emerged from the implementation of the Adoption Act 1984. Since 1989, we have conducted thousands of searches, which have resulted in birth family members establishing contact. Over more than twenty years, VANISH has developed search and support expertise. We are the resource to which the Adoption and Records Service of the Department of Human Services habitually refer their adopted person clients.

Initially, VANISH's skills were applied to the adoption community; in the first decade of the 21st century, the scope of our service provision also included former wards of state (commonly known as Forgotten Australians). Today, VANISH provides search and support services for adopted persons, support for other members of the adoption community (as allowed by the Adoption Act 1984) and, under a contract arrangement with *Open Place*, family searches on behalf of Forgotten Australians.

To embed what we have learned and for the sake of service consistency and continuity, VANISH has developed two comprehensive inhouse manuals, one for Search and the other for Support. The emphasis in both documents is on resources and process. The key principles and practices, bearing in mind the specific legislated restrictions, are common to searches and support for members of the adoption, donor conception and Forgotten Australian communities. Thus, VANISH is well placed to extend the present scope of service provision to embrace the donor-conceived.

Learning from adoption practices:

Research and personal experiences have shown that donor conception and adoption share common characteristics, viz:

- For many years, donor and adoption practices throughout the world were dominated by the belief that secrecy was paramount to protect all parties to the arrangement; the donor, the parents and the person born. This belief was based on myths: that birth parents and donors would not want to be contacted, that the parents who raised the children would not want to know more about their donor or, in the case of adoption, the birth parents, and that donor-conceived people and adopted persons would not want information about their donors or birth parents if they really loved their parents. It is now understood that it is very normal for donor-conceived and adopted people to want to know more about their donors and birth parents. They are often interested to learn more about their medical history, cultural background, personality and appearance, and to settle identity issues.
- Social parents often fear that their son or daughter may reject them if they have contact with their donor or birth parents. This is not the case and in many cases the adult child's relationship with them can be strengthened by the contact with their donor or the birth parents, particularly if the parents who have raised the child support them through the outreach. It is healthy and normal for an adult child to be curious about their donor or their birth parents.
- The emotional consequences of adoption and donor conception are not widely understood by the community. There is a tendency to think that these practices are done with the best of intentions, or that they happened a long time ago, or that all persons involved are beneficiaries.

- Being contacted by someone you are genetically connected to but have never met before is emotional for all concerned. Everyone usually feels quite nervous and anxious and unsure how to proceed without offending the other person. It is also common to feel anxious that you won't live up to the expectations the other person might have about you.
- Contact affects not just the people directly involved but their families and partners also. It may answer some questions, but is also likely to give rise to changes. Change usually means stress; even if the change is a very positive one.
- The reality is that however well-intentioned adoption and donor conception might be, they have consequences for the parents and children concerned. The impact of loss does not evaporate; indeed research has shown that with the passage of time, the emotional pain may increase. These effects go to the heart of our human nature: the deep need to be connected to our biological origins and to our offspring.
- No matter when the adoption or the donor conception occurred, for many participants the grief and sense of loss is a here-and-now burden. For the children who grew up without connection to, or knowledge of, their family of origin, there are profound issues of loss and identity confusion.
- Knowledge about the other party is a basic human right and should not be compromised by the wishes of either party, if they do not want to be contacted. All those involved are adults and those not wanting contact can simply make their wishes known. Not wanting contact is insufficient reason for either party to be denied information about the other.

The availability of counselling – a shared concern:

The life-long impact resulting from the separation at birth has been referred to by one author as 'the primal wound'. No specific funds have been allocated by any Victorian State Government for the provision of counselling services for people with an adoption experience, despite the desperate need for post-adoption grief counselling. Given the guilt and grief reported by many birth parents and the sense of abandonment and rejection often felt by adopted persons, there is a need for funded professional counselling services to be made available to those with an adoption experience. This practical assistance will help alleviate the negative outcomes associated with adoption. This counselling needs to be ongoing and provided by appropriately qualified grief counsellors.

Persons with donor conception experiences have recorded similar emotional issues, which may be alleviated by counselling. Alone among the mainland States, Victoria makes no provision for counselling for people involved in adoption, and in 2010 the government dismantled the counselling available to donor-conceived people, as a by-product of administrative changes in the Department of Human Services. Recently, VANISH made representations to government of behalf of its adoption and donor-conceived clients, seeking access to state-funded counselling services. We received a formal response advising that the Victorian government is unable to allocate this funding.

Identity, a key separated from family of origin issue:

The following is extracted from material about the impact of adoption. It is equally applicable to the donor-conceived.

The pursuit of knowledge about your roots is a natural and productive activity.

“The activated search provides an important psychological function for some people: it allows them to gain control over forces over which they previously had no control. Many adoptees complain about feeling subject to the vicissitudes of a capricious fate – that they were put up for adoption in the first place, adopted by a particular family, denied information about their past. Searching can bring the locus of control from ‘out there’ to ‘inside’ themselves. It allows the adoptee to experience the self as capable of acting rather than being acted upon – a major factor in establishing a healthier identity” (Brodzinsky *et al* p142).

Because it has at its heart what we think of ourselves, identity is a bridge that spans separation and healing. It governs how we react to loss and it affects the degree to which we recover from that misfortune.

For an adopted person, the separation of birth parent and child may result in bewilderment about their heritage. Birth parents may feel uncertain about what it means to be a mother or a father. These are issues related to how people view themselves. During the integration phase, awareness, self-responsibility and the will to advance can be employed productively by family of origin members, to help each understand what it means to be an adopted person, a birth mother or a birth father. Those who choose to be proactive often report that they feel better about themselves.

Identity confusion

As pointed out by Brodzinsky *et al*, “The search for self is universal and ongoing ... Our sense of who we are is influenced by every experience we have; it’s changed each time our life circumstances change” (1993, p13). It is not only the major events such as birth, death and marriage, and for those so affected, adoption, but also the summation of lesser happenings, such as each compliment or rejection, achievement or failure that add to how we feel about ourselves. Brodzinsky *et al* continue: “... adoptees have a particularly complex task in their search for self. When you live with your biological family, you have guideposts to help you along. You can see bits of your own future reflected in your parents, pieces of your own personality echoed in your brothers and sisters. There are fewer such clues for someone who is adopted” (*ibid*). ‘Genealogical bewilderment’ is a term that is sometimes used to describe this dilemma. Jayne Schooler (1995, p166) reports on work by Brodzinsky, in which he points out that we have different identities in different contexts, *eg* an occupational identity, a religious identity, an identity as the member of a family, etc. An individual integrates these various aspects of the self, including elements related to family. For an adult adopted person, there is a complication, for they have three families – one that they know, and two, the families of the respective birth parents, that they do not know. Lifton notes that in order to survive family complexities, adopted persons assume dual identities.

“Early on they get the message that they cannot grieve for their lost kin but must commit themselves to the identity of the adoptive clan if they are to keep the adoptive parent’s love. Already abandoned by the birth mother, the child feels no choice but to abandon her, and by so doing, abandon his real self. This early potential self that is still attached to the birth mother is unacceptable to the adoptive parents and, therefore, must become unacceptable to the child ... The child forced to give up the real self cannot develop feelings of belonging ... Adopted children often try to shut out the subject of adoption. This means that they must separate one part of the self from the rest of the self” (2002, p210).

Within the adopted child, Lifton identifies

“... the Artificial Self and the Forbidden Self, neither of which is completely true or completely false. The Artificial Self seems like the perfect child because she is so eager to please. She is

compliant, puts everyone's needs before her own, and suppresses her anger. But deep inside she feels like a fake and an imposter, feelings that may overwhelm her as an adult. Having cut off a vital part of herself, she sometimes feels dead. The Forbidden Self is more difficult. Refusing to please, he becomes oppositional, often acting out antisocially as a way of feeling alive. An adoptee may switch from one self to the other during various stages of the life cycle. The perfect child may express her or his anger in adulthood. And the Forbidden Self may eventually become a dutiful son or daughter" (*ibid*).

Verrier terms these coping strategies the False Self – defence mechanisms employed by the child to deal with the loss of the part of their Self that was wounded before he or she began "to separate [their] own identity from that of [the] mother, ... leaving the infant with a feeling of incompleteness or lack of wholeness" (1993, p38).

For adopted persons, there is another layer that adds to the complexity. The issuing of a second birth certificate, which replaces the names they were given at birth with new names, teaches adopted persons that their identity can be discarded. As Robinson points out, "Giving them a 'new' (*ie* false) identity suggests to them that who they actually are is unacceptable and must be hidden" (2004, p189).

Within adopted families, not belonging may be obvious.

"Often an undeniable fact that an adoptee does not resemble family members stimulates intense feelings of aloneness. Steve Harris, for example, did not look anything like his family. 'I would go to family reunions and everyone was tall and thin and I was short and stocky. They had dark complexions and I was much lighter ... I would spend a week with people who were supposed to be family, but we didn't have anything in common. I looked different. My personality and temperament were different. I would come home feeling like I didn't belong' " (Hochman *et al*, 1998, p12).

Samantha, in *issues*, Number 13, of January–March 1999 speaks of a similar experience. "I used to ... get up in the morning and look at my face [in the mirror], then go and have breakfast with people that seemed to be total strangers. I guess that ... I never felt as though I really belonged. Not just because of my looks, but everything about me" (p16). Samantha then reveals the breakthrough: "At the age of 20, I found my uncle; the minute he opened the door he knew who I was." Later she meets her birth mother. "I could see physical resemblances ... the same coloured skin and hair, and the extroverted personalities ... I had found a very big part of myself to identify with" (*ibid*).

Identity settlement

Because taking ownership of one's actions, whether or not it results in reunion, has an impact on how an individual perceives himself or herself, both personal and interpersonal recovery can have an impact on the sense of identity.

Schooler (1995) records the reactions of adopted persons: "Because of our reunion, my life is richer and fuller" (p190) and "Searching felt like the biggest risk I've ever taken in my life, yet I couldn't be complete without knowing" (p191). Robinson (2004) includes a personal message from her son, in which he writes, that as a result of reunion, "I personally feel much more whole. I now have a fuller understanding of my origins and therefore of who I am." Mary Keller states "Connecting with my birth family has given me a sense of completion ... and the knowledge of my own story" (Blau, 1993, p100). These individual comments by adopted persons reinforce the conclusions reached by others. Brodzinsky *et al* note that "the consolidation of identity" is an important outcome of searching (1993, p145). Marshall and McDonald (2001, p245) record that, from an Australian study of the reunion experiences of adopted persons, identity issues, related to "the knowledge they had gained about themselves and their family

background” emerged as a critical factor. Stephanie Mello, in Blau (1993) summarises the benefits of identity settlement for adopted persons – “to help [them] understand themselves better, to feel stronger and more confident” (p29).

Conclusions

- Adoption and donor conception have common issues, particularly on the matter of access to identifying information and the impact of being separated from consanguineous family members.
- The experiences of the adoption community can be applied usefully to donor conception.
- The present legislation in Victoria, as it applies to the donor-conceived, is discriminatory and unjust.
- The present non-availability of government funds for counselling services requires urgent review.
- VANISH is well placed to provide search and support services to the donor-conceived.

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Gary Coles

Manager, on behalf of the Committee of Management