

Donor conception in Victoria Rights of all parties

By Louise Johnson, Tracey Setter and Helen Kane

Victoria was one of the first places in the world to introduce comprehensive legislation to regulate the use of assisted reproductive technology (ART). This included the implementation of donor registers to record the details of donor-conceived children, their parents and their donors. Over 4,000 children have been born using donor eggs, sperm or embryos since the legislation was introduced.

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In Victoria, legislation passed in 1984 and enacted in 1988¹ means that 18 year olds who were conceived using donated sperm, eggs or embryos can seek identifying information about their donors, with the donor's consent. Parents can also apply for information about the donor if their child is under 18 years of age. This enables parents to gradually provide information about the donor to children as they become older and more curious. Contact established between parents and donors varies enormously, ranging from exchange of cards and letters, to email communication, to direct contact. This means children do not need to wait until they turn 18 to learn something about their donor.

By the end of 2008, around 600 donor-conceived young adults affected by the legislation will be eligible to apply for information about their donor. All applications for identifying information are made to the Infertility Treatment Authority (ITA), an independent statutory authority that regulates the provision of ART in Victoria. The ITA manages all registers relating to donors and children born using donated sperm, eggs or embryos.

The rights of children were strengthened with revised legislation in 1995.² From 2016, those born under this legislation will begin to turn 18. They will be able to apply for identifying information about their donor and receive this without the requirement of further consent.

Victoria is the only jurisdiction in the world where egg, sperm or embryo donors can also apply for identifying information about the children their gametes helped to conceive.

This information can be provided with consent from either the recipient parents (if the child is under 18 years) or once

the young adult has reached 18 years of age.

Research conducted by the ITA³ has found that parents want to tell children of their origins, but are afraid or unsure how to do it. Young adults also feel that it is crucial to be able to obtain information about their donor, as this is an important part of their identity jigsaw.

TIME TO TELL

It is thought that, in Victoria, only between 30 and 50 per cent of donor-conceived children know the facts surrounding their conception. Now, young adults may find out about their conception if contacted by the ITA, following a request from a donor for identifying information. This situation highlighted the need for a major education campaign.

The three-year public education campaign, *Time to Tell*, was developed to help families manage the impact of this legislation. The *Time to Tell* campaign encourages families with children born using donated sperm, eggs or embryos, to consider the issues and benefits of telling their child how they were conceived and provides them with information about how they might do this.

Over the last three years, the ITA has found that its website has enabled people to obtain information and support with 'telling' in a private way, and the level of activity has increased in each year of the campaign. In the year to July 2008, there were more than 71,000 hits on the ITA website, the majority from people seeking information and resources on 'how to tell' their children they were conceived using donated eggs, sperm or embryos. A spike in applications for information to the donor registers has also occurred with each bout of media activity. >>

Donors have also received support on how to tell their families about their donations. Many parents have contacted the ITA, reporting that telling their children that they were donor-conceived was a positive decision. Some parents have made the ITA aware of their decision not to tell their children that they are donor-conceived, so that any enquiring donors can be advised that the child is unaware of their origins. This can be taken into account in the donor's decision about whether to proceed with an application for identifying information.

IMPACT ON DONORS

Across Australia, the Reproductive Technology Accreditation Committee of the Fertility Society of Australia's guidelines⁴ state that clinics can only use donors who consent to identifying information being available to any children born as a result of their donation. Donors are counselled about the implications of the legislation and guidelines before they donate sperm, eggs or embryos.

The enactment of legislation in Victoria means that the identity of donors can some day be sought and has had some impact on the number and type of donors. People who are now willing to donate often have families themselves. An increasing number of donors in Victoria meet recipient parents before conception takes place, and they take into consideration that contact with offspring may occur in the future. Recipient parents as well as clinics are often involved with the recruitment of donors.

However, it is not only legislation that has had an impact. The introduction of intracytoplasmic sperm injection (ICSI), a technique that involves injecting sperm directly into an egg, means that couples can now receive infertility treatment without needing to use a donor.

IMPACT ON PARENTS, CHILDREN AND YOUNG ADULTS

At least one child in every classroom will have been born through the use of ART. Some of these children will have been conceived with the help of donor eggs, sperm or embryos. In the 1980s, parents may have been advised to maintain secrecy, but current evidence-based professional practice promotes openness and disclosure. Families are often struggling with long-held secrets and are looking for support about how to tell their children. The ITA has found that sometimes infertility is not discussed within a relationship once a child is born, and that secrecy can become a burden that can impact on a family. The ITA provides support for families dealing with these issues and deciding whether and how to tell their children that the family was formed with the help of a donor.

Given that donors can now apply for identifying information about the child, the need for parents to consider disclosure is even greater.

Today, a trend towards open disclosure means that sometimes parents and donors meet prior to conception, or when children are small, so that being donor-conceived is something that is always known.

People who apply for information from the donor registers report that they have been prompted by the media, the internet or the ITA website, or referral from clinics. Public education and information is an important strategy for the ITA in providing information to all parties about their rights and how the legislation affects them.

The increase in applications for information from the donor registers has largely come from parents and donors. In the adoption sector, young adults often wait until their mid-20s before making applications for information.⁵ The ITA is beginning to receive applications from young adults who know that they are donor-conceived.

Public education and information is further supported by donor register services within the ITA. The availability of counselling has been crucial to the successful implementation of the service. Education and information provided to the community have led to individual decisions to apply for information from the donor registers. The process involves the ITA's counselling staff members, who work with all parties concerned and facilitate exchange of information or contact.

The use of a sperm, egg or embryo donor can provide challenges for families in dealing with feelings about infertility. Fears about the impact on family relationships can create tensions around the rights of the various parties to access information. Sensitive administration of legislation that facilitates contact between the parties involved with donor conception is required.

What ultimately underpins the legislation and the work of the ITA is concern for the best interests of the child. ■

- Notes:** **1** *Infertility (Medical Procedures) Act 1984 (Vic)*. **2** *Infertility Treatment Act 1995 (Vic)*. **3** Infertility Treatment Authority, 'Telling about donor-assisted conception: interviews with donor-conceived adults, parents and counsellors', May 2006, ITA website. **4** Reproductive Technology Accreditation Committee, (2005) 'Code of Practice for Assisted Reproductive Technology Units', *Fertility Society of Australia*, Melbourne, Australia. **5** Personal communication, Adoption and Family Records Service, Department of Human Services, Victoria.

This article provides an update of the information contained in the following previous publications:

Johnson, L and Kane H (2007) 'Regulation of Donor Conception and the "Time to Tell" Campaign', *Journal of Law and Medicine*, Vol. 15, No. 1.

Johnson, L (December, 2006) 'Donor Conception in Victoria, Australia'. *Science and Public Affairs*, British Association for the Advancement of Science, p21.

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