

APPENDIX 1

Donor conception – state and territory legislative regimes and access to information

(based upon table provided by Dr Sonia Allan, *Submission 30*, pp 7-9)

State	Legislation/Regulation/ Guidelines	Access to Identifying and Non-Identifying Information	Voluntary Register
Western Australia	<i>Human Reproductive Technology Act 1991</i> (WA)	<p>Compulsory Register: Identifying Information</p> <p>People conceived after 2004 may access identifying information about their donor when they turn 16 years of age.</p> <p>People conceived prior to 2004 may access non-identifying information that is held on the register (noting that information has only been held on the central register since 1993). Many people will have to approach the clinic involved in their conception and access to information will depend on clinic's record keeping and policies.</p>	<p>Voluntary Register: A 1999 report reviewing the Act considered that donor offspring should be able to obtain information about their origins, including identifying information. Consequently, a voluntary register exists to facilitate the exchange of identifying information. Such information is entered on the Voluntary Register if a person completes a properly signed and witnessed written registration form. Access is based on the mutual consent between donors and donor conceived individuals.</p> <p>Related donor conceived offspring may also have access to identifying information about each other if they have all consented. This may be done without identifying the donor.</p>

Victoria	<p><i>Assisted Reproductive Treatment Act 2008 (Vic)</i></p>	<p>Mandatory Registers: maintained by the Victorian Registry of Births, Deaths and Marriages.</p> <p>Date of consent of the donor determines which register information is held on, and therefore access to information:</p> <p><u>1984 Central Register: <i>Infertility (Medical Procedures) Act 1984</i></u>. Information that identifies any person may only be released with the consent of the person about whom it relates.</p> <p><u>1995 Central Register: <i>Infertility Treatment Act 1995</i></u>. Donor consented from 1 January 1998 onwards. Information that identifies the donor is available when donor conceived person turns 18 years of age – subject to counselling requirements. The donor conceived person must consent to information being released to the donor if it is requested.</p>	<p>Voluntary Registers: Voluntary registers have been set up to enable information to be exchanged by people not governed by the legislation. There were two registers kept when held by the former Infertility Treatment Authority:</p> <p>*Post-1988 Voluntary Register</p> <p>*Pre-1988 Voluntary Register</p> <p>However, Victorian Registry of Births, Deaths and Marriages now only refers to 'the Voluntary Register'.</p>
New South Wales	<p><i>Assisted Reproductive Technology Act 2007 (NSW)</i></p> <p>Assisted Reproductive Technology Regulation 2009 (NSW)</p>	<p>From 1 January 2010, identifying information is held on a register maintained by the NSW Department of Health. Individuals conceived after commencement may access this information when they turn 18 years of age.</p> <p>Those conceived prior to 1 January 2010 need to contact the clinic in which they were conceived for non-identifying information (if such records still exist).</p>	<p>A voluntary register is also to be maintained by the NSW Department of Health. Information will only be disclosed in accordance with the consent of the person who has entered information upon the register.</p>

<p>South Australia</p>	<p><i>Reproductive Technology (Clinical Practices) Act 1988 (SA)</i></p>	<p>South Australian legislation and regulations require record keeping. While there is no right to access identifying information, such access is possible if all parties consent. However, there is no central register that holds this information, and donor conceived individuals must contact the clinic/hospital/surgery where they were conceived. Donor conceived individuals may access non-identifying information when they reach the age of 16, but again this is reliant on information actually being held by clinics.</p>	<p>None – the Act provides that the Minister may keep a register (these provisions commenced on 1 September 2010).</p>
<p>Queensland, Tasmania, Northern Territory and Australian Capital Territory</p>	<p>National Health and Medical Research Council <i>Ethical Guidelines on the Use of Assisted Reproductive Technology in Clinical Practice and Research</i> (2007) and RTAC certification</p>	<p>6.1.1 Clinics should help potential gamete donors to understand and accept the significance of the biological connection that they have with the persons conceived using their gametes. Donors should be advised that the persons conceived are entitled to knowledge of their genetic parents and siblings.</p> <p>6.1.2 Clinics should help prospective recipients to understand the significant biological connection that their children have with the gamete donor. Recipients should be advised that their children are entitled to knowledge of their genetic parents and siblings; they should therefore be encouraged to tell their children about their origins.</p> <p>6.1.3 Working with relevant professional organisations, clinics should use forums for public information to encourage people who were donors before the introduction of these guidelines, and those previously conceived using donated gametes, to contact the clinic and register their</p>	<p>None</p>

		<p>consent to being contacted by their genetic children or genetic siblings and half-siblings, respectively.'</p> <p>There is however no evidence that the guidelines are implemented and no oversight of clinics with respect to ensuring identifying information is made available.</p> <p>Donor conceived individuals must contact the clinic to see if they hold any information (non-identifying) and whether they will release that information.</p>	
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