

Options for prospective lesbian parents



When a lesbian couple or single woman starts thinking about trying for a family, there are lots of issues to consider. Many relate to how you conceive: clinic-recruited or known donor, or are you interested in co-parenting? If you choose a known donor or co-parent, what role might he (and perhaps his partner) have in your family life? Would you consider fostering?

Thinking it through

Many factors will influence the decisions you make. The main ones fall into two groups: the relevant laws, and your personal values and circumstances. Below we touch on some key points to consider. In the following sections we outline what is involved with various options for attempting conception, look at how parentage is recognised, list issues to consider when making agreements with known donors and co-parents, and briefly discuss what can happen if relationships break down. We finish by mentioning fostering – another option for welcoming children into your family.

This kit makes many references to what might happen if relationships break down, whether between couples, between parents and donors, or between co-parents. This is not because conflict is necessarily more likely to happen in rainbow families than in any other. It is because this is what much of family law, in particular, is about: what should happen if things go wrong.

However, it is also important to acknowledge that while same-sex parents have been successfully raising children for decades, our diverse family formations are in many ways still relatively new, and the law is still coming to terms with them. As a result, parents, co-parents and donors can be vulnerable to confusion and differing expectations, which can sometimes contribute to conflict. Every family has issues to talk through from time to time, but only a tiny proportion need to attend mediation or family court. Nevertheless, it is critical to understand and talk through the implications of the relevant laws, not least because it might influence how you go about creating your family.

All that being said, having children is one of most wonderful, heart-expanding experiences in the world, and we wish you the very best with your journey!

Victorian and federal laws

The Victorian *Assisted Reproductive Treatment (ART) Act 2008* (in effect since 1 January 2010) gave lesbians and single women equal access to fertility services without the need to prove ‘medical infertility’. In particular it opened up access to donor insemination using clinic-supplied donor sperm, or stored and screened sperm from your known donor or co-parent.

In addition, the ART Act recognised lesbian couples as equal legal parents of their child/ren, provided they were in a ‘domestic partnership’ (the Victorian legal equivalent to what federal law calls a ‘de facto’ relationship, although the criteria might differ slightly) and the non-birth mother consented to the ‘treatment’, including home insemination, that resulted in conception. If you conceive with a donor (known or clinic-recruited), he is presumed **not** to be the child’s father, unless you conceived through sex with him. Victorian law also protects children’s right to information (stored by the Victorian Registry of Births, Deaths and Marriages) about their donor at age 18, or earlier with parental consent or once assessed as sufficiently mature by a counselor.

When considering your options for donor conception, it is important to know how family law works in Australia. You will be your child’s legal parents, but anyone with ‘an interest’ in a child’s welfare (such as a grandparent, step-parent or known donor) can apply for a court order creating contact or other arrangements with regard to the child. You can make your own written agreement with your donor about issues like how much time he spends with the family, and we recommend that you do. But these agreements are not legally binding, should there be a dispute. You cannot make a legally-enforceable contract or agreement (written or verbal) about a child.

A court will always act in what they consider a child’s best interests. They cannot change the legal parentage of a child (except in the case of surrogacy and adoption) but if they consider it in a child’s best interests, they could grant contact, and in some cases even some parenting responsibilities, to a donor.

The situation for women who choose to co-parent with a man (and his partner if he has one) is potentially even more complex – see below under ‘Legal parentage and other roles’ in this information sheet.

Your values and circumstances

Only you can decide how to create your family. Personal values and circumstances play a big role. Who do you think should be involved in raising children? Do you know a man suitable to ask? Do you think children should ideally grow up having a relationship with the man who contributed to their genetic makeup, or are you happy with your child being able to contact him, if they want to, at age 18 or earlier?

Some women want to welcome others into helping raise their children, and decide to explore co-parenting. Some women decide to welcome a known donor (and his partner, and perhaps his extended family) into their lives, with contact varying from occasional to significant time together. Many start with an agreement to minimal contact, but an openness to seeing (and a process for deciding) where the journey might lead them. See below under ‘Known donors: making decisions and writing agreements’ for some issues to consider.

Other women decide that they don’t want to bring other adults into their family – that one or two loving mothers (and any extended family) are all the family their children need. Some decide this because they do not know a man who is suitable, with whom they have a close or trusting enough relationship. Some women ask the brother of the intending non-birth mother.

Any of these decisions is legitimate. The most important thing is that you base your choices on your own values. Try not to let fear – of what might happen, or of what other people might think – dictate this critical life decision. In particular, try to challenge the idea (even within yourself) that ‘all children need a mother and a father’. Three decades of rigorous Australian and international research show that children of same-sex parents are not disadvantaged, and are in some ways – such as in their capacity for empathy – better off! See below under ‘Known donors: making decisions and writing agreements’ for more issues to consider.

Lesbians have been creating and raising families in many ways for many years, and will continue to do so. Victorian children of lesbian couples now have legal equality. Social attitudes have also improved immeasurably, and this is increasing as our numbers and diversity grow.

That old biological clock

Another issue for women to consider is that of fertility and their age. It is important to be aware that women’s fertility decreases at a sharp rate after the age of 35.

Although some women do conceive after age 40, others cannot. There are also a variety of other reasons why conception might not be as straightforward as you hope, or might not even succeed. If you are a couple and one of you cannot conceive, hopefully the other can. However we strongly advise that you do not delay trying for a family for too long (while certainly not rushing processes like finding the right donor), or seeking further medical advice if conception is proving difficult.

Conception with a clinic-recruited donor

First steps

If you decide to attempt conception with a clinic-recruited donor, your first step will be to visit your GP for a referral to a fertility clinic. If you can (for example through a support group such as Prospective Lesbian Parents – see the ‘Resources and links’ information sheet) ask around about which specialists have experience working with same-sex couples.

Before receiving fertility services, Victorian law requires all potential clinic patients to go through a number of procedures (the clinic will assist you with these):

- a police check, to ensure neither of you has ever been convicted of a violent offence or charges have been proven against either party in relation to a sexual offence
- a child protection order check, to ensure neither of you has had a child removed from your care, and
- clinic counselling, to ensure you both understand the implications of donor conception and consent to the procedures involved.

An overseas police check is required if either party has resided overseas for a consecutive 12 month period in the past 10 years. There is a presumption against treatment for anyone who does not pass the police and child protection checks and treatment must not be provided. If barred, you can appeal to the Patient Review Panel, and subsequently to the Victorian Civil and Administrative Affairs Tribunal.

The intending birth mother is also required to undergo a series of medical checks, including basic fertility checks and blood tests, including for HIV.

Choosing a clinic donor

Since the ART Act passed, some clinics have recruited new donors, including gay donors. A maximum of ten women (not families) may conceive with each donor, which can disadvantage couples hoping to both be birth mothers using the same donor. If this applies to you, let the clinic know; they are likely to try to help you to select a donor with whom this will be possible.

Clinic-recruited donors are health screened, counselled and give consent to the use of their sperm, to relinquishing all parenting rights to any child/ren conceived, and to releasing of their identity to the child at age 18, or beforehand with parental permission or if the child is assessed as sufficiently mature by a counsellor. The donor's consent for use of their sperm lapses after a maximum of ten years, or earlier if specified by the donor. You might be able to import sperm from overseas or interstate sperm banks, provided it meets the requirements of Victorian legislation: that it was not obtained commercially, identifying details of the donor are available, and the donor has been counseled by a counsellor providing services for a registered ART provider. You need permission from VARTA to import sperm – see www.varta.org.au for more information about the guidelines for import or export of donor gametes (egg or sperm) or donor-produced embryos.

Options for attempting conception

The recent reforms gave equal access to lesbian couples and single women to a range of fertility treatments in Victoria, without being 'medically infertile'. For many women, attempting conception at a clinic will probably begin with simple fertility testing, tracking of your cycle and intra-uterine insemination, or IUI. If, however, you are older (generally 40 or above) or have compromised fertility for some other reason (diagnosed, or unknown but demonstrated by previous unsuccessful conception attempts) the clinic might recommend further testing and treatment, such as via pharmaceutical support for ovulation or IVF (see below under 'When insemination is not working'). If you begin with IUI but are unsuccessful, the clinic is likely to recommend testing and further treatment. Some women require the services of a surrogate to have a baby. Please refer to the information sheets on 'Options for prospective gay male parent' (who are more likely to use surrogacy) and 'Options for prospective sperm donors, egg donors and surrogates' for more information.

Your child/ren's donor information

A guiding principle of Victorian law is that all donor-conceived children have the right to know their biological origins. Historically, same-sex parents have tended to be much more open about their children's donor origins than heterosexual parents. After all, same-sex parents clearly require some assistance to conceive their children!

The Victorian Registry of Births, Deaths and Marriages (BDM) is responsible for registering information about children's births and their donor information. If you conceive via a Victorian clinic, they will pass on the donor information to BDM. Please refer to the information sheet on 'Donor information and registers'

for information about how your donor information is lodged, stored, managed and released.

Contact before age 18 and the legal status of donors

The Victorian *Status of Children Act*, and the federal *Family Law Act* establish that a donor is not a legal parent. In the case of the federal law, this applies when conception occurred there was an 'other intended parent' – see below for what this could theoretically mean for single women. The ART Act also says that clinic donors can obtain identifying information about children conceived using their sperm once the child is over 18, but consent is required from the parent before the child is 18, or donor-conceived person once they are 18, before the donor can receive this information. Non-identifying information can be released to all parties without consent. Identifying information about the donor can be released to parents with donor consent, and to the child without consent once the child turns 18, or beforehand with parental permission or if a counselor assesses them as sufficiently mature.

Some parents want their children to have the option of finding out about and/or contacting their donor before 18 if they wish. You may also be able to contact other families who used the same donor. Research indicates that some donor-conceived children are very interested in this information in their early teens or even younger. Some families have made such contact, to their children's benefit.

It is important to know the possible legal ramifications of having ongoing contact with a donor. Most (but not all) clinic-recruited donors are happy to meet, if a child or family wishes. Some are not interested in ongoing contact. Some might want to have ongoing contact, and you might also want that. If not, and it came to a dispute in court, it is possible that a court would grant the donor some contact with your child. It is important to know how family law works in Australia. You will be your child's legal parents, but anyone with 'an interest' in a child's welfare (such as a grandparent, step-parent or known donor) can apply for a court order creating contact or other arrangements with regard to the child.

The issue is potentially more complex for single women. Since the recent reforms, Victorian law, in the *Status of Children Act*, is very clear that a donor is not a father or parent. However both Victorian and federal law come into play, should there be a dispute. The federal *Family Law Act* is 'silent' on the question of donors to single women, only severing the parental status of donors where there is an 'other intended parent'.

If you had contact with your donor, he might, if a dispute reached court, seek to be recognised as a legal parent. It is yet to be tested what a court would decide if this

was the case. This does not mean that a court would grant your donor parental responsibilities, especially if he has never had them. Legal parentage is only one factor in a court's decision about issues like who should have contact with, live with and make decisions for a child. However, it is possible that even if a court did not grant parental status, they might grant your donor some contact with your child should he seek it. We highly recommend you seek legal advice on this issue.

While you need to be aware of the relevant laws should there be a dispute, it is also important to recognise that the motivations of clinic-recruited donors are very altruistic, and they are, in practice, very respectful of the wishes of parents and donor-conceived people.

Conception with a known donor or co-parent

Options for attempting conception

If you choose to conceive with a known donor or co-parent, you have three options for attempting conception: home insemination using fresh semen; home insemination using screened, stored sperm; and clinic-based insemination using screened, stored sperm.

Home insemination with fresh sperm

One advantage of home insemination with fresh semen is that it is free, apart from the costs of health screening. Fresh semen has a higher sperm count and lasts longer (inside your body) than frozen. Using it often means you can attempt conception over a number of your fertile days during one cycle, further increasing your chances of conception. There is additional information about techniques for successful home insemination in the resources listed at the end of this information sheet; they can really make a difference, so find out everything you can before you begin, including from other women.

Your donor/co-parent should be tested for gonorrhoea, chlamydia, HIV, syphilis, Hepatitis B and Hepatitis C and CMV (cytomegalovirus), plus blood group and antibody tests. It is also worth him having his sperm tested before you begin, as problems are not uncommon. All of these tests can be arranged by his GP. If he has problems with his fertility, this does not necessarily mean he cannot be your donor/the biological co-parent, but you are unlikely to succeed with home insemination. A fertility specialist can tell you what are options are.

The prospective birth mother should also have the recommended pre-pregnancy checks, including a pap test and HIV, rubella, blood group and antibody tests. Talk to your GP for more information about these and other aspects of preparing for pregnancy, including understanding your cycle and the timing of ovulation. Find out as much as you can about other aspects of successful home insemination. See the resources

suggested at the end of this information sheet. You can do much to support your chance of conception; for example, there is good evidence that specialist acupuncture can help.

Some women choose home insemination because it is less medical and more private. But if you use fresh semen, the logistics can be challenging, as semen should be used within an hour of (but not straight after) ejaculation. Using fresh semen may also be less safe if your donor has had any risk of infection since his last screening test. It can be challenging to talk to your donor about repeating his screening tests if he or his partner have had any risk of infection, but it is critical that you do so, as there are implications for your own health and that of the baby. These issues, along with lack of availability of the donor/biological co-parent are the main reasons why people choose to use frozen sperm from their donor instead.

Home insemination with screened, stored sperm

Melbourne IVF Clinic also offers a service where your donor/co-parent can donate his sperm to you through the clinic, which then provides you with his screened, stored sperm for home insemination. The clinic will conduct all health checks, quarantine the sperm for six months (to cover the 'window period' for HIV testing), and provide frozen sperm for you to take home. You can still inseminate at home, but do not have to coordinate with your donor/co-parent, or ask him to update his screening tests. This option means becoming clients of a clinic – see above for procedures (including checks, counseling and consents) involved. It also costs (approximately \$1000 per cycle at the time of writing), especially as Medicare does not cover fertility services not medically required. Contact the clinic for details.

Your donor/co-parent (and his partner, if he has one) will undergo clinic counseling both with, and separate from you. He will fill out questionnaires about his medical background, see a medical specialist, and give consent to the procedures involved. The law no longer requires the donor's partner to give their consent as well, although some clinics may require this, because openness about the process with all members of the donor's family is now widely recognised as important to a good outcome for them. Some counsellors will also take you through issues around your donor/co-parent's (and his partner's) potential role in your family life. See 'Making an agreement', below, for an outline of such issues.

Clinic-based insemination with screened, stored sperm

The third option is clinic-based insemination using your donor/co-parent's sperm. Aside from the advantages related to health screening and not having to coordinate with your donor/co-parent, this option means the clinic will conduct some basic fertility tests, and help track your cycle. A clinic can also do 'intra-uterine'

insemination, inserting sperm directly into your uterus, which increases your chance of conception (but is not safe to do at home). However, Medicare will not cover clinic-based insemination unless there is a medical reason (such as trouble with ovulation).

Note that Victorian clinics can screen and store your known donor/co-parent's sperm even if he lives interstate or overseas. You may be able to get permission from VARTA (the Victorian Assisted Reproductive Treatment Authority) to 'import' his sperm into Victoria, if he cannot come here to donate. He is required to undergo counseling through your clinic, but some clinics are willing to do this over the phone.

When insemination isn't working; dealing with infertility

If you have had around six unsuccessful, well-timed attempts at conception, talk to your GP (if you are home inseminating) or the clinic about investigating your fertility. Depending on your age, how long you have been trying, and any medical issues identified, further treatment may be recommended, such as drugs to support ovulation, intra-uterine insemination (if you are not already using it) or in-vitro fertilisation (IVF). The out-of-pocket costs of IVF are considerably higher than clinic insemination (between \$1,000 and \$3,000 per cycle at the time of writing) but if you are undergoing IVF due to medical infertility, you are eligible for Medicare rebate (50% up to the Medicare threshold and 80% thereafter). Contact the clinics for details.

If there are ongoing problems with conception, or with miscarriage, it is possible that you and your donor would be required to undergo genetic testing. The fertility clinic will provide information and counselling support to assist you if this is needed.

It will be important for you to talk about the possibility of fertility treatment such as IVF in your initial discussions with your prospective donor. It is not uncommon, even for women under 35, to require assistance to conceive. It might well be that you and your donor (and his partner) have no issues with IVF, but it is important to talk it over before you begin trying to conceive, as it might be devastating for you if you needed IVF to conceive, and he was unwilling to be your donor under those circumstances. See below under 'Talking with your known donor' for more on this issue.

What about the 'natural way'?

Some women (and/or sometimes their prospective donor) might be interested in the idea of conception through sex between the donor and prospective birth mother. This is not advisable, partly because of the potential emotional complications for everyone involved, but also because of the legal ramifications. Victorian law, in the *Status of Children Act*, says that if your child is conceived through a 'treatment procedure',

including home insemination, then you (whether you are single or a couple) are their legal parent/s, and the donor is not, although his role in the child/s life can be legally recognised and protected (see below). But if he 'donates' by having sexual intercourse with the prospective birth mother to conceive, this makes him the child's legal parent, and not the non-birth mother, because children cannot have more than two legal parents. In one such case, a donor was successfully pursued for maintenance against the wishes of both the mothers and their donor.

Registering births and donor information

For births that after 1 January 2010, lesbian couples can both be on their child's birth certificate; the birth mother as 'mother' and the non-birth mother as 'parent'. To do so, they must complete a Birth Registration Statement (BRS). The hospital, medical facility or midwife will give you the BRS when your child is born. Children born to lesbian couples before 1 January 2010 can have their birth certificates corrected to add the non-birth mother; see the information sheet 'Recognising pre-existing families' for information.

A guiding principle of Victorian law is that children conceived through donation in Victoria have the right to know their donor origins when they reach the age of 18, or before with parental permission or if found sufficiently mature by a counsellor. Historically, parents in rainbow families have tended to be much more open about their children's donor origins than heterosexual parents. After all, same-sex couples and sole parents clearly require some assistance to conceive their children!

The Victorian Registry of Births, Deaths and Marriages (BDM) is responsible for managing information about children's births and donors. For children conceived using Victorian fertility services, BDM receives their donor information from the doctor or clinic, and stored it in the Central Donor Registry. Those who conceive via home insemination must give BDM this information themselves – the parents through the BRS and the donor through a letter. This information is entered into the child's birth record at BDM (but is not listed on the birth certificate). See the sheet 'Donor information and registers' for more about what is required, and who can have access to donor information.

Legal parentage and other roles

Single women who conceive with a known donor

If you are a single woman who conceives with a donor, you might well plan to raise your child on your own, without their involvement. Historically, some women have chosen to list their known donor on their child's birth certificate. This is no longer a legal option. Since the recent Victorian reforms, only the mother (and her

partner if she has one) are the legal parents, and thus able to be listed on the birth certificate. To list your donor as a father is to make a 'false declaration'.

Although he is not listed on the birth certificate, your donor may still have a role, or some contact, in your child's life. You might explore the idea of recognising this role through court parenting orders by consent.

If relationships breaks down and a dispute comes to court, it is possible that a court would grant the donor some contact with your child. It is important to know how family law works in Australia. You will be your child's legal parent, but anyone with 'an interest' in a child's welfare (such as a grandparent, step-parent or known donor) can apply for a court order creating contact or other arrangements with regard to the child.

Since the recent reforms, Victorian law, in the *Status of Children Act*, is very clear that a donor is not a legal father or parent. However both Victorian and federal law come into play, should there be a dispute that comes to court. The federal *Family Law Act* is 'silent' on the question of donors to single women, only severing the parental status of donors where there is an 'other intended parent'.

It might be possible, if a dispute reached court, that your donor might seek to be recognised as a legal parent. It is yet to be tested what a court would decide if this was the case. This does not mean that a court would grant your donor parental responsibilities, especially if he has never had them. Legal parentage is only one factor in a court's decision about issues like who should have contact with, live with and make decisions for a child. However, it is possible that even if a court did not grant parental status, they might grant your donor some contact with your child should he seek it. We highly recommend you seek legal advice on this issue.

If you enter a same-sex relationship after your child's conception or birth, your partner is not considered their legal parent. She can be recognised as a step-parent, and her role can be recognised through a court parenting order if desired. Should there be a dispute, she can apply for a court parenting order as a 'significant person' in the child's life.

Lesbian couples who conceive with a known donor

If you are a lesbian couple who conceives your child with a donor, you are presumed to be their legal parents, provided you were in what Victorian law defines as a 'domestic partnership' and federal law a 'de facto relationship' at the time of conception, and the non-birth mother consented to the 'treatment procedure'/artificial conception procedure' that resulted in conception. Please note that this covers home insemination, but not sex with your donor. In the latter case, the donor is a legal parent, not the non-birth mother – children

cannot have more than two legal parents. A donor will not be held liable for child support or maintenance, and children have no rights to his estate or superannuation (except in very limited circumstances).

Recognition of lesbian parents includes couples who were together when a child was conceived, but separate prior to or after the birth. The recognition extends to grandparents and other family, who are now legally related to the child through the non-birth mother, for example in relation to inheritance rights.

Both mothers can now be recognised on Victorian birth certificates; the birth mother will be listed as 'mother' and the non-birth mother as 'parent'. Children can also now have older siblings who have the same parents recognised on their birth certificates. If you have children conceived prior to the *ART Act* came into effect, please refer to the information sheet 'Recognising pre-existing rainbow families' for how you can have their birth certificates corrected.

Since the recent reforms, only the birth mother, and her partner if she has one (the non-birth mother) can be parents, and therefore listed on the birth certificate. To list anyone else (such as a known donor) is to make a 'false declaration'. See 'Recognising pre-existing rainbow families' for how you remove a known donor's name from a certificate and insert the non-birth mother's name instead (you cannot list all three). See below for options for legally recognising the role of your child/ren's donor in your family's life.

What parentage means under federal law

The federal reforms that came in during 2008 and 2009 included amendments to a number of laws, including those covering maintenance, child support, parental rights and responsibilities, social security, tax, Medicare and superannuation.

Federal law automatically recognises lesbian couples as their children's legal parents, provided that the couple were in a 'de facto' relationship (as defined by the law) at the time, and that the non-birth mother consented to an 'artificial conception procedure' (including home insemination) that resulted in conception. The federal changes are retrospective; that is, they apply regardless of whether your child was conceived before or after they came into effect.

This means, for example, that if your relationship breaks down, you both remain equal legal parents, with responsibilities including maintenance and child support. Many more rights and responsibilities arise from these reforms – see below for where to find out more about the federal reforms.

The legal status of donors

Since the recent reforms, Victorian law, through the *Status of Children Act*, and federal law are clear that

a donor is not a legal parent, although as discussed, this is in the context of there being an other 'intended parent' (the non-birth mother). However, federal family law also allows for the recognition of relationships a child has with people other than their legal parents. Therefore, although the donor is not a legal parent and cannot be on the birth certificate, his role in your child/ren's life can be legally recognised, for example through a court order by consent (without a dispute having arisen), to cover things like the agreed level of contact. See 'Find out more about', below.

There are costs associated with consent order, and many families are happy with their own informal agreement, including a process for negotiating changes if needed, and for resolving any conflicts that may arise. It is a good idea to make your own agreement about the role your donor (and his partner, if he has one) will have in your family life, although such agreements cannot be legally binding. See below, under 'Known donors: making decisions and writing agreements' for issues your agreement might include.

In addition, children born via a fertility procedure (whether conceived via a clinic or home insemination) must have their biological origins registered by the Victorian Registry of Births, Deaths and Marriages. Thus the details of the child's biological father (legally the donor) will be included in the child's birth record (but not on their certificate) if they were conceived by home insemination, or in the Central Donor Register if their were conceived via a clinic.

As mentioned, family law allows anyone with 'an interest' in a child's welfare to apply for a court order creating contact or other arrangements with regard to the child. In the event of a conflict, a donor could seek such an order. See 'If relationships break down' below.

Couples and single women who conceive with co-parent/s

Some lesbian couples and single women are interested in co-parenting with their child/ren's biological father (and his partner, if he has one). Co-parenting means sharing all significant parenting responsibilities, such as living with the child (whether in one household or two) and making decisions about things like the child's education, spirituality/religion and daily life. See below for issues to explore around co-parenting.

At present, the law does not allow for equal recognition of more than two legal parents. Since the federal and Victorian reforms, a child's legal parents are the birth mother and her de facto/domestic partner at the time of conception, if she has one. The exception is where a child is conceived through sex between the biological mother and father, in which case they are the legal parents. Co-parents who are not legal parents can have their role legally protected through consent orders.

Some co-parent families have historically listed the biological mother and father on the birth certificate. This is no longer a legal option. To list anyone other than the legal parent/s – the birth mother and her partner if she has one – is to make a 'false declaration'.

Even before the law changed, many co-parent families chose to list the birth mother on the birth certificate, and seek parenting orders for the other co-parents. One reason for this is because listing the biological father on the birth certificate would have created implications for social security, tax and other matters that may not have fitted the family's needs.

It is important to note that if a conflict arises, legal parentage is only one factor in determining the outcome. A court can award full residence and parenting responsibilities to parties other than the legal parents. For more discussion, see 'If relationships break down' in the information sheets for prospective lesbian and prospective gay male parents, and always seek legal advice about the specifics of your situation.

You should also seek legal advice in regard to obtaining court parenting orders to legally recognise the role of co-parents who are not legal parents. People who have parenting responsibilities under court order are, along with the legal parent/s, required to give their consent for a child to obtain a passport. Parenting orders can include most of the rights and responsibilities of legal parentage, but end at age 18, and don't include things like inheritance and superannuation in most situations. So it is important for those who require parenting orders to, for example, ensure they specifically recognise children by name in their wills and seek legal advice about choices in relation to making financial provision for children (including a choice not to make provision, which may be subject to legal challenge in very limited circumstances, even if you are not a legal parent).

We recommend that each of the 'parties' – mother/s and father/s – seek separate legal advice on what will work for you all before making any decisions or attempting conception.

Known donors: finding a donor, making decisions and writing agreements

Finding a known donor

Some women explore the possibilities of creating a family with someone they have known for years – perhaps even a sibling or other relative of the prospective non-birth mother. Others find someone through friends, colleagues, support groups, personal advertisements or the internet. Think about your criteria for a donor, and think outside the square when making your list, including people you might have been close to earlier in life. Trust your instinct if you feel someone is not suitable, whether they were your suggestion, or your partner's. Take your time, and try not to feel rushed.

You must feel absolutely comfortable with this decision. If you initially feel that you would prefer a known donor, remain open to the possibility of a clinic-recruited donor if you can't find the right known donor.

Remember that you might ask a good friend or relative who loves you dearly, and is very supportive of your desire to parent, but who does not feel that this is something he can do for you. Helping someone to create a child by donating is a profound act, and there might be many reasons that he (and/or his partner, if he has one) does not feel that this is a role he wants, many of which are likely to be very separate from your relationship with him, or his feelings for you. It might be challenging, but try not to take a refusal too personally.

All of the options for finding a donor we've listed can work, but it is very important to get to know each other well, and have talked through all of the issues a number of times over a considerable period of time before you decide to go ahead, and certainly before you begin trying to conceive. We also highly recommend making an agreement (see below). Some fertility clinics offer the (paid) service of a counselling 'information session' prior to committing to any treatment, which might be useful to explore issues.

A donor who is already a friend

Some people who have an existing friendship with their prospective donor may be less likely to really thrash through the more difficult issues, because they feel that 'they can always work it out'. However, this is not always the case, and sometimes the most intimate, longstanding friendships can end, or even turn into bitter disputes in this context. You may feel impatient to make a baby, but remember that this decision is critical and irreversible. If you conceive a child with someone, you are connected to them for life. Most importantly, the decision you make will affect not only you, but also the one or more children whom you create.

So take your time – perhaps as long as a year – to get to know each other in this new context, reflect on your own needs and feelings, and talk about the issues many times before you begin. It might be useful, when you begin talking seriously, to think about 'putting on a different hat' during your discussions. It is very different to talk as prospective parents and donors than to talk as friends. The issues for parents and donors are different, and it is important to acknowledge and talk through those differences without feeling that they reflect negatively on your friendship or care for one another.

Is this the role he really wants?

The most critical question to explore with your prospective donor is whether that being a known donor is a role he really wants. A lot of men relish this opportunity. Many say it is the best thing they have ever

done in their lives. But for some, it might actually be a compromise of their own deep desire to be a parent/father themselves. Some families call their donor the child/ren's 'father', and the child/ren might call their donor 'Dad' or equivalent. But the law is clear that you are the legal parent/s, and that a donor is not a legal parent or father, and has no parental responsibility.

Donors can be gay, bisexual, heterosexual or sometimes non-operative or pre-operative M2F transsexual. Historically, coming out for many men has meant letting go of any desires they may have to be parents. This is changing as social attitudes and relevant laws change. But when you ask a gay or bisexual friend or acquaintance if he will consider donating to you, it might be the first time he will have really thought about himself in relation to having children. It could open up a can of worms for him, emotionally! It is important to give him time and encourage him to talk about it with you, his partner if he has one, other donors, his family of origin if appropriate, and his friends, especially any who are parents.

He might discover, on reflection, that he really wants to be a parent himself. Perhaps you will all be open to discussing the possibility of co-parenting together. Co-parent is a very different role to known donor, as we discuss below. Perhaps he would be willing to help you have a child, and also pursue becoming a parent himself, separately. Or perhaps being a donor is not a role he really wants. The options for gay men to have a baby (without female co-parents) are not easy in Victoria, but the numbers of gay dads are increasing, and support groups are available. Of course for some men, being a donor might be a compromise, but one they have truly made peace with. Only your donor can know the answer, but the potential consequences of not truly resolving this question can be heartache – and sometimes devastating conflict – for you, and for him, but most importantly for any child/ren you conceive.

If you find yourself growing uncomfortable with a prospective donor or co-parent as you talk things over and get to know him in this context, it is critical that you do not go ahead. You could find someone else (many women talk with or even try to conceive with more than one donor before they succeed in creating a family) or you could use a clinic-recruited donor.

The ART Act opened up all fertility services in Victoria for lesbians and single women, including donor insemination with a clinic-recruited donor. Remember that children conceived in this way have the right to contact their donor if they wish at age 18, or beforehand with parental permission or if assessed as sufficiently mature by a counsellor. In practice, many parents get in contact with their donor when their children are quite young. Research that when parents are open with children about their donor origins, children fare very well. It might well be that using a clinic-recruited donor is a better option than a known donor whom you do not completely trust and feel comfortable with.

What will work for you?

Whether you are single or a couple, it is crucial to be clear about what you want, before talking to your prospective donor/s or co-parent/s about their hopes. Ask questions of as many people as you can, whose families include donors or co-parents. Read books and websites, seek out groups and online forums, and go to counselling. If you are in a couple, be clear with each other about why you are choosing a known donor, and what you hope for out of this choice. The clearer you are about your own feelings and expectations, the more clearly you can negotiate with a prospective donor.

Try not to be influenced by fear of what other people might think, including your prospective donor/s or co-parents. This is a critical life choice, and it has got to work for you now and forever. Try to challenge any beliefs, even deep within yourself, that 'all children need a mother and a father'. You may well decide that this is what you want for your family. But three decades of rigorous Australian and international research show that children suffer no disadvantage from being raised by two mums or two dads, and that the disadvantage that some children of sole parents experience is because of the poverty many single mothers are forced into, and perhaps the conflict between their separated parents.

What roles can donors have?

Many families successfully involve known donors. The term 'known donor' covers a huge variety of relationships and levels of contact. Some are happy for the child/ren to know their name, see their photos, and perhaps meet up when the child/ren are old enough to be interested. Some live overseas or interstate, and exchange cards, emails, perhaps Skype chats and maybe the occasional visit. Some visit a few times a year, others more often. Some become a significant part of family life, spending regular time, perhaps holidaying together and being regular baby-sitters. Some rainbow families think of their donor as part of their extended family, something like an uncle. Sometimes people are open to the relationship growing into something more akin to co-parenting. Some children call their known donors 'Dad', even though they do not share parenting responsibilities and are not their legal parent. Some do not. The diversity of people's choices is endless.

Talking with your known donor

Be very clear about what you want before you begin negotiating with a prospective known donor. This is especially important if you are single. Couples can talk it over between themselves; single women can use friends or therapists. It can be hard for single women to keep their boundaries, especially if your donor is also single. The dynamic can feel like a heterosexual relationship, to yourself and others. Single women are often more open to co-parenting or expect more

involvement from a donor. This choice is legitimate, but be clear it is what you *all* want. Ask yourself whether you might feel differently down the track, if you partner with someone you want to parent with.

When you begin talking with a prospective donor, remember that you have probably been thinking about this for a lot longer than he has. He will appreciate having clarity about what you want, in order to think through what would work for him. Take it slowly, and give him time to get over his initial response (often awkwardness, even if positive). If you are partnered, try to both be involved in all your negotiations; it is easy for the prospective non-birth mother to feel marginalised.

We have produced a sheet like this one for donors. Encourage your prospective donor to read this and other materials early in your discussions. Resist the temptation to gloss over differences, or agree to things you don't really feel comfortable with because you like him, because you are so grateful for his assistance, or because you are desperate to start making a baby. If he has very different ideas to you, take time to reflect before responding. It is critical that you all feel good about what you are agreeing to, before you begin trying. Remember there are other possibilities, including a clinic-recruited donor. It is also important (if perhaps hard) to ask your donor to take a sperm test before you go into deeper negotiations, as problems are not uncommon (see 'Conception with a known donor or co-parent', above).

Making an agreement

It is a good idea to make a written agreement with your donor (and his partner, if he has one), even though it is not legally binding. Australian law does not allow you to make a legally-enforceable contract or agreement about a child, whether written or verbal. Some people make their agreement, then put it in a drawer and never look at it again. Some revisit it when they conceive, when their child is born, when it comes to trying for any subsequent children, and when any major life changes happen that have possible implications for the relationship (such as someone moving interstate or overseas). Many people find their agreements to be an extremely useful tool, and a record of what they wanted and agreed to at the time. And in a conflict, a written agreement demonstrates your intentions, which might be one (but not the only) factor a court would consider.

Most people make agreements that are legally clear in language, but also express their feelings. Think about how your children might feel if they read it, as they may do later in life. The best thing an agreement can do is encourage you all to sit down, talk about and reach agreement on the important issues. Your agreement should clearly state what each person's role will be (including the donor's partner, if he has one), and who are the child's parents. It should also state clearly what all of your intentions are in making the agreement.

The most important part of the agreement relates to how you will negotiate changes, and what you will do in the event of conflict. The only certainty in life is change. Children change, people's circumstances change, and so do their feelings. The feelings of everyone involved – you (the parent/s), your donor (and his partner if he has one) and your children as they grow – will inevitably change over time. This does not mean that your arrangements will also shift, although they often do. Some donors become much more involved in family life, for example, while others are less so than originally intended. The key is to agree on clear processes to negotiate change, and to deal with conflict (such as through a counselor or mediator), so that whatever happens you can stay out of court.

Specific topics to discuss

People's agreements vary enormously, but there are some key issues to consider, including:

- Will your donor be known to the child? Some donors are happy to be introduced to the child when they are old enough to show an interest, but have no other contact. There is strong evidence that children fare best when their parents are open about their donor origins from early in life, whether or not they have a relationship with their donor.
- Will he be open about his role with his friends and family, and with your mutual friends and acquaintances? Bring this up early in your negotiations, before mentioning him as a possibility to others. Remember that when your child knows his identity and is old enough to talk, you will lose control of who else has this information! There is strong evidence that any sense of secrecy about children's donor origins is not in children's best interests.
- Does your donor want to tell or involve his family of origin? This is a major issue for many donors. A lot of gay men, for example, have had to deal with their parents' feelings (on coming out) that they are unlikely to be grandparents through them. Their son being a donor might be an exciting possibility (or a real challenge) for them to deal with. Think about what contact with his family you are open to. This can be an added complication, and may be something you don't want, especially if they seem homophobic. But remember that people can change (especially when it comes to children), and it is potentially wonderful to have more loving grandparents, aunties, uncles and cousins.
- If your donor is partnered, what role might his partner have? Are you negotiating with both of them, or only with your prospective donor? Remember that if you use a clinic, they might require your donor's partner to attend counseling and consent to the donation. If your donor has some contact with your family, this is likely to impact on his partner, at least to some extent. Would you be open to his partner's contact with the family increasing over time, if he or she wants this? If he is single and partners, or re-partners, will you be open to his new partner having contact? Does your donor have children? Does he plan to? Will the children know about each other, and perhaps have contact?
- What language will you all use around his role, and that of his partner if he has one? How will he speak with the children about this? Some women are open to their donor being called 'father' or 'Dad', when their role is not that of a parent. Some donors want this; others want children to use their first names, or to call them (and perhaps their partner) 'Uncle John' and so on. Men might refer to themselves as a child's donor, or donor dad, or father. It is important to be agree on what language you will all use, in what context, and exactly what you all mean by it. Language is extremely powerful, in terms of the feelings and expectations of everyone involved (not least your children), and also in the wider community. It is worth revisiting this issue when you conceive, and when a child is born, as people's feelings about this issue often change, either way. Remember, it is far easier emotionally to give (for example, to decide later that you are comfortable with the name 'Daddy') than to take away.
- What processes for donating is he open to? Explain what is involved with each option, including how available he will need to be if you are home inseminating with fresh sperm. Also explain the testing required, including if he or his partner is exposed to a risk of sexually transmitted infection.
- What if you need to use IVF? Does he have any feelings about that, for example if there are unused embryos at the end of the process?
- Is he open to donating for more than one child?
- What will you do if there is a likelihood of your unborn child having a profound disability or serious medical issue? People can have very strong, and different, feelings about issues like this.
- What contact might he have with you during the pregnancy? What role, if any, will he have during the birth? How soon will he meet the child? What role or contact might he have during early infancy? Will he have any say in the naming of your child? Do you want any part of his name in their name?
- What kind of time do you want him to spend with your family? Do you want occasional or regular contact? Will it involve family celebrations, birthdays, school or social activities? Will the amount of contact and nature of the contact change over time?

- Will his contact always be with the whole family, or sometimes just with the child/ren? If the latter, would you ever be open to the possibility of them staying with him overnight? At what age? Talk to other parents about children's capacity to be away from their home and parents at different ages, before exploring these issues.
- Who will be financially responsible for the child? If your donor wants to make a financial contribution (and you want this too), would this be regular or ad hoc? What about inheritance, superannuation, insurance and wills?
- What kind of support (other than financial) and involvement, if any, would you like from him, and what does he want to give?
- Will he have any say in the decisions about your children's lives? For example, will you ask for his input about things like education choices or religion? What about health care or other aspects of your children's upbringing?
- Since the passing of the ART Act, you (and your partner if you have one) are your child's legal parents, and only you can be listed on the birth certificate. You cannot list the donor as 'father' – this is making a 'false declaration'. The donor's role is recognised through his listing with the Victorian Registry of Births, Deaths and Marriages (BDM). If you use a clinic to conceive, his name is listed in the Central Donor Register. If you home inseminate, he is listed on the child's birth record (but not on the certificate). Ensure your prospective donor understands this, and perhaps include it in the agreement to ensure it is clear.

As we have said, the most important thing to agree on is how to negotiate change and any conflict. You might want to make some agreements on hypothetical scenarios, such as what you will do if someone wants to move interstate or overseas. It is worth all the 'parties' seeking separate legal advice before making decisions or attempting conception.

Commit seriously to the agreements you make in good faith, but acknowledge the reality that people's needs, feelings and circumstances change. It is important to finalise your agreement before beginning to attempt conception; some people do not, then discover they still had very different expectations down the track. However, it is also a good idea to revisit the decisions you made after your child is born.

Consider starting slow

For most people, this is all very new territory. No matter how many children you have had in your life previously, if you have not had your own children before, you cannot know what it will be like, and how you will feel. That goes for both you and your donor/s or co-parents.

Talk to parents of babies and young children. There is no greater change in most people's lives than when children come into their lives.

When thinking about the kind of involvement you might want from your donor before and after birth, is important to consider the nature of pregnancy, birth and early infancy, and your choices around issues like birth, breastfeeding and sleeping. The Australian National Health and Medical Research Council recommends that children are exclusively breastfed for the first six months, and continue to be breastfed until at least two years old. Of course, every family makes their own choices around issues like breastfeeding, for example, and not all birth mothers can breastfeed, or want to short or long-term. Everyone involved in this process will have their own particular experiences of the exhausting, exhilarating, emotional and sometimes difficult processes of trying to conceive, pregnancy, birth, establishing breastfeeding and early infancy. Everyone will need different support at different times.

One option that works for many is to start with a lower level of contact (however you define that – perhaps a short fortnightly visit) to begin with, but be open to that increasing over time as you all learn and explore your new roles. Roles can be very different when a child is a toddler or preschooler to when they are newborn. Bear in mind, too, that it is much easier (both emotionally and legally) to increase than to decrease the amount of contact you have with your donor.

Exploring co-parenting

Co-parenting is a less commonly chosen option than parenting in a couple or as a sole parent with a known donor (and his partner, if he has one). There are certainly happy, successful families in our community with two, three, four or more co-parents. However, co-parenting challenges the very strong notions that mainstream Australian culture, at least, has about family. It is difficult enough, sometimes, to negotiate parenting in a couple, let alone with people with whom you are not in an intimate relationship.

A brief note on language: in this section we talk about mother/s and father/s, as those are usually the roles people have in co-parent families. However, 'co-parent' is a social term, not a legal one. Since the recent legal changes, a child's legal parents (the only people who can legally be listed on the birth certificate) are the birth mother and her partner if she has one. Other adults with a parenting role can have that role legally recognised and protected with court parenting orders by consent. In addition, all children conceived through a treatment procedure, including home insemination, must have their biological origins registered at BDM (see above under 'Legal parentage and other roles').

Co-parenting is a lifelong connection and commitment to each other and your child/ren. Being co-parents

requires a deep level of trust, respect and goodwill towards one another, and a commitment to shared values and maintaining your family relationships when times get tough, as they can do for every family.

When considering co-parenting, it is critical to be sure it is what everyone involved truly wants. The options for gay men to have a baby without female co-parents are not easy; overseas surrogacy is prohibitively expensive, and altruistic surrogacy in Victoria requires men to find both a surrogate and an egg donor. One key question to discuss is whether your prospective male co-parent/s would choose co-parenting if they had an easy option to become parents on their own?

Be very clear that this is what you want too, whether you are single or a couple, before going too deeply into negotiations. Do you want to share every aspect of parenting, from daily life to the big decisions? Think about why you would choose co-parenting, rather than a known or clinic-recruited donor. In particular, remember that three decades of research clearly shows that children are not disadvantaged by being raised by two mum or two dads, and that the disadvantage children of single mothers experience is related to the poverty many are forced into, as well as conflict between their separated parents.

Co-parent families do not fit neatly into any available 'box', in terms of the law, social security, tax and so on. 'Co-parent' is not a legal term, although co-parents other than the legal parents (the birth mother and her partner, if she has one) can have their roles recognised through court parenting orders. We recommend that each of the 'parties' – mother/s and father/s – seek separate legal advice on what will work for you all before making any decisions or attempting conception. This advice can then inform your discussions, and any written agreement you make about your intentions.

Co-parenting means sharing all significant parenting responsibilities, such as living with and raising a child (in one household or two) and making all the significant and day-to-day decisions about their life. How will you share these responsibilities?

It is critical to be clear on what you want (including the non-birth mother, if you are coupled) before beginning negotiations with your prospective father/s. What is your ideal? What is negotiable, and what is not? Your ideas might change, but it is important to begin by clearly communicating what you think, so that your prospective co-parent/s can consider what, in your vision, will work for them. If you are all clear with each other, there is less likely to be confusion that can lead to conflict.

It is a good idea to make a written agreement, even though they are not legally binding. The most important part of your agreement will be agreeing a process (such

as seeing a counsellor or mediator) for negotiating changes in life circumstances, and dealing with any conflict that may arise.

Many of the issues outlined above for families involving donors are also relevant for co-parent families to explore and agree on before they attempt conception. The answers to the questions are likely to be very different, because the relationship is different. There are some additional issues to consider, including:

- Health issues, fertility and the logistics of conception. It can be harder to bring up issues like sperm counts and screening for sexually transmitted infections with prospective co-parents than with prospective donors, but it is equally important to do so, for your health and the baby's.
- Everyone's different roles and needs for support during the processes of attempting conception, pregnancy, birth, breastfeeding (if you choose to, and the birth mother can breastfeed) and early infancy. Talk about the values that might inform your choices during these early stages, for example with regard to birth, breastfeeding or sleeping. You will probably all need to research, think about and discuss these things much more deeply than most parents before your baby is born, to ensure that the choices you make work for all of you.
- Where a child will live, and how the arrangements will change over time. A child's needs change enormously from birth to six months and beyond. What co-parenting looks like for a child under six months or a year may be very different from when they are 18 months old, four years old, and so on.
- Financial power and support. The reality is that the income and wealth gap between men and women is still very wide in Australia. If there is financial support involved, including sometimes the purchase of a home, it is particularly important to put all arrangements in writing, including what will occur if you get into conflict. It is important to seek legal advice around these kinds of arrangements.
- The role of non-biological co-parents. Try to involve all parties in the discussions, for example the prospective birth and non-birth mothers, and the prospective biological and non-biological fathers. It is easy for non-biological co-parents to feel marginalised.
- If one or both co-parents are single. People's lives can change in many ways. One of the biggest issues for co-parents can be if one or both later partner with someone they want to parent with; this can be very challenging for everyone involved, including the new partner.

If relationships break down

If parents separate

If you are a lesbian couple recognised as your child/en's legal parents and your relationship ends, then you are both still their legal parents. You can negotiate your own shared care arrangements, as many women do very successfully.

If you cannot agree, you have access to the same resources as heterosexual parents to help you work it out: family therapy, mediation, or as a last resort, court. The court will recognise you both as parents, and must start with the presumption that it is in your child/ren's best interests to have an ongoing relationship with both of you. However, each case is determined on the specific facts of the situation, and what the court believes is in the child's best interests, for example when it comes to issues such as where a child lives, who makes decisions about the child's life, and what level of contact a non-residential parent has. One option may be shared care, if the court thinks that the relationship and communication between the separated parents is strong enough to negotiate this.

Conflict between parents and donors, and between co-parents

The escalation of conflict is not good for anyone. Most importantly, a breakdown in relationships between adults in a child's life always has a negative impact on the child. Every family has issues to deal with from time to time. Ideally, you will be able to talk them through. It can be useful to involve a third party, such as a counsellor or mediator, well before things get too difficult. Issues around family and children can get very emotional very quickly. Try hard to see each others' points of view, to maintain a sense of mutual goodwill and common purpose, and above all to keep the focus on the child/ren.

Australian family law, like the rest of our legal system, is based on an adversarial model particularly poorly suited to the complex, emotional nature of conflict over children. Going to court is extremely stressful and costly. But if you do end up in court, remember that family law allows anyone with 'an interest' in a child's welfare to apply for a court order creating contact or other arrangements with regard to the child. This could include a grandparent, a known donor, conceivably a clinic-recruited donor you have had contact with before your child was 18, and certainly a co-parent.

The family court will not change who is recognised as a child's legal parents in such cases, but will decide on issues like who sees, lives with and makes decision for a child on the individual facts of the case, and what they see as the child's best interests. A court could certainly

make an order for a donor (and his partner, if he has one) or for male co-parent/s to have contact, and even some parenting responsibilities, if it considers this to be in the best interests of the child.

If people other than a child's legal parents 'formalised' recognition of their role through a consent order before the relationship broke down, this provides strong evidence of their role and relationship with the child. But even if there was no such order, unless there is a good reason (related to the child's safety) why not, the court is likely to make a decision which maintains the child's relationship with all of the significant people in their life. As always we recommend you seek legal advice on the specifics of your situation.

Many factors will come into play; your arrangements to date might be a factor, as might your original intentions (for example, as documented in an agreement) and any orders made previously. Previous cases also have an impact, although family law is less bound by legal precedent than other parts of Australian law, and this area of law is still emerging.

Fostering: another way of welcoming children into your family

Some foster care agencies have long recognised that gay, lesbian, bisexual, transsexual and intersex (GLBTI) people, coupled or single, can provide loving, stable homes for children requiring short or long term care. Many same-sex couples and single people (including many who already have biological children) welcome children needing foster care into their families. This can be a very positive experience for everyone involved – something that is demonstrated by the fact that many foster carers themselves grew up in homes that welcomed children needing foster care.

Foster care can include respite (occasional) care, short-term/emergency care and long-term care. Permanent care is generally the preferred option for children and young people requiring long-term care. In these cases the Victorian Government has determined that the child cannot return home, but the biological parent/s have not relinquished them for adoption. Permanent care orders are similar to court parenting orders in that they cease at 18 years; but although permanent care and fostering legally ends at this age, most people have life-long relationships with their foster carers/parents.

Both foster and permanent carers receive a modest fortnightly payment to assist with meeting some of the financial needs of the child. In addition, foster and permanent carers are eligible in most cases to qualify for Centrelink Family Tax Benefit and Child Care Benefit payments.

What if a child being fostered or on a permanent care order becomes available for adoption?

At the time of writing, same-sex couples are not permitted to adopt in Victoria. The *Adoption Act* does however make provision for 'individual' people to adopt 'only in special circumstances'. The definition of special circumstances has until recently only been granted to single people who wish to adopt a relative, and in one case a lesbian foster carer who sought to adopt a child with extreme 'special needs'. In August 2010, a Victorian judge ruled in favor of one member of a gay male couple, who along with his partner, had been the long term foster carers of a child. In this case the child's birth parents relinquished the child, and had no opposition to the carer adopting the child. It is anticipated that this case will set a precedent for one half of a gay or lesbian partnership – or a single gay or lesbian person – to adopt a child who is in their foster or permanent care.

Rainbow Families Council hopes that the Victorian government will act on the recommendations of the Victorian Law Reform Commission enquiry to extend the eligibility definition to include both members of a same sex couple and single people specifically. We also hope they will permit all GLBTI people or single applicants to apply for all forms of adoption – including inter-country, infant, familial – and the adoption of foster or permanent care children.

Gay and lesbian foster carers, permanent carers and kinship carers in Victoria are eligible to join the Gay and Lesbian Carers Support Group, which provides information, telephone support and social opportunities for gay and lesbian carers and their children. See below for contact details.

Disclaimer

Rainbow Families Council produced this information kit in October 2010. We have made every effort to ensure the kit is correct, but accept no liability for information given. Information will be regularly updated on our website. We strongly advise that you seek medical and legal advice and specialist counselling relevant to your specific situation.

Find out more about:

- the federal reforms at www.wearitwithpride.com.au and www.ag.gov.au/www/agd/agd.nsf/Page/Humanrightsandanti-discrimination_SameSexReform
- amending birth certificates for children conceived before the ART Act came into effect in the sheet 'Recognising pre-existing families'.

- registration and management of donor information under 'Donor information and registers' in this kit, or from BDM. Phone 1300 369 367 or visit their website: google 'Victoria births deaths and marriages', click on 'Births', and then 'Donor treatment registers'.
- maximising your chance of conception through home insemination, and medical procedures involved in various forms of assisted reproductive treatment from the Royal Women's Hospital's Pride and Joy booklet, available at www.thewomens.org.au/PrideandJoyonline (note that the legal information in this resource is not yet updated).
- detailed information about home insemination and every aspect of the process in 'The New Essential Guide to Lesbian Conception, Pregnancy and Birth' by Stephanie Brill
- a detailed guide to all forms of fertility treatment in 'IVF and Beyond for Dummies' by Karin Hammerberg, published in Australia in 2010
- fertility clinics in Victoria at www.fertilitysociety.com.au/rtac/accredited-units/victoria/
- how to apply for a court parenting order in the Family Court of Australia Consent Orders Kit at www.familylawcourts.gov.au/wps/wcm/connect/
- where to seek legal advice about agreements and other matters through the Law Institute of Victoria's Directories at www.liv.asn.au/Specialists
- parenting orders and child maintenance, on Victoria Legal Aid's website under Children & Parenting, www.legalaid.vic.gov.au/childrenparenting.htm
- becoming a foster or permanent carer, by calling the foster care hotline on 1800 013 088, or visiting www.fosterabrighterfuture.com.au/
- The Gay and Lesbian Carers Support Group: contact Tracey on 0427 811 186.
- The Victorian Assisted Reproductive Treatment Authority (VARTA), for information about telling a child about their donor origins at www.varta.org.au.

What else is in this information kit?

- Introduction and definitions
- Recognising pre-existing families
- Options for prospective gay male parents
- Options for prospective sperm donors, egg donors and surrogates
- Donor information and registers
- Resources and links