centre for better relationships

better pride

LGBTIQ+ Family Formation and Known Donors

Pathways, Risks and the Role of Written Agreements

January 2026

A Better Place Australia Initiative

About us

Centre for Better Relationships

The Centre for Better Relationships is the research and policy arm of Better Place Australia.

Better Place Australia

Better Place Australia provides a supportive place for individuals, couples, families and children. With approximately 140 employees, we serve over 10,000 clients each year. We have a range of services that help families understand and resolve conflict, manage their finances, improve communication and grow stronger as a result. Better Place Australia has a clear vision and purpose of empowering Australians towards resilience, well-being, and fulfilling futures.

Acknowledgement of Country

We would like to acknowledge the Traditional Owners of the lands on which we work, and recognise their continuing connection to Country, waters and community.

We pay respect to Aboriginal and Torres Strait Islander cultures and to Elders both past and present, and to their children and young people who are the future caretakers of this great land.

Use of artificial intelligence

Artificial intelligence (AI) was used to support the writing of this report. AI-feedback was sought to confirm and refine the human authors' ideas and writing. All AI-generated outputs were verified through human review and edited or discarded where appropriate. AI was used in accordance with Better Place Australia's Artificial Intelligence Usage Policy.

Stakeholders

We acknowledge and thank all stakeholders who generously shared their expertise and perspectives to inform this report, including Better Pride Practitioners Verity Best (Clinical Lead) and Joshua Strachan (Family Dispute Resolution Practitioner), and our LGBTIQ+ Community Advisory Group.

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Executive summary

Many LGBTIQ+ people use known sperm donors when forming their family. This preference may be influenced by several factors, including cultural fit, cost barriers, discrimination, or wanting the child to know the donor from an early age. Motivations for donation are equally diverse, often driven by altruism, genetic legacy, or solidarity within the LGBTIQ+ community.

Recipients may seek known donors through friends, within the LGBTIQ+ community, or via online platforms. The arrangements between recipients and donors can vary from the donor not being involved beyond the donation to taking on a co-parenting role. The nature of the relationship depends on the intentions of and agreement between the donor and recipient.

Despite the benefits of known donation, there are also risks. Misaligned or shifting expectations around donor involvement can create emotional and legal conflict. Without the regulation and safeguards of formal fertility clinic pathways, donors and recipients may be exposed to coercion, exploitation, or uncertainty about parental rights. The legal landscape in this area remains complex, with courts determining legal parentage based on multiple factors, including the intentions at conception and the best interests of the child.

A donor agreement is one of the few proactive tools available to LGBTIQ+ families using known donors. While not legally binding, donor agreements can provide important evidence of shared intention at the time of conception and encourage transparent communication about roles and expectations. They offer a framework for discussing key issues, helping to prevent misunderstandings or conflict in the future. In the absence of a donor agreement, families risk relying on court interpretations if conflict arises, which may not accurately reflect the intentions of all parties.

Beyond their legal benefits, donor agreements recognise and validate the diverse and often unique formations of LGBTIQ+ families, and the roles of other significant people in a child's life.

Contents

A note on language

The paper includes real life examples of disputes between donors and recipients, along with descriptions of discrimination. Some readers may find the content difficult to read and some language to be exclusionary. We encourage readers to take regular breaks and practice self-care when engaging with this material.

We recognise that the acronym LGBTIQ+ does not resonate with everyone, and that people use a range of terms to describe their identities, families, and communities. In this paper, we use LGBTIQ+ as a practical shorthand to reflect lesbian, gay, bisexual, trans and gender diverse, queer and questioning, intersex, and other sexually and gender diverse people. We acknowledge the limits of this acronym and use it with respect, while recognising the diversity of experiences it seeks to encompass.

In some sections, we have used gendered terms (such as ‘women’ and ‘mother’) and medical/legal terms (such as ‘natural’ and ‘artificial’ insemination). These have been used in the context of the reference being cited. We acknowledge these terms may not reflect the diversity of people’s identities, experiences and perspectives. When quoting from other sources, we have used the name and/or identity used to describe the person in the original material. Where possible, we use inclusive language, while recognising that some publications and policy documents rely on terminology that may feel limiting or exclusionary.

We also acknowledge that not all people who provide sperm identify with or are comfortable being described as a ‘donor’. In this report, the term donor is used for clarity and consistency, particularly when discussing legal frameworks and research.

Much of the existing research focuses on the experiences of gay men as sperm donors and lesbian couples as recipients. As such, this paper reflects these perspectives more strongly than others. Better Place Australia recognises that the experiences of LGBTIQ+ families are far more diverse and nuanced than what is represented. This as an important area for future research and service development.

Glossary

The terms below are defined according to how they are used here. Some terms may have broader definitions elsewhere, however, have been narrowly defined for the purpose of this discussion paper.

Artificial conception	Under the *Family Law Act 1975* (Cth), this is an umbrella term for medical fertility procedures, including artificial insemination and assisted reproductive treatment.
Artificial insemination	Colloquially refers to medical procedures such as intrauterine insemination (IUI) in which sperm is placed inside the uterus. Within the *Assisted Reproductive Treatment Act 2008* (Vic), artificial insemination is defined as a procedure of transferring sperm without also transferring an oocyte into the vagina, cervical canal, or uterus of a woman.
Assisted Reproductive Treatment (ART)	Medical procedures that attempt to procure pregnancy by means other than sexual intercourse or artificial insemination. ART includes IVF, gamete intrafallopian transfer, and any related treatment or procedure prescribed by the *Assisted Reproductive Treatment Act 2008* (Vic).
De facto relationship	Two people who are not legally married or related to each other and have a relationship as a couple living together on a domestic basis.
Donor agreement	A non-legally binding written contract between the donor and recipient(s) that clarifies their intentions and expectations regarding the conception, care, and upbringing of the donor-conceived child.
Donor-conceived child	A child conceived using donated sperm, typically through assisted reproductive technology, IVF, or self-insemination.
Fertility clinics	Specialised medical clinics that assist individuals or couples who want to become parents and are unable to conceive via sexual intercourse.
Formal donation	The donation of sperm that occurs within the formal fertility clinic setting. The donor may be known or unknown to the recipient.
Heteronormative assumptions	The pervasive societal beliefs and expectations that heterosexuality is the only normal and natural sexuality, and that it is the standard for all other forms of gender, sexuality, and family structures.

In Vitro Fertilisation (IVF)	A medical procedure where the egg is fertilised by sperm in a laboratory, outside of the body. The embryo is then transferred into the uterus.
Informal donation	The donation of sperm that occurs outside of the formal fertility clinic setting (e.g. at home). The donor is known to the recipient.
Intrauterine Insemination (IUI)	A medical procedure that involves directly inserting sperm into the uterus.
LGBTIQ+	People who are lesbian, gay, bisexual, trans and gender diverse, intersex, queer and questioning. It is an inclusive abbreviation that encompasses a range of diverse sexualities, gender identities, and sex characteristics.
LGBTIQ+ families	Families in which at least one parent identifies as LGBTIQ+ and are sometimes referred to as 'rainbow families'.
Known donor	A person who donates sperm and who is familiar with or known to the recipients. They may be a friend, family member, acquaintance, or have been privately recruited for the purpose of donating.
Natural insemination	Sexual intercourse between the sperm donor and the recipient for the purpose of achieving conception.
Parental responsibility	The legal duties, powers, and authority that parents have in relation to children.
Recipient(s)	The person(s) receiving donated sperm for the purpose of conceiving. Recipients include the person intending to become pregnant and the other intended parent regardless of gender or sexuality.
Self-insemination	A form of insemination that is not carried out by a doctor or medical professional. Involves inserting the sperm inside the vagina close to the cervix, using a method other than sexual intercourse. Often occurs at home using an insemination kit.
Single mothers by choice	A woman who intentionally decides to become a mother without a partner, utilising methods such as sperm donation to conceive and raise a child on her own.
Unknown donor / Identity-release donor	A person who provides sperm to a fertility clinic for use in donor conception, but whose identity is not shared with the recipients at the time of treatment.

Better Place Australia context

This discussion paper was a collaboration between Better Pride and the Centre for Better Relationships, two initiatives of Better Place Australia. The paper draws on existing research, legislation, case law, and media reporting. It has been informed by Better Place Australia's broader inclusivity efforts, and discussions with practitioners, legal experts, people with lived experience, and an LGBTIQ+ Community Advisory Group.

Better Pride offers safe, inclusive, and affirming support tailored to the needs of LGBTIQ+ individuals and families. It was developed in response to feedback from lived experience practitioners and clients about the gaps in mainstream family relationship and separation services. Through Better Pride, the community can access specialised mediation and psychological services delivered by lived experience practitioners and allies, including family mediators, relationship counsellors, and mental health practitioners with the training and expertise to understand the unique dynamics of LGBTIQ+ families.

The **Centre for Better Relationships** is the research and advocacy arm of Better Place Australia. In 2019, the Centre's inaugural paper, *Rainbow Family Formation and Dissolution in Australia*, sought to understand what was known about LGBTIQ+ families' interactions with social services, including family law. It found that their experiences are often marred by homophobia, discrimination, and heteronormative assumptions. This paper informed the development of Better Pride and our broader inclusivity efforts.

Our inclusivity efforts

Better Place Australia has taken meaningful steps to embed LGBTIQ+ inclusion across the organisation. This has included staff engagement at all levels, policy updates reflecting best practice in pronoun use, gender affirmation and cultural safety, and reviews of sites to ensure they are visibly welcoming and accessible.

A Workforce Development Plan has guided tailored training to build staff capability and confidence in inclusive practice. Community engagement has also been prioritised through participation in the Midsumma Festival since 2019 and the establishment of an LGBTIQ+ Community Advisory Group in December 2023, strengthening governance and service design through ongoing consultation.

These initiatives culminated in Better Place Australia achieving Rainbow Tick accreditation in early 2024, recognising its services as safe, inclusive, and affirming for LGBTIQ+ staff and clients.

Why do some LGBTIQ+ people not want to use formal fertility clinics?

Some LGBTIQ+ people choose not to engage with formal fertility clinics when forming their family. For example, research shows that some lesbian couples using known donors prefer to begin with self-insemination, turning to formal fertility clinics only after unsuccessful attempts.[1] The preference for informal pathways may be influenced by a combination of factors, including cultural fit, cost, the invasiveness of procedures, and experiences of discrimination or systemic barriers. Together, these issues help explain why informal approaches such as known donors and self-insemination are common.

Discrimination and negative experiences accessing services

Discrimination and exclusion within services play a significant role in shaping people's choices. LGBTIQ+ families may encounter services that do not understand or accept diverse family structures. This can take the form of administrative systems that make heteronormative assumptions such as a child will have one mother and one father, or staff who mistake a same-sex partner for a friend or sibling.[2] The *Love Makes a Family* report provides a clear example of this within fertility clinics. It described how a lesbian couple were treated as two separate families, which initially prevented them from using the same donor for their second child because of donor limits.[3] This shows how regulatory frameworks, such as limits on the number of families a donor can assist, can have unintended and disproportionate consequences for LGBTIQ+ people.

"The clinic initially counted us as two separate families. They wouldn't let us use the same donor for our second child because he had reached his quota of use. We had to threaten to sue them and they coughed up the sperm for us to complete our family. It was very distressing at the time as we were already pregnant with baby #1 and had always planned to use the same donor for both kids." – Unknown [3]

Other examples of negative experiences reinforce this picture. For example, in 2021 a fertility clinic reportedly destroyed embryos after the donor withdrew consent for their use, raising further concerns about security and fairness.[4] Furthermore, until 2020 people accessing assisted reproductive treatments were required to undergo police and child protection checks.[5] These requirements disproportionately affected same-sex couples needing donor sperm and imposed discriminatory scrutiny not faced by heterosexual couples conceiving without assistance.

Although some of these issues have been addressed through reforms, they remain within living memory. For some LGBTIQ+ people, fertility clinics feel unwelcoming, exclusionary, or exploitative.[3,6,7] In the *Love Makes A Family* report, 43% of participants reported difficulties with state government services, agencies, or laws during family formation.[3] Persistent barriers in accessing formal services may influence people to seek alternatives outside of clinical settings.

LGBTIQ+ parents also experience ongoing discrimination when forming families, such as additional administrative requirements when registering the birth of a child to same-sex parents.[2] For heterosexual couples who conceive via sexual intercourse, birth registration is straightforward. However, when self-insemination is used, parents must provide statutory declarations confirming the conception method, relationship status, and (if applicable) donor involvement.[8] This places extra administrative steps and evidentiary burdens on same-sex couples and others using self-insemination. These additional requirements create barriers not faced by heterosexual families.

High costs associated with fertility treatments

Financial barriers are also significant, with fertility treatments such as in vitro fertilisation (IVF) and intrauterine insemination (IUI) being costly. Upfront costs per cycle can be more than $11,000 for IVF and $3,000 for IUI, with additional costs when using donor sperm.[9] The cost of treatment is in part due to donor sperm shortages across Australia, contributing to waitlists for treatment. In 2022, one major IVF clinic in Victoria suggested that there were three potential sperm donor recipients for every donor.[10] These shortages have been exacerbated over the past few years. Some contributing factors include the removal of donor anonymity,[11,12] the COVID-19 pandemic,[10] and reports of donor sperm and frozen embryos being destroyed due to administrative errors.[13]

Use and cost of fertility treatments is also shaped by the availability of Medicare rebates. Until recently, Medicare rebates for IVF were only available for people diagnosed with medical infertility, meaning those who are ‘socially infertile’ (e.g. same-sex couples) were unable to access subsidised fertility treatment.[14] Clinicians have also reported pressure to recommend IVF over IUI because Medicare rebates means that IVF is more profitable for clinics.[15] This reflects sentiments within the LGBTIQ+ community that fertility clinics may exploit them because of their limited options for forming a family.[3]

The discrimination and expenses associated with fertility treatments means that formal pathways to family formation is inequitable or unsuitable for many families.[16] Recognising these dynamics is important to understanding why LGBTIQ+ families may opt for alternative approaches.

What are known donors?

A **known donor** is someone whose identity is known to the recipients. Insemination using known donor sperm may occur within the formal system (e.g. IUI or IVF within a fertility clinic) or informally (e.g. self-insemination at home). LGBTIQ+ people often prefer known donors as they would like the child to know or have the option to know the donor early in life.[1,16,17] However, known donors may or may not have an active ongoing role in the child's life. This is largely based on the agreement between the donor and recipients which exists on what Dempsey (2010) described as a *"continuum of kinship intentions"*.[18] Three common types of agreements are:

- **Standard donor agreement**: Treat the arrangement as a transaction, with the donor having no role in the child's life and no parenting responsibilities.
- **Social solidarity agreement**: Acknowledge the donor as part of the family's broader social circle, often in a friendly or 'uncle-like' role, without formal parental authority.
- **Co-parenting agreements**: Acknowledge the donor as sharing parental responsibilities and decision-making alongside the recipients.

The recipients and donor may have an existing social relationship with each other, or they may meet for the purposes of the donation. Two common methods for identifying a potential known donor are discussed below.

In comparison, an **unknown donor** (also known as a 'identity-release donor') is someone whose identity is not known to the recipients and whose sperm is donated to and accessed via fertility clinics. Before 2017, the identity of people who donated to fertility clinics was anonymous. Information provided to recipients about the donor was limited and non-identifying, such as family medical history and physical characteristics. More recently, legislative changes in Victoria mean that donor conceived people can access identifying information about their donor once they turn 18 years old or are assessed to be mature enough by a qualified counsellor.[19]

Donor from existing LGBTIQ+ social network

A known donor may be a person from within the recipients' social network. This may be a close friend, family member, or acquaintance. When deciding to form a family, LGBTIQ+ couples make a range of decisions about how they want to proceed. For example, lesbian couples may seek advice from other couples who have conceived within the context of a lesbian relationship.[1] While not captured in research, Better Pride practitioners heard from community members that LGBTIQ+ people may also refer friends or family to potential donors they know or who previously made

arrangements with. They described an informal referral network where those who had positive experiences with a donor may recommend that donor to friends or acquaintances.

Motivations for using or being a known donor within the LGBTIQ+ community

Much of the research into the experience of being or using a known donor has focused on arrangements between lesbian couples as recipients and gay men as donors. International research suggests that it is not unusual or uncommon for gay men to be asked to be a sperm donor by lesbian women in their social circles.[20] While this research focuses on relationships between gay men and lesbian women, similar arrangements may also occur among people with other sexual and gender identities. Australian research shows that for some donors, this is viewed as a way to support a friend; it may be a one-off 'gift' of sperm or ongoing involvement once the child is born.[21] Others may be motivated to donate as it provides an opportunity to co-parent with the recipient parent, or due to a desire for *"genetic immortality"*.[22]

The act of donating sperm can also be viewed more broadly as one of solidarity with others in the LGBTIQ+ community unable to conceive without donor sperm. Historically, gay men have been viewed by some lesbian women as 'safer' sperm donors than heterosexual men as they were viewed as being less likely to oppose their right to be parents.[22] More recently, Riggs (2023) described the notion of donor conception as an *"act of rebellion and solidarity"* against cisgenderism, based on interviews with men, trans/masculine, and non-binary people who experienced pregnancy after transition.[23]

Types of donor involvement

Arrangements between recipients and donors vary significantly in practice, within the continuum of kinship intentions outlined by Dempsey (2010).[18] At one end, some donors maintain little or no involvement with the child or recipients. For example, Dempsey (2012a) described Terry, a gay man who donated sperm to a lesbian couple he knew while at university.[21] He had no contact with the child and after losing touch with the women as time passed, he expressed mild curiosity but no sense of attachment to the donor-conceived child. These types of arrangements tend to prioritise clear boundaries and distance between the donor and the recipients and/or child, though donors are generally open to future contact if initiated by the child. Recipients may share photos or updates with the donor about the child.[24]

"My partner and I raise our boy together, we email photos to the donor and sometimes see his family but limited the contact - we feel it's important for our little boy to know and have access should he want it." – Lesbian mother [24]

Moving along the continuum, other donors take on a role in the child's social or familial network. In these cases, the donor may be positioned as a family friend or someone in the recipients' social circle, or they may take on a role of an extended family member or 'uncle'. A known donor's family may also be incorporated into the child's extended family.[23,25] In some arrangements, the donor's role is clearly defined as non-parental from the outset,[23] while in others, the relationship between the donor, the recipients, and/or the child may evolve over time in ways that lead to the donor being recognised as a parent.[21] For example, Philip is a gay man who became both donor and 'uncle' to Angie's child.[21] He positioned his role as one of ongoing social support, able to help out and look after the child while having no input regarding their upbringing. Over time, the child began calling Phillip 'Daddy' and inviting him to attend school events.

"We made it clear from when we started that he would always be an uncle and we'd involve his family if they're interested… [The donor has been] *one of my best mates for years, so his family is kinda like my family anyway. So, it was nice and it was effortless."* – Charlie [23]

At the other end of the spectrum, donors may take on co-parenting arrangements. These are arrangements in which the donor – and sometimes their partner – takes on parenting responsibilities. While the details of these arrangements may differ, these donors typically share childcare responsibilities with the recipients and are involved in major decisions. For example, Joe and Toby co-parent children with Laura and Alison after a long-term friendship between the two same-sex couples.[25] The daily care of the children is split between the two households, and all four parents have input in decision-making.

I have my biological child who lives with me and I co-parent with a male gay couple. We have a shared arrangement where our child spends one day and a night with them on a weekend. Neither of the co-parents are ex-partners, we are all just friends." – Lesbian mother [24]

It is important to note arrangements that do not sit neatly within these three types. This may involve the donor being introduced as 'dad' from early infancy but is not involved in decision-making or caring responsibilities.[21] Another approach is child-directed, in which the donor's role is shaped by the child as they grow up.[23]

Overall, existing research demonstrates that the experiences of being or using a known donor within LGBTIQ+ families are diverse and varied. These examples highlight the flexibility that known donor conception enables, and the importance families place on giving the donor-conceived child the option to know or contact the donor from an early age.[1,23]

Donor found via the internet

While some find donors within their communities, others use the internet, particularly Facebook groups, to make these connections. Most research and media coverage of online known donors reflects the perspectives of donors, often focusing on donations to lesbian couples or single mothers by choice. When recipients' views are included, they are often shared together rather than treated as distinct groups with different experiences. As a result, the discussion below also draws on the experiences of single mothers by choice where relevant, given the limited research available.

Online platforms offer greater control, personal connection, and lower costs compared to formal fertility clinic pathways.[26–28] These spaces function much like dating websites, acting as an introduction point between donors and recipients, with the details of the arrangement left to be negotiated between themselves.[17]

High clinic costs, long waitlists, and donor sperm shortages also drives people towards online donation.[27–29] Unlike community-based arrangements, online donors are often complete strangers to recipients, moving in different social circles and carrying no pre-existing sense of obligation beyond providing sperm.[17]

Motivations of online donors

Many online donors often seek greater control over the donation process compared to formal donations as well as the potential to develop a relationship with the donor-conceived child.[17,29] Some online donors are motivated by biological reasons (e.g. wanting to pass on their genes or confirm their own fertility), and for others it is social (e.g. the opportunity to co-parent or help others form a family).[17,29,30] While this reflects some similarities with known donors from within the LGBTIQ+ community, there is evidence of alternative motivations among online donors.

Many frame their motivations as altruistic, describing their role as 'giving back' to others in need. Others express ego-driven reasons, such as the desire *"to have more of me around"*.[31] Donation was often framed as a 'gift', with donors emphasising their generosity.[31,32] Similarly, in an Australian study, some donors were motivated by the idea of creating a legacy and sharing their genetic material.[33] While these men rarely expressed a desire to parent or raise the child, they often wanted to know about the donor-conceived child after birth. This differs from the perspective of some recipients who rejected the notion that donors were altruistically motivated, instead describing online groups as spaces for men to seek casual sex.[31]

> *"I think for a lot of men who donate to clinics they think they are doing good. It is like donating blood. A body fluid to be given to someone else if they need it."* – Andy, gay man [34]

Some online donors prefer the flexibility of choosing who they donate to by considering who is 'suitable' to raise a child, and other factors such as the potential recipients' health, lifestyle, and financial stability.[31] Some frame their donation in moral terms, for example, donor Kyle chose recipients he believed would be good parents.[33] However, attempts by donors to screen recipients has caused tension within online communities, with some recipients believing donors should not decide who is 'fit' to parent.[31]

Experiences of online donation

While some research has highlighted positive experiences of online donations,[17] much of the research has explored the challenges. Research shows that most online donors are heterosexual men, many of whom express a preference for 'natural' insemination (i.e. sexual intercourse).[17,27,35] This preference creates tension when recipients would rather use self-insemination or procedures within clinics. Some recipients have reported feeling pressured to engage in sexual intercourse because the donor claims it is *"more effective"*, or feeling as though the donor 'wanted something in return' for their donation.[31] In a UK survey, 40% of women using online platforms reported difficulties such as donors with unclear sexual motivations, and donors acting unethically.[35] There is also evidence of donors using aliases or fake profiles, which created uncertainty about their identity, sexual health, and honesty regarding family circumstances, including their marital status.[31]

Despite these challenges, many recipients report positive experiences. Some recipients benefit from meeting with potential donors to establish a personal connection, 'get a feel' for the donor, and decide if they are comfortable before proceeding.[29,35,36] This also provides recipients greater control over the level of involvement from the donor.[35] Reflecting the experiences above, some lesbian parents accessing a donor online value the opportunity for their children to know the donor even if they have a non-parenting role. However, others worry it could undermine the non-birth mother's role.[36]

Meeting a donor online provides a level of flexibility and control that is not available when using an unknown donor through a clinic. For example, one report shared the story of a woman pursing solo motherhood.[28] She met her donor via a Facebook group and valued the chance to discuss expectations before conceiving, even though their agreement was not legally binding.

"It was really important to meet the donor and actually be able to have a chat." - Lauren, single [28]

Similarly, Craig was interviewed on the *ABC Births, Deaths and Marriages* podcast sharing his experience of informal donation through a Facebook group, which he felt would give him more control over his donation process.[26] While online donation can

provide increased control, there is potential for misaligned expectations (which are discussed in more detail later). Craig had a standard donor agreement in which he had no entitlement to the child beyond being notified of their birth. However, he described feeling disappointed to be the last to know when he was notified a week after the child's birth via text. He respected that this was the recipients' decision but did not process these feelings until eighteen months later when the couple contacted him to donate again. Returning to their home and seeing the warm environment they had created helped ease his anxiety. He later received a text message from the recipient, thanking him for his gift of sperm donation.

What are the risks of conceiving via a known donor?

Overview

While using a known donor can provide choice and flexibility, it can also involve several risks, especially when conception happens outside a fertility clinic.

One common risk is unclear or changing expectations. Donors and recipients may not fully talk through what they expect at the start, or they may agree initially but feel differently over time. Disagreements often come up about the donor's role or how much contact they will have with the child. Without clear agreements in place, these changes can lead to conflict and relationship breakdowns.

There are also fewer safeguards when self-insemination is used. Informal donation usually does not include health checks, genetic testing, counselling, or limits on how many families a donor can help. This can increase risks and raises concerns about donor-conceived children unknowingly having relationships with genetic relatives.

Informal donation can also put recipients at risk of pressure or coercion, including pressure to conceive through sexual intercourse. Finally, informal arrangements carry legal uncertainty, leaving both donors and recipients unsure about parentage, rights, and responsibilities.

This section will cover several risks when conceiving via a known donor. Some are relevant to all known donor arrangements, while some are specific to those using self-insemination methods.

Misalignment or changing expectations of the donor's role/involvement

Research demonstrates that expectations between donor and recipients in known donor arrangements can evolve over time, often leading to misalignments and potential conflicts.[17,22,25,37] The inherent complexity of these relationships requires negotiation, regardless of whether formal agreements are in place. The absence of a detailed, explicit agreement creates vulnerabilities if someone's feelings change, which leaves relationships in a state of flux.[17]

This is illustrated in the case of a heterosexual donor to a lesbian couple, which highlights how a lack of clear communication and agreement can lead to significant misunderstandings. As described by Volks and Kelly (2023), the donor assumed he would take on a significant role in the child's life.[17] However, this was not discussed prior to conception and no formal agreement was made. Later, when he tried

discussing his role as the child's 'father', the recipients stated that he was *"nothing but the donor"* and did not allow contact after birth. The role of the donor may become problematic when those involved do not carefully consider what they want or articulate their expectations.[6,22]

The role that the donor will have in the child's life is a common point of misalignment, especially regarding the frequency and quality of contact. This issue often becomes a source of disappointment for donors or creates tension between donors and recipients.[6,17,25] For instance, donors may find themselves unable to see the child as often as initially agreed upon, or recipients may restrict access contrary to original expectations.[17,24,25,38]

The evolving self-identity of donors can also contribute to shifting expectations. Some donors may initially agree to limited involvement, however, later desire a more significant role as their self-identity shifts from 'donor' to 'father'. This transformation may be driven by emotional attachment to the child or a revaluation of their role. Dempsey (2010) describes an instance where a donor sought increased contact with the child beyond the previously agreed three visits per year.[37] The recipients suggested he may have misinterpreted their hospitality during conception as a basis for greater involvement.[37]

It is important to also note that not all donors actively pursue changes to their involvement, even when their desires shift. Volks and Kelly (2023) present the case of Art, a donor to multiple families resulting in 18 donor-conceived children.[17] Following an instance of misaligned expectations with one recipient family, Art reevaluated his preferred level of involvement and felt a sense of obligation to all of his donor offspring. He had not attempted to renegotiate his role with other families at the time of the interview. While the article did not suggest why this may be, other donors have expressed reluctance to initiate greater involvement due to fear that doing so may result in the recipients cutting contact.[25] Another donor recognised that his desires contradicted the original agreement and respected the recipients' wishes.[26]

These examples underscore the importance of thorough discussions and clear agreements before entering known donor arrangements. They also highlight the need for ongoing communication and flexibility as relationships evolve over time. The potential for changing expectations and desires emphasises the complex nature of these arrangements and the importance of aligning expectations to maintain positive relationships between all involved.

Lack of regulation when using informal donation pathways

Donations occurring within a formal clinic are subjected to a range of regulatory requirements that do not apply to informal donations (i.e. self-insemination).

Formal donors must pass a range of assessment requirements in order to donate via a clinic, regardless of if they are known or unknown donors. Potential donors may be rejected if they do not pass health or genetic screening tests, or professional counselling or assessment requirements. Australian studies have suggested that some men opt to donate informally after previously being rejected by formal clinics.[26,29]

Donor sperm accessed via a formal clinic undergoes rigorous health screening to minimise risk of infection and genetic diseases.[39] As informal donation sits outside of the regulated space, it often lacks equivalent safeguards.[27,29,35] Informal donors will often get tested for sexually transmitted infections prior to donating, however, this does not entirely reduce the risk because sperm cannot be quarantined outside of formal clinics.[32,35] Similarly, while family medical histories are sometimes discussed during informal processes, formal genetic testing is also uncommon in these arrangements.[32] Therefore, informal donations may be associated with greater risk concerning the health and safety of recipients and donor-conceived children.

There are also regulations relating to the number of families that donors can donate to. For example, in Victoria, Section 29(1) of the *Assisted Reproductive Treatment Act* limits the use of a donor's sperm to creating no more than 10 families, including the donor's own family.[40] These limits cannot be effectively enforced when donations occur outside of clinics. Donors may move between formal and informal donation pathways meaning that the legal limit may be exceeded.[30,32] This creates risk for donor-conceived children, with no system in place to track or prevent them from unknowingly forming romantic or sexual relationships in the future.[27]

Risk of coercion when using informal donations

The online donor space creates vulnerabilities for women, as some exploit people seeking to start a family, using the situation for their own advantage.[26,31] Research shows that many recipients take safety precautions, such as setting up initial meetings outside of their house, bringing someone with them, and emphasising a preference for conception via fertility clinics.[31] Despite this, there have been some reports of occasions where donors had tried to persuade potential recipients to engage in sexual intercourse to conceive.

These pressures can cross into coercion leaving women feeling ambushed, pressured, or exploited.[26,27] Research conducted in the UK found that some

recipients reported experiences that could be characterised as sexually coercive or abusive, even if they did not use those terms.[31] Others felt that online groups provided little recourse or accountability when problems occurred. Likewise, Australian accounts described donors who changed their agreed method at the last minute, used manipulation to push for sex, or engaged in inappropriate or abusive behaviour online.[26]

Donors in the UK have described 'natural' insemination as a *"community norm"* within online spaces, with one donor estimating that 70-80% of men would only provide sperm if sex was involved.[31] The donor claimed it is *"natural instinct"* for men to want this method of insemination, reinforcing the cultural narrative that *"boys will be boys"*. He placed responsibility on women to be upfront with what method they want.[31] Similarly, an Australian donor observed a troubling pattern in Facebook groups, where men responded to women's posts offering to help only on the condition of sex.[26] Such accounts reveal how men's control over sperm in online donation creates a power imbalance, where women may be pressured to engage in sexual intercourse or blamed for not denying the request.[31] These accounts highlight how informal donations can blur the line between assistance and exploitation, leaving women exposed to coercion.

Using 'natural' insemination carries additional legal risks for both donor and recipient. As this involves sexual intercourse, the boundaries between a donor arrangement and an intimate partner relationship can become blurred.[31,32] This can open the door for a donor to argue for recognition as a legal parent, with potential rights to parenting access or even financial responsibilities such as child support.[26,39]

Legal risks

Informal pathways can be legally precarious.[17,27] Legal protections that apply in formal fertility clinics do not always extend to informal arrangements, leaving both parties exposed to uncertainty about parentage and ongoing obligations.[39] These legal risks are discussed in detail in the following section.

Legal landscape – Who is a parent?

Overview

Australian law does not clearly define who is a legal parent, which can create uncertainty for families using known donors. Instead, parentage is shaped by a mix of federal and state laws, along with court decisions that interpret these laws case by case.

People who plan a child together using donor sperm are usually recognised as the child's legal parents, while the donor is not, especially when conception occurs in a fertility clinic. However, only two people can be recognised as a child's legal parents. Federal law does not clearly address families with more than two parents, single parents by choice, or self-insemination. Being named on a birth certificate creates a strong presumption of parental responsibility. Even so, known donors and others involved in a child's life can apply to the court for parenting orders, which the court uses to determine the parenting arrangements for a child.

Some state laws, such as in Victoria, offer more clarity, but mainly for donations that occur within a clinic. Court cases show that donors may be treated as parents where their actions, intentions, and ongoing role in the child's life support this, and where it is in the child's best interests.

In this uncertain legal landscape, donor agreements are a practical way for both recipient families and known donors to set clear expectations, reduce conflict, and protect everyone involved.

Within Australia, there is no legal definition of 'parent'. Instead, legislation sets out certain factors that may be used to presume parentage. Legal parentage may be determined by federal legislation (i.e. the *Family Law Act 1975*) and state legislation (e.g. within Victoria: *Assisted Reproductive Treatment Act 2008* and *Status of Children Act 1974*), with court decisions determining how these laws are interpreted and applied to specific situations.

Federal legislation

At the Federal level, parentage is established within the *Family Law Act 1975* (Cth).[41] Section 60H determines who is a parent with regards to artificial conception, including artificial insemination and assisted reproductive treatment.[42] According to Section 60H, if a woman gives birth through artificial conception, with the consent of the other intended parent, they are both legally recognised as the donor-conceived child's parents regardless of biology, gender identity, or sexual orientation. In such cases, a third-party sperm donor (known or unknown) is not considered the legal parent.

Within this legislation, it is presumed that the pregnant person is a woman with a spouse, de facto partner, or another person who is the other intended parent. The legislation does not provide an exhaustive list of who may be recognised as a parent. For example, it does not explicitly mention alternative family structures, such as single parent families or more than two-parent families. Donors within fertility clinics may be clearly identified as a donor rather than parent, however, there is less clarity when insemination occurs outside of clinics (i.e. self-insemination). This means that there is uncertainty around how this law may be applied within family disputes in the Family Court.

Legal parentage

In addition to Section 60H, the *Family Law Act* also sets out who in a child's life may have parental responsibility ('parentage').[43–45] One of the most common presumptions of parentage, particularly in cases of artificial conception, arises from registration of birth.[46] Typically, if a person is listed on a child's birth certificate, they will be presumed to have parental responsibility and have a legal right to make important decisions about the child's life.

If someone is not listed on the birth certificate, they can obtain parental responsibility by applying for parenting orders through the Federal Circuit and Family Court of Australia.[47,48] Under the *Family Law Act*, anyone who is concerned about the care, welfare, and development of a child may apply for parenting orders. These parenting orders are legal decisions made by the court and cover various matters, including where the child lives, who they spend time with, how parental responsibility is shared, communication with others, child maintenance, and other aspects related to the child's wellbeing.[49] This means that known donors may apply for parenting orders but this could also include others involved in the child's upbringing such as grandparents, extended family members, or the donor's family.

While Section 60H may exclude donors from being a legal parent, in practice, a donor could seek orders about the child's living arrangements or contact. This demonstrates why it is important for all parties involved to clearly understand and agree on who will be listed as parents on the birth certificate as the law currently allows only two people to be recognised this way.[43]

State legislation

Recognising the ambiguity within federal legislation, some state governments have attempted to remove the legal uncertainty around parentage. Within Victoria, legislation expands the legal definition of a parent within the *Assisted Reproductive Treatment Act 2008* (Vic) and the *Status of the Children Act 1974* (Vic).[40,50] Going beyond the federal legislation, state law specifies that single women may be

recognised as the only legal parent, excluding donors from parental responsibility. Similarly, the law explicitly states that a woman's female partner is presumed to be the other intended parent if they have consented to the assisted reproductive treatment or artificial insemination. However, the definitions within state legislation apply only to insemination that occurs within a fertility clinic and excludes self-insemination.

Case law

When disputes arise over parenting responsibility, the Federal Circuit and Family Court of Australia interprets the law according to the specific case. As legislation on legal parentage is often ambiguous, the court provides clarity when novel circumstances emerge. In such cases, the court determines how the law should be applied, and its decisions establish precedents that guide the resolution of future parenting matters.

Masson v Parsons

One landmark case was *Masson v Parsons & Ors* [2019] HCA 21 which showed how courts interpret and apply these laws in real-life situations.[51]

The case involved Robert Masson, a known donor who provided sperm to Susan Parsons and child 'B' was born. At the time of conception and birth, Parsons was single, and Masson was named on the birth certificate as the second parent. Masson was involved in B's life, providing financial support and participating in B's health, education, and general welfare. Later, Parsons entered a de facto relationship with Margaret, and the two women conceived a second child (child 'C') using a different donor. Masson spent time with both children on a regular basis.

When the Parsons planned to relocate to New Zealand with both children, Masson sought to stop the relocation by being recognised as B's legal parent. The Parsons argued that a child born via donor insemination to a single woman should be treated similarly under Section 60H as a child born to a woman with a partner.

The case was heard at the Family Court and the Full Court of the Family Court, before being appealed to the High Court. The High Court needed to decide whether Masson was a legal parent of B under Australian law. That is, whether a sperm donor that intends to be a parent is recognised, or if the law excludes Masson from being a parent due to the child being born from artificial conception.

The High Court determined that while Section 60H of the *Family Law Act* provides a legal definition of parentage, it is not exhaustive. Therefore, someone can still qualify

as a ‘parent’ under the ordinary meaning of the term, depending on the circumstances.[43]

The court’s decision was based on several factors which demonstrated Masson’s intention to parent. This included that he was named on the birth certificate, cared for B, provided financial support, and B identified him as her father. The court decided it was implied at the time of the donation that Masson intended to parent B.

Martine & Carmona

Another case that demonstrates the complexities of family formation and the role of donor agreements under Australian family law is *Martine & Carmona* [2024] FedcFamC2F 800.[52]

The case involved Ms Martine and Ms Carmona, a same-sex couple who commenced their relationship in 2007 and decided to have a child together through donor conception using both donor eggs and sperm. In 2009, they met Mr Hooper who agreed to be the sperm donor. Around this time, Ms Martine, Ms Carmona, and Mr Hooper drafted an agreement titled ‘Parenting Issues’. The 10th and final version of the document stated that “*the mums will be the primary care parents, and the dad will be involved with the child but in a secondary role.*”[52] The agreement also set out a schedule for Mr Hooper’s contact with the child, including overnight stays from six months of age and alternate weekend time from the age of five. This document was never finalised or signed.

In 2014, Ms Martine gave birth to the child (known as ‘X’). In line with the agreement, Mr Hooper met X at his birth and maintained regular involvement, including weekly visits and later overnight stays. Following the breakdown of Ms Martine and Ms Carmona’s relationship, disputes arose regarding X’s care, medical decisions, education, and Mr Hooper’s ongoing role.

A series of legal proceedings between 2019 and 2023 occurred, with the court needing to determine if and how parental responsibility was to be shared among the three parties. In court documents Ms Martine consistently referred to Mr Hooper as a ‘sperm donor’, however, the court recognised that the child referred to him as ‘Daddy’. Expert reports consistently described Mr Hooper as a balanced, insightful, and child-focused figure and recommended the court consider awarding him sole parental responsibility.

In its final decision, the Federal Circuit and Family Court of Australia considered what would be in the child’s best interest under Sections 60B and 60CC of the *Family Law Act*.[53,54] It also examined Section 65C, which allows a person concerned with a child’s care, welfare, and development to apply for parenting orders.[48] The court found that to describe Mr Hooper merely as a ‘sperm donor’ would be to ignore

that "*Mr Hooper is indeed in practical terms a parent of X within the ordinary meaning of the word.*"[52] While the written agreement was not signed, the court accepted that it reflected the shared intentions of the parties, and that Mr Hooper had provided continuous care and emotional support to X since birth.

The court determined it was in X's best interest to maintain meaningful relationships with all three parents. Ms Carmona and Mr Hooper were awarded shared parental responsibility, while living arrangements were divided between the three parties.

Why this matters for LGBTIQ+ families

These court decisions do not mean that all donors who intend to parent will be recognised as a legal parent. Under Australian law, parenting is not defined solely by biology or legal titles, but rather the circumstances of each case and the best interest of the child. Both cases demonstrate that intent and conduct was used to determine that the donor was not 'just' a sperm donor and that it was in the best interest of the children for the donors to maintain parental responsibility.

Within the current legal landscape, when disputes arise within families that do not reflect the nuclear family represented within the legislated definitions, courts consider a range of factors when deciding parental responsibility. A donor agreement is one proactive step that LGBTIQ+ families using known donors can take to navigate the legal and practical aspects of starting their family and avoid misunderstandings or conflicts.

What is the role of a donor agreement?

When people are seeking a donor arrangement, it is important that everyone involved is on the same page. A written donor agreement provides a framework for recording each person's intentions and understanding of their role in the donor-conceived child's life prior to conception.

Without a donor agreement, LGBTIQ+ families are exposed to legal and relational complications, especially if expectations change over time. Disagreements may arise around expectations regarding involvement, financial responsibilities, and decision-making.

Donor agreements are not legally binding. However, if a legal dispute arises, courts will look closely at what each party intended at the time of conception.[43,51,55] A donor agreement may be used as evidence of intention to parent at the time of conception.[43] Courts give significant weight to these documents when determining legal parentage in disputes, alongside other factors such as actions taken before conception, during pregnancy, and after birth.[51,55] These agreements help recipients and donors create proactive legal frameworks to guide their family structures. In short, a donor agreement is a preventative tool to document everyone's understanding from the start, reducing the likelihood of disputes and providing clarity for all those involved.[37,43]

Cases like those described earlier demonstrate how the courts can acknowledge unconventional parenting arrangements in the best interests of the child, rather than applying a one-size-fits-all definition of who is considered a parent. Donor agreements are one tool to demonstrate intent for families using known donors. Without a written donor agreement, families risk having the court make decisions based on interpretations of testimony, which may not accurately reflect what all parties wanted.

It is important to note that the role of and weight given to donor agreements is dependent on individual cases. There are many family circumstances in which a donor agreement may be relevant but have not yet been tested in court. While this is an evolving area of family law, donor agreements offer additional benefits beyond those applicable to court decisions.

Other benefits of a donor agreement

The development of a written agreement encourages open and transparent communication between all involved.[18] This offers several non-legal benefits.

Developing a written agreement allows for planning contingencies. When trying to conceive, donors and recipients may need to consider alternative methods if their attempts to conceive are unsuccessful.[6] For example, they might move from self-insemination to IVF, or in the case of same-sex couples, the other intended parent might try to conceive. A written agreement can help everyone involved prepare for and manage these possibilities.

The process of creating an agreement also helps to clarify individual desires and expectations. This is evidenced by the experience of Pete as described by Volks and Kelly (2023).[17] Pete donated to a lesbian couple he connected with online. Through the negotiation phase, he realised that he wanted to be a co-parent. This aligned with the views of the recipients, and they worked out the terms of his involvement. While it is not clear if their agreement was written, discussing the terms provided an opportunity for all to identity and express their wishes.

Beyond outlining the donor's involvement, a written agreement provides a framework for discussing key issues. This can help to prevent conflicts or disappointment by addressing potential issues before they arise. Proactive approaches may help to avoid situations like that of Martin whose partner Greg donated to his colleague Georgie and her partner Freya.[25] Both couples agreed the men would take non-parenting roles and see the child every three weeks, however, other details were not discussed. When Georgie and Freya later asked Greg to donate again, Martin felt disappointed as he assumed it would be 'his turn'. A carefully considered written agreement can help capture these details from the outset, providing clarity and protecting relationships over time.

Another key issue that donor agreements can address relates to health screenings. Informal donations occur without the clinical safeguards present within fertility clinics, bypassing the required medical screening and other assessment requirements.[26,27] A donor agreement can establish what medical testing must be completed prior to conception attempts.

Lastly, there is evidence that some donors may not fully think about the implications of their donation at the time it occurs.[56] Martin (2025) interviewed sperm and egg donors an average of 31 years after their first donation.[56] Some described initially viewing the donation as a one-off act without long-term consequences, particularly those who were young and not yet parents. Over time, however, donors came to recognise that their contribution had created a human and often developed a sense of ongoing responsibility, something too abstract for them to grasp at the time of donation. Although this study focused on unknown donors to fertility clinics, similar patterns may apply to known donors who enter agreements limiting their role to the provision of sperm, without considering the long-term implications. While a written agreement cannot provide psychosocial support, it may encourage donors to reflect more carefully on the abstract issues surrounding donation.

Conclusion

Known donors offer LGBTIQ+ families a range of benefits that are otherwise unavailable when using unknown donors. Due to issues such as experiences of discrimination and high costs, some also choose to conceive outside of formal fertility clinics. Despite the benefits, both situations place recipients and donors at risk, particularly regarding legal challenges involving parental responsibility.

Written donor agreements are one of the few proactive tools available to LGBTIQ+ families using known donors. Donor agreements can cover a range of topics which can be difficult to navigate. They can provide important evidence of shared intention at the time of conception and encourage transparent communication about roles and expectations. Donor agreements offer a framework for discussing key issues, helping to prevent misunderstandings or conflict in the future. A facilitated agreement can be drawn up via lawyers or a specialist service, and although not legally binding, can hold more weight than an informal unfacilitated agreements.

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