



4 November 2024

The Registrar
Coroner's Court of Victoria
65 Kavanagh Street
Southbank VIC 3006

Email: cpuresponses@coronerscourt.vic.gov.au

Dear Registrar

RE: COR 2023 002444 - Inquest into the death of Frankie Skye Foulkes

Thank you for your letter dated 6 August 2024 in relation to the finding and recommendations of Coroner David Ryan handed down on 18 July 2024, following the Coronial Investigation into the death of Frankie Skye Foulkes.

Standards Australia acknowledges the tragic circumstances in which Frankie lost her life. We express our sincere condolences to her family and loved ones.

Coroner's recommendations

We note that a reference to Standards Australia was made in the Coroner's Finding as part of the following recommendations:

- 1) *That the Victorian Government consider amending the Road Safety Road Rules 2017 to include a specific authorisation within rule 267 for the use of an alternative restraint in circumstances where, by virtue of a disability or medical condition, a child is exempted from wearing a seatbelt or being placed in an approved child restraint or booster seat.*
- 2) *That Standards Australia consider granting an exemption to AS/NZS 4370:2013 to the Royal Children's Hospital for the use of the Jane Matrix lie-flat car restraint in its lie-flat car restraint pilot.*
- 3) *That the Australian Competition and Consumer Commission commence a review of mandatory standards regarding child restraint systems for use in motor vehicles, in consultation with relevant expert stakeholders such as Mobility and Accessibility for Children in Australia Ltd, the Royal Children's Hospital, Transport Accident Commission (TAC), the Department of Transport and Planning, and interstate equivalents, for the purpose of:*
 - a) *developing standards that ensure the adequate testing and safety of special purpose car restraints; and*
 - b) *revising existing standards to facilitate the availability of a broader range of car restraints in Australia which meet the needs of children with complex medical conditions and/or disability*

Since becoming aware of the Coroner's Finding, Standards Australia has consulted with experts from Technical Committee CS-085 *Child Restraints for Use in Motor Vehicles* in relation to the Coroner's Finding and the recommendations above.

About Standards Australia

Standards Australia is the country's leading independent, non-governmental, not-for-profit standards organisation.

Under Standards Australia's standard development procedures, a project to develop a new Australian Standard or to revise an existing one is commenced if a project proposal form is submitted to Standards Australia and that project is assessed and approved in accordance with Standards Australia's processes.

Any new project proposal must establish that the proposed standard will deliver an overall benefit to the Australian community (known also as '[Net Benefit](#)') and that there is broad stakeholder support for the project. The proponent and stakeholder group also need to demonstrate their capability and capacity to effectively undertake the project activities.

It is important to note that in accordance with this process, Standards Australia does not initiate standards development projects by its own inclination. Rather, a project to prepare a new, or revise an existing, standard can only result from a request by external stakeholders, such as government, industry or trade association, professional body, consumer organisation or an individual.

The documents that Standards Australia develops are voluntary. There is no requirement for the public to comply with standards. However, State and Commonwealth governments often refer to Australian Standards® (AS) or joint Australian/New Zealand Standards™ (AS/NZS) in their legislation. When this happens, these standards can become mandatory.

Response to Coronial Finding

As noted above, Standards Australia has asked CS-085 to consider the Coroner's Finding and recommendations to assist Standards Australia in preparing this response.

Background to relevant standards

Also as noted above, Standards Australia develops voluntary documents. In the case of standards for child restraints, the Australian Competition and Consumer Commission (ACCC) is the Commonwealth government department responsible for mandating the relevant standards.

Relevantly, the ACCC has referenced parts of AS/NZS 1754:2013 *Child restraint systems for use in motor vehicles* as a mandatory standard under the Australian Consumer Law (ACL) via the [Consumer Protection Notice No.3 of 2014 Safety Standard: Child Restraint Systems for use in Motor Vehicles](#) (the Notice). It is important to note that the Notice expressly states that it does not apply to motor vehicle child restraints designed for children with a disability.

AS/NZS 1754:2013 *Child restraint systems for use in motor vehicles* specifies a range of design and performance requirements for devices to restrain children in motor vehicles to provide protection to the child in the event of a crash. AS/NZS 1754 includes design and testing requirements for lie flat restraints, referred to as 'Type A3' restraints being transversely installed restraints for infants up to 70cm (approximately 6 months of age).

We are informed by the Committee that while AS/NZS 1754 makes provision for Type A3 restraints, there are no products currently available in Australia that meet those requirements given the small size of the market. CS-085 have also advised that some Australian State and Territory Road Rules may not allow these Type A3 child restraints to be used.

We note the Coroner's Finding refers to AS/NZS 4370:2013 *Restraint of children with disabilities, or medical conditions, in motor vehicles*, the scope of which is to set out options for restraining a child with one or more disabilities, or a medical condition, while travelling in a motor vehicle, to minimize the risk of bodily injury in an impact. While this standard provides a process to assess

the suitability of 'special purpose' child restraints, any such restraints would still require an approval by the ACCC or relevant State/Territory authority before they can be made available for sale and use within Australia.

Status of relevant standards

CS-085 has developed a revised version of AS/NZS 1754:2024, which was published on 25 October 2024. The new edition of this standard includes a section to cater for child restraint systems for children with disabilities and medical conditions and covers variations that may be used on a child restraint for use for a child with disability being transported in a vehicle to reduce the risk of bodily injury in a crash.

It will be a matter for the ACCC as to whether and if so when the Notice will be amended to incorporate or replace this edition as the mandatory standard.

As more than 10 years has elapsed since the publication of AS/NZS 4370:2013, it is now an 'aged standard'. Given the Committee's work on a new edition AS/NZS 1754 is now complete, we expect that CS-085 will turn to a review of aged standards in its portfolio including AS/NZS 4370:2013 to assess its applicability, status and future.

Response to specific recommendation directed to Standards Australia

As noted above, Standards Australia develops voluntary standards and there is no requirement to comply with them unless they are referenced in legislation. Standards Australia does not enforce, regulate or certify compliance with standards. These activities are often conducted by relevant government departments or accredited certification bodies. As such, Standards Australia is not empowered to grant an exemption as is suggested by the Coroner's recommendation.

In the case of standards relevant to child restraints, the ACCC has referenced certain parts of 1754:2013. We also understand that individual State and Territory governments have specific rules related to the use of child restraints in their State/Territory Road Rules, including for "special purpose" child restraints that do not comply with AS/NZS 1754.

In its role as Australia's national standards body, Standards Australia will continue to engage with stakeholders in the development of standards relevant to child restraints.

Involvement of Standards Australia in the process of Coronial Inquests

Standards Australia would welcome the opportunity to assist the Court where Standards Australia, or the standards developed by it, are raised during coronial inquests and investigations.

If you have any additional questions, please contact me [REDACTED]

Yours sincerely



Christina Forsyth
General Counsel

Standards Australia Limited