



Queensland
Family & Child
Commission

Policy Submission

ACCC consultation: Infant sleep products

September 2022

Background

The Queensland Family & Child Commission (QFCC) welcomes the opportunity to make a submission to the Australian Competition and Consumer Commission (ACCC) in relation to the market review into the safety of infant inclined products.

The QFCC seeks to give practical effect to the rights of children and young people in Queensland through advocacy, awareness and accountability. We advocate for systemic change where children and young people experience inequity, vulnerability and marginalisation in Queensland.

The QFCC has a statutory responsibility to maintain the Queensland Child Death Register (CDR), which contains information relating to the deaths of all children and young people in Queensland since 1 January 2004, and report annually on trends and risk factors. The QFCC also has functions to reduce the likelihood of child deaths including making recommendations, arising from keeping the CDR and conducting research about laws, policies, practices and services.

The QFCC made a previous submission in response to the ACCC's Infant Inclined Products Issues Paper in August 2021 in support of a combination of the mandatory safety standard and mandatory information standard.

With the broadened product scope of the consultation paper, the QFCC supports Option 7 which includes:

- a mandatory standard focusing on all infant sleep products;
- a mandatory information standard on all infant sleep products and inclined non-sleep products;
- an education campaign; and
- a permanent ban on the supply of inclined sleep products with an incline greater than seven degrees.

Data for prevention activities

The QFCC collects, analyses and publishes information about child deaths to help prevent future deaths and serious injuries. We work with researchers and other agencies to raise community awareness and develop prevention programs and policies, by identifying risk factors, trends and emerging safety hazards. The QFCC can provide detailed child death data to researchers and organisations. Contact for enquiries child_death_prevention@qfcc.qld.gov.au.

Queensland Family & Child Commission

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Response to questions posed in the consultation paper

Summary

- The QFCC is generally supportive of the definitions and categorisation of Infant Sleep Products (including Inclined Sleep Products) and Inclined Non-Sleep Products.
- The exceptions and products not defined/mentioned raise concerns in relation to the continued availability of products designed for infant sleep that are contrary to current safe sleep guidelines.
- The QFCC is supportive of the preferred regulatory option encompassing a mandatory safety standard, mandatory information standard, education campaign and permanent ban on Inclined Sleep Products with an incline greater than 7 degrees.

Question 1: Do you agree with the definitions, exceptions and categorisation of Infant Sleep Products, Inclined Sleep Products and Inclined Non-Sleep Products? Please explain your answer.

Whilst the QFCC generally agrees with the definitions of Infant Sleep Products (inclusive of Inclined Sleep Products) and Inclined Non-Sleep Products, further clarity is needed in relation to the types of product inclusions/exclusions given the broader scope of curvature, rigidity, material, width and height of sides, supervision and restraints. In particular, the ACCC's position on the inclusion/exclusion on Moses baskets, baby loungers, sleep positioners and wedges.

Pictures of other products marketed as baby loungers, sleep positioners and wedges have been provided over the page.

The Consultation Paper appears to be silent on the inclusion or exclusion of a group of products marketed as co-sleepers or bed-sharing sleepers (which may include baby loungers, co-sleepers, nests and pods). Bed-sharing sleepers are clearly designed and marketed for sleep and should not be overlooked when considering standards around the consultation paper's identified risks associated with Infant Sleep Products. Further, with the extensive use of various terms used to name products, ambiguity remains between products designed and marketed as bed-sharing sleepers compared to sleep positioners (which were excluded from the scope).

Additionally, there is ambiguity in relation to the terms anti-roll pillows, sleep positioners, sleep positioning wedges and wedges. Some of these products are designed to reduce the risk of rolling, whereas others are designed to create an inclined surface for settling and/or sleep. The use of wedges in isolation, in combination with flat surfaces and in combination with other inclined surfaces is an area of interest, particularly in terms of labelling and warnings. The QFCC considers that the exclusion of wedges from the scope of the Consultation Paper is a missed opportunity for a comprehensive standard in relation to Inclined Sleep Products.

Given the difficulty with identifying a clear definition of baby loungers and sleep positioners and the breadth of identifiable risks (incline, rigidity, materials, width/height of sides, supervision and restraints) associated with this group of products, the QFCC is also supportive of an immediate ban on these products. The use of such products is contrary to current safe sleep guidelines.

The QFCC also noted that there was no mention of how the broadened scope may impact the possible regulation of sleep accessories such as cot bumpers, particularly in relation to materials. The QFCC would be supportive of a ban on cot bumpers.

Examples of products marketed as baby loungers, nests, pods, co-sleepers, sleep positioners and wedges.

 Nest	 Pod	 Little bed/sleeper
 Co-sleeper/nest/portable travel cot	 Sleep positioner	 Sleep positioner
 Sleep positioner/Support wedge	 Wedge	 Cot wedge

[Note: Consultation questions have been omitted where the QFCC were unable to comment or had no further comment.]

Question 3: Do you have any data about injuries or fatalities caused by Infant Sleep Products, Inclined Sleep Products or Inclined Non-Sleep Products? If so, please provide it to the ACCC.

The QFCC noted the data presented for fatalities likely attributed to Infant Sleep Products and inclined surfaces in Table 3 and the rationale for estimation of infant fatalities by Infant Sleep Products, where the ACCC identified that:

“There are a number of indirect factors associated with Sudden Unexpected Deaths in Infants (SUDI) or Sudden Infant Death Syndrome (SIDS), such as family circumstances, sleep environment and socio-economic status. SUDI occurs unexpectedly with no immediately obvious cause, but the cause of death can be determined following investigation (e.g. asphyxiation). SIDS is a subset of SUDI where no cause of death has been identified, meaning other health and environmental factors have been ruled out.

Based on the above understanding of how fatalities occur in Infant Sleep Products, the ACCC sought data relating to infant fatalities that cannot be attributed to any other cause of death, that occurred while sleeping in an infant products. We have assumed the product is a causative link for SUDI and SIDS.”

The QFCC provided a submission to the initial Issues Paper on Infant Inclined Products with inclusion of deaths with direct product-related causation, as well as data on deaths where a cause of death could not be determined, acknowledging that factors associated with sleep environments can increase the risk of deaths attributed to SIDS and undetermined causes.

Subsequent to the publication of the Issues Paper, the ACCC requested data from the QFCC in May 2022 to inform the Consultation Paper’s estimation of infant fatalities attributed to Infant Sleep Products, specifically for ‘infant fatalities caused by Infant Sleep Products, that are fatalities than cannot be attributed to other causes of death (e.g. the flu or other health related issues)’ with examples of explicit causation such as a fall from a cot, head/neck entrapment, suffocation etc. There was no indication that deaths due to SIDS or undetermined causes were included in the scope of the request.

As such, the QFCC provided data where there was direct product-related causation for infant fatalities while using infant products and a small subset of records where a cause was not able to be definitively determined but was highly likely to be linked with the infant product.

The methodology and data presented in the Consultation Paper is not reflective of the methodology and data requested from the QFCC, as the earlier request did not address the expanded scope as it now applies within the Consultation Paper (ie. to include SIDS and undetermined deaths). The data therefore omits a significant proportion of deaths from SIDS and undetermined causes, where the sleep environment (including incline, curvature, rigidity, material, width/height of sides, supervision and restraint) may have been linked to the sleep environment but there was insufficient information to attribute causality to a particular factor.

The QFCC is able to provide, should it be needed, aggregate data which is more consistent with the expanded scope (inclusive of SIDS and undetermined causes) of all Infant Sleep Products and Inclined Non-Sleep Products.

Question 4: Which of the proposed options do you prefer and why?

The QFCC is supportive of Option 7, which is inclusive of a mandatory standard for all Infant Sleep Products (including general requirements and additional specific requirements for cots and folding cots), a mandatory information standard on all Infant Sleep Products (including Inclined Sleep Products) and Inclined Non-Sleep Products, an education campaign and a permanent ban on the supply of Inclined Sleep Products with an incline greater than 7 degrees.

The QFCC considers that the environmental risks associated with Infant Sleep Products (incline, curvature, rigidity, material, width/height of sides, supervision and restraints) are most comprehensively addressed by Option 7.

The QFCC has a particular focus on addressing health inequities for children and families who experience substantial social disadvantage. These inequities are particularly evident in mortality data for SUDI. Infants who live in the most disadvantaged areas of Queensland die at six times the rate of those who live in the least disadvantaged areas (1.2 per 1,000 infants and 0.2 per 1,000 infants respectively, five year average).¹ The education campaign should adopt the principles of proportionate universalism, where education and health messaging are provided universally, but also target population groups with the greatest need or who are most at risk, such that the intensity and scale of education is proportionate to the level of need.

Question 9: Do you suggest any additional warnings be included in the information standard for Inclined Sleep Products and Inclined Non-Sleep Products? Please explain.

The QFCC suggests that warnings should also include advice to *not* place additional items into/on Infant Sleep Products that could impact on the safety of the sleep surface.

Of note, it is important to recognise that parents are likely to equate "settling" with "sleep" and that products marketed for "settling" (see for example 'comfort cushions' such as the babocush) should have clear warning labels. Products should have a clear and legible warning label (not just the packaging advising parents that this product should be used under supervision and not for sleep). Warning labels could be similar to the [red fire labels for nightwear](#).

Question 11: Do you suggest any additional warnings be included in the information standard for Infant Sleep Products? Please explain.

The QFCC recommends that information/warnings included in the information standard for Infant Sleep Products is consistent with the [Safer Sleep Guidelines](#) recently published by Queensland Clinical Guidelines. The guidelines provide a list of items and sleep accessories that should be excluded from infant sleep environments as well as general safety messages for creating a safer sleep environment for infants. Information should be consistent between the information standard and that which is provided by health organisations.

Question 14: Would you prefer a permanent ban on Inclined Sleep Products with an incline angle of greater than 7 degrees to continue once the proposed mandatory standards in Option 7 came into force, or that such products be incorporated into such mandatory standards and the ban revoked? Please explain.

The QFCC is supportive of a permanent ban on Inclined Sleep Products with an incline angle of greater than seven degrees.

Question 15: Which of the proposed options do you prefer and why (household cots)?

The QFCC is supportive of option H3, where suppliers would need to comply with all sections of the most recent Household Cots voluntary standard, with the inclusion of Infant Sleep Products such as bassinets and bedside sleepers and stipulations around rigidity of the sleep surface (mattress).

Question 20: Which of the proposed options do you prefer and why (folding cots)?

The QFCC is supportive of option F3, where suppliers would need to comply with all sections of the most recent Folding Cots Voluntary Standard, with the addition of stipulations around rigidity of the sleep surface (mattress).

¹ Queensland Family and Child Commission, Child Death Register (2017-22), Sep 2022.

Question 26: Provide comment on the transition period for the proposed options.

The QFCC is supportive of an immediate ban on Inclined Sleep Products greater than seven degrees. The QFCC would not support transition periods greater than 12 months for the mandatory information standard or 18 months for the mandatory safety standard.

Question 27: Provide any additional information or data you think may be useful to inform the ACCC's recommendation to the Minister.

The QFCC considers that whilst it is the intention to make clear warnings against the use of Inclined Non-Sleep Products (infant swings/bouncers) for infant sleep, it is likely that an infant will still fall asleep in these products, particularly given that the motion of those products can induce drowsiness. It is unlikely that once a child has fallen asleep, a parent will then move that infant, despite knowing the risks associated with a particular product. Regardless of how these products are marketed, they are likely to be used by parents in the same way as an Inclined Sleep Product.

The QFCC will continue to monitor for trends in patterns of infant deaths including in relation to the infant's sleep environment and the presence of inclined sleep surfaces. We are particularly interested in whether there will be an increase in makeshift inclined environments fashioned by caregivers following a possible ban on Inclined Sleep Products greater than 7 degrees, or sleep-related incidents in Inclined Non-Sleep Products.

References

1. Australian Competition and Consumer Commission. *Best practice guide for the design of safe infant sleeping environments: A guide for industry to reduce the risk of death and life-threatening injuries in infants*. 2022. Available from: <https://www.productsafety.gov.au/about-us/publications/best-practice-guide-for-the-design-of-safe-infant-sleeping-environments>
2. Queensland Health. Queensland Clinical Guidelines. *Safer infant sleeping*. Guideline No. MN22.71-V1-R27. 2022. Available from: <http://www.health.qld.gov.au/qcg>
3. The State of Queensland (Queensland Family and Child Commission) *Annual Report: Deaths of children and young people Queensland 2021–22*. (currently unpublished)
4. The State of Queensland (Queensland Family and Child Commission) (2022) *Annual Report: Deaths of children and young people Queensland 2020–21*. Available from: <https://www.qfcc.qld.gov.au/about-us/publications/child-death-reports-and-data>