

Our Ref: KMA:SMK:1126692

19 April 2023

Mr Lyncoln Chee  
Director  
Inquests, Inquiries & Representation  
Legal, Department of Communities and Justice

**By Email Only**

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Dear Mr Chee and Ms Favaloro

## **Second Inquiry into the convictions of Kathleen Megan FOLBIGG**

We refer to the closing submissions of Counsel assisting the Inquiry dated 4 April 2023.

The Academy commends the comprehensive analysis of the evidence by Counsel assisting the Inquiry, and does not wish to be heard on the conclusions reached in the closing submissions.

The Academy is of the view that the Counsel assisting team has approached the Inquiry with forensic rigour and a genuine effort to understand and apply the relevant research, advances in science, and expert medical opinion in light of such research and advances, as to the cause of death of each child and the cause of Patrick Folbigg's apparent life-threatening event.

The Academy considers that the Inquiry is a compelling illustration of the role complex and emerging science can play in the justice system, and demonstrates the value of ensuring decisions are informed by appropriate expertise. The Academy commends the collaborative attitude to the selection of experts across a range of disciplines and thanks the Inquiry for considering the input of the Academy as to experts and questions. The Academy believes the approach taken to this Inquiry should be used as a model for the future.

The Academy has identified a small number of matters pertaining to scientific accuracy in the closing submissions, which it respectfully raises for Counsel assisting's consideration. The matters are summarised at **Annexure A** to this letter.

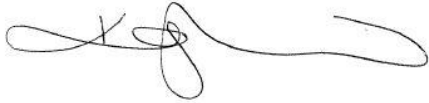
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Should you require any further information or have any queries in relation to the above, please do not hesitate to contact us.

Yours faithfully

A handwritten signature in black ink, appearing to read 'SK', with a long horizontal flourish extending to the right.

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## Annexure A: suggested amendments to Counsel Assisting submissions

Paragraph	Suggested amendment/comment
<b>289</b>	Strictly speaking the CALM3-G114W variant is not at the same genetic location because it is on a different gene. Rather the CALM3-G114W variant is at the <u>same amino acid residue</u> as the CALM2-G114R variant.
<b>298i</b>	Last line should refer to the “autonomic” rather than “automatic” nervous system.
<b>314</b>	A codon is a sequence of three DNA bases, which encodes for a single amino acid. Cell machinery reads DNA to create corresponding amino acid sequences. Thus, para 314 should read:  <i>In DNA, those nucleobases are arranged into clusters of three, which <u>code for one of twenty different amino acids</u>. A gene is a stretch <u>of DNA that codes for a sequence of amino acids</u>, and a protein is comprised of one or more sequences of amino acids.</i>
<b>316</b>	The last word in this paragraph should be “protein” rather than “gene”.
<b>350</b>	The GnomAD database contains 125,000 exomes plus 15,000 whole genomes, so 140,000 in total. <sup>1</sup>
<b>377</b>	It should say “cell membrane” rather than “wall” (animal cells do not have cell walls).
<b>380</b>	This should say “114 <sup>th</sup> amino acid residue” rather than “114 <sup>th</sup> allele”.
<b>381</b>	This should refer to “N138K” rather than “N128K”.
<b>384</b>	Professor Nyegaard explained that no calmodulin variants have been found to be benign, although some may not affect cardiac rhythm. Therefore the I10T variant should be described as ‘non-arrhythmogenic’ rather than ‘benign’.
<b>393</b>	The bracketed part of the second sentence should read “(each of the three CALM genes <u>have two copies (alleles)</u> , only one of which will carry the variant).
<b>399</b>	This should read “amino acid residues” rather than “alleles”. (An allele is a reference to the gene (DNA) sequence, not the amino acid sequence.)

<sup>1</sup> See <https://gnomad.broadinstitute.org/>