

## **Memoria Ltd – Consultation response to CMA draft report on funerals / cremation industry**

### **Introduction**

We at Memoria submitted a significant response to the CMA RFI in July 2018. We have now had opportunity to read the draft report and make the following submission based on our experience in the cremation industry as the 3<sup>rd</sup> largest private operator of crematoria in the UK.

It is our view that a number of fundamental flaws in the approach to the report need to be addressed (particularly on the cremation industry) before the final decision to proceed with a MIR is taken. It is our view that a number of the conclusions of the report have been taken without the CMA fully understanding the following aspects:

- Significant changes to the structure of the cremation market in the last 10 years
- The importance of factoring in cost of capital in understanding private sector pricing
- The importance of customer experience, service and facility quality
- Price Competition / Market Power

It is our view that the CMA need to better understand these areas by conducting more thorough research before determining whether a MIR of the cremation industry is needed. In articulating our views on the report, we have made a series of points against these areas as well as commenting on more specific sections of the report below.

### **Significant changes to the structure of the cremation market in the last 10 years**

It is our view that the CMA Report underestimates the fundamental structural changes to the cremation industry in the last 10 years. We are of the opinion that this has been the biggest factor in rising cremation prices over that period.

In order to demonstrate this in an understandable way, we have outlined a snap shot of the cremation industry in 2008 compared with the industry in 2018:

#### **2008**

Approximately 250 crematoria.

The busiest crematoria doing 4,000 – 5,000 cremations per annum.

4-5 week waiting times 'normal' during the busier winter months of the year.

Average service times were 20-30 minutes (16-30 slots per day) with the longest service time offered at 45 minutes (by Memoria). The majority of funeral services would come into contact with another bereaved family when visiting a crematorium.

Over 90% of crematoria had unbated (mercury) cremators and therefore were putting emissions of potentially dangerous heavy metals (mercury) into the atmosphere.

Over 90% of cremators were unable to accommodate larger cremations (over 32 inches in width).

No web casting or visual tribute screens available in crematoria – personalised music systems were only offered in less than 20% of crematoria.

Usually one standard cremation fee.

## 2018

Approximately 300 crematoria – 46 new state-of-the-art facilities built with another 20 consented / under construction.

The busiest crematoria doing 3,000-3,500 cremations per annum.

2-3 week waiting times (at worst) even during the busier winter months.

Average service times are 30-45 minutes with the longest service time offered 60 minutes (8-16 slots a day). The majority of services now don't come into contact with another bereaved family and instead have the facility to themselves.

Over 75% of crematoria now have mercury abatement installed and are completely free of heavy metal emissions.

The majority of crematoria have the ability to accommodate up to 42-inch-wide coffins.

Web casting or visual tribute screens are available in the majority of crematoria – personalised music systems were only offered in more than 75% of crematoria.

Better car parking provision.

More product choice (at some crematoria) to include Direct Cremation.

The point of looking at this snap-shot is that the crematoria industry has fundamentally changed. 46 new crematoria have been built with another 20 consented in the last 10 years. That is more than in the previous 40 years.

This significant investment in new-build crematoria (mainly from the private sector) has increased the capacity of the industry significantly. It has allowed for:

- Longer service times
- More environmentally friendly cremators
- New state of the art facilities with modern technology
- Shorter waiting times (for a service)
- Less services at pressured busy crematoria – leading to better customer experience

This structural change to the industry has been driven by 2 main factors:

- Rising number of cremations in the UK over the period – up from 423,000 in 2008 to 468,000 in 2017.
- The fashion of funerals – the public want more personalised celebrations of life and they are not prepared to be part of a tragic conveyor belt at crematoria i.e. queuing to get in or generally being in contact with other funerals / bereaved people attending another funeral.

There is a general inference in the CMA Report that prices have gone up by 84% in the last 10 years without clear justification. We disagree with this sentiment. Once the consented / under construction sites have been developed, over £300 million will have been invested in the cremation industry by the private sector in the last 10 years. The cost of this investment capital is examined

later in this response – but it is worth stating that this has been the largest driver of the 84% price rises in cremation over the last 10 years.

The private sector has been the biggest contributor to these 46 new developments with Westerleigh developing 21 new builds in that time, Memoria 10, Dignity 9, other private sector 4 and local authorities, 2 (statistics taken from the UK Cremation Society).

Without this investment, the industry would not have been able to cope with the rising cremation numbers or the demand by the public for better standards of service and facilities. There can be no doubt that the industry (as a whole) has improved significantly over the last 10 years owing to this investment. We place significant weight on the importance of understanding this point in order to explain the price increases over the same period.

We cover Direct cremation and product choice later in this response but it is worth noting that we believe that this has a significant role to play in the future of the industry and that the CMA report underestimates this point. With this in mind, we reject the idea that it is a 'temporary phenomenon'. Instead we believe that it is another example of how the market is responding to a real consumer demand for cheaper funerals.

### **The importance of factoring in cost of capital in understanding private sector / all cremation pricing**

The CMA Report acknowledges that additional costs are fair justification for price rises providing that price increases are matched by increases in cost. As stated above, once the consented / under construction sites have been developed, over £300 million will have been invested in the cremation industry by the private sector in the last 10 years. It is worth noting as part of that figure that the cost of building a new state-of-the-art crematorium has increased by over 100% in the last 10 years (materials / construction / land / cremators / mercury abatement / car parking provision needed etc.)

It is hard for us to estimate what the cost of capital is to other private operators but for us it is approximately [ ]% per annum. We have invested £[ ]m in the last 8 years to build 10 new state-of-the-art crematoria. Our 10 crematoria produce circa 10,000 standard cremations per annum. This means that our cost of capital is £[ ] per annum or £[ ] per cremation created per year. To use the CMA accepted theory regarding costs, it means that we could be justified in charging £[ ] extra per cremation when compared to a crematorium that hasn't made that recent investment and thus doesn't have our cost of capital. Incidentally, we don't charge those levels because we do compete on price as is further explained later in this response.

While we don't know the cost of capital for Westerleigh, they have developed 21 new builds in the last 10 years (over £100m) – thus will certainly have a cost of capital which needs to be appreciated and understood when looking at their pricing strategy – particularly when you factor in the additional capacity that they have introduced to the UK cremation market which in turn provides all the benefits outlined in the above section on market structure.

Dignity is a more complicated case. They own 46 crematoria but have only developed 5 new-builds in the last 10 years. That said, they have also made 2 major separate acquisitions in that period. Mercia / Memoria (Mk 1) in 2009 – 5 new crematoria (all less than 4 years old) for £25m and Cooperative Funeralcare crematoria in 2016 – 5 crematoria (mix of old and new) for £43m. So, 15 additional crematoria under management. They have invested in 5 new ones themselves, bought 4 that have been built by other developers in the last 10 years and paid a premium for another 6

established sites. This will certainly have a cost of capital but we accept that their pricing strategy has been disproportionate when compared to the rest of the market. It is also not adding value to simply pay premiums for existing sites and then not improve them. This is not improving standards or adding capacity to the market.

What is more telling is that their price rises have not been confined to new sites that have been heavily invested in. Instead, they have implemented a more general price rise that has been implemented regardless of age or quality standards of the facility.

We believe that the CMA have drawn conclusions about the whole industry based on Dignity's strategy with the general point being 'how can the market be working correctly if the facility charging the highest price does not provide the best quality to the consumer.' We agree with this point in isolation but we would also point out that Dignity only make up 15% of the cremation market.

In the last 10 years, the 191 local authority crematoria have had to deal with the upgrading of technology (music systems / web casting) as well as the installation of mercury abatement. It is accepted that the investment required for local authorities varied between £1m and £5m to install mercury abatement depending on each individual circumstance (how many cremators, did they need to make structural changes to their chapel building to accommodate the size of the filtration system, if they couldn't they had to build a whole new crematorium on a different site). Again, given the lack of central government funding in the last 10 years, the cost of capital involved with making these improvements must be factored in to the pricing of all LPA crematoria.

It is also important that the rising costs of maintaining closed cemeteries are also taken into consideration as again over the last 10 years, this has been another cost implication for local authorities in the wake of central government cuts with the local authority crematorium income expected to help cover this ongoing cost burden.

### **The importance of customer experience, service and facility quality**

While there is an acknowledgement within the report that the 300 crematoria offer different levels of quality standards, there is a conclusion that crematoria do not have incentives to improve their offerings to attract customers. In short, little to no weight is given to the quality of the facility or the customer service experience. We fundamentally disagree with this conclusion. It is not clear how many crematoria the CMA visited as part of drawing these conclusions but we know that none of our crematoria were visited as part of the process.

We monitor our performance very closely to include a full understanding of each local market that we operate within. The CMA will have seen this through our original evidence where we set out our Market Penetration report for each facility that we operate. In revisiting this evidence, the CMA will note that we regularly out-perform our natural (drive-time) catchment area by 10-30%. In short, this means that bereaved families choose to travel further to come to our facility than another crematorium which is located closer to them. Our feedback from funeral directors and bereaved families suggest that this is based on the quality of our facility, additional product choice and the quality of our customer service. In practical terms, this equates to an additional 100 – 500 funerals / cremations per annum. As a result, to suggest that we have 'no incentives to improve our offerings' is erroneous – the incentives are clear commercially.

The CMA Report significantly underestimates the role that crematorium staff play in the quality of the offering to bereaved families too. We invest significant amounts into our staff recruitment and

training as these individuals play a vital role in delivering the best possible standards for the bereaved. If the CMA conclusions were accurate, this would be a waste of money as it would make little difference to the financial performance of the crematorium. Our results evidence that this is not the case though and if the CMA would like to examine a specific example, we would be happy to recommend our facility at Denbighshire where we have over 250 funerals a year coming from the Conwy region, despite Conwy having its own crematorium located in Colwyn Bay.

To further demonstrate our commitment to understanding the quality of the service and facility that we offer, we use the independent online feedback tool, Trust Pilot. We have 5-star ratings at all of our facilities which is particularly pleasing given that most people only review a crematorium if they have something very good to say or something negative (for obvious reasons).

In order to support our assertions on the importance of service and facility quality at crematoria, we would invite the CMA to review our Trust Pilot reviews on our website: [www.memoria.org.uk](http://www.memoria.org.uk) – to highlight the impartiality of the review process, you will see that not all reviews are perfect. We would also invite you to review the letter that we received a couple of weeks ago at our Denbighshire facility which is appended in Appendix 1. We receive many such letters but we think that this particular one pinpoints the value that our people and service bring to bereaved families.

### **Price Competition / Market Power**

There is a clear conclusion in the report that crematoria don't compete on price. We disagree with this conclusion. All of our 10 crematoria have to compete in the local market on price and this is demonstrated by the different prices that we charge across the UK.

Above we state that quality is important and we assert that it is. However, despite our superior quality to competing crematoria in the vast majority of cases, we always need to compete with all local crematoria on price. In order to better explain this point, you will remember that we submitted our FD by Area reports in our original evidence. This report enables us (leveraged off our original GIS demographic assessment) to understand what proportion of our numbers is likely to come to us due to proximity (Core Area) and what proportion of our catchment area have a choice of another crematorium (Battleground Area). I have summarised the results again below:

- Cardiff and Glamorgan – 67% Core Area / 33% Battleground
- Kirkleatham – 80% Core Area / 20% Battleground
- Amber Valley – 50% Core Area / 50% Battleground
- South Oxfordshire – 40% Core Area / 60% Battleground
- South Leicestershire – 30% Core Area / 70% Battleground
- Waveney – 40% Core Area / 60% Battleground
- Denbighshire – 60% Core Area / 40% Battleground
- North Hertfordshire – 40% Core Area / 60% Battleground
- Flintshire – 65% Core Area / 35% Battleground
- Barnby Moor (Bassetlaw – where 2 new crematoria have been built within 2 miles of each other – 0% Core Area / 100% Battleground

As you can see, the split between Core Area and Battleground vary significantly but they never tend to fall below 20% Battleground – whether that is for us or the rest of the industry. The prevailing

point is that if you have invested £5-6m in developing a new crematorium or even if you own a crematorium that has been open since 1900, you simply cannot afford to lose 20-100% of your catchment area. This means that in order to maximise market share – ALL crematoria have to compete on price.

We do accept that a crematorium has some local market power but to infer that they simply increase prices because they can, is fundamentally wrong as it does not appreciate the adjustments of the last 10 years in the structure of the market as evidenced in the first section above.

Again, we believe that the CMA draw this conclusion as a result of the pricing strategy of Dignity who seem to increase prices at a set rate regardless of what their competitors are doing. The subtle point here though is we can show is some instances that they **have** lost market share as a result of this strategy. The significance of their market share loss has been blunted by the increasing number of cremations available in the last 10 years but it should be noted all the same as it shows that competing on price IS important and there will be consequences if you don't compete.

[REDACTED]

We also note that all price increases / competition data quoted in the report were taken from the standard cremation fees and disregarded cheaper options offered at crematoria. As you can see from our below points on product options and direct cremation, we believe that to ignore this element is a fundamental flaw in the report as it completely ignores the most recent trends since the 2016 Select Committee Report.

In short, we believe that the cremation market is already naturally responding to new and different demands from the public and this has boosted the general competitiveness of the cremation market over and above what has existed in the last 10 years. To this end, Direct cremation and increased choice in the type and time of traditional cremations (cheaper times etc.) meant that our overall prices fell by 2.69% in 2017 and they are set to fall further in 2018. We provided the CMA with this evidence earlier this year, but it is not given any weight in the interim report.

## **Other General Points**

### **Insufficient research to draw such assertive conclusions**

It is our view that the CMA interim report did not do the required amount of research to support the strength of conclusions outlined in the report. We also believe that the statements given in the press release to be misrepresented in places and unsubstantiated in others. As an example, conclusions are made in the report about the quality of service / facility not being a significant factor in crematoria performance – however, seemingly this is based on the 76 people CMA Consumer Survey rather than a programme of site visitation to experience and understand the differences in quality level and determining what role this will play in consumer choice.

### **The role of life insurance company sponsored research and advertorials**

The report does not factor in the role of life insurance companies in forming the view on funeral inflation. Most stories that appear in National press coverage come from research that is funded by life insurance companies. Yet, these companies sell funeral plans so it is their intention to do everything possible to convince the public that funeral costs are going up so that they buy a funeral

plan (from them) today. This provides is a clear conflict of interest and means that most press stories on the rising cost of funerals have been less about bereaved families suffering and more about producing advertorials for life insurance companies who are looking to promote commercial gain.

### **Funeral Deflation**

There was deflation in the funeral market in 2017 (as verified by both the Sun Life and Royal London annual reports on funeral costs) thanks to the Frank Field 2016 PSCR and this will almost certainly be seen again in 2018 and going forward. As stated above, this fact and the trends in increased competition, simple funerals and direct cremation is underestimated by the report.

### **Specific response to individual paragraphs within the report**

In this section, we examine and respond to specific elements of the interim report.

#### **Customer Vulnerability / Choice**

- There is a clear view stated at paragraphs 3.54 and 4.12 in the interim report that customers of funerals are in a position of 'extreme vulnerability' and as such do not/cannot shop around for a funeral.

Our view is that the CMA in giving the impression that all people arranging funerals are vulnerable is an exaggeration; and it gives the impression that the people on the other side of the transaction evidently should not be trusted without some sort of supervision. We disagree with this point and would emphasise that the YouGov poll quoted in Appendix B (item 7) could be read as follows rather than the negative inference given in the report:

- 71% did not have to juggle competing demands from family
- 61% did not find it difficult to organise the event, even though they were recently bereaved
- 78% did feel in control of the process
- 74% didn't find it difficult to make decisions about the funeral

While we fully accept that all participants in the funeral industry should have solid procedures in place to cater for clients that are truly vulnerable, we don't believe that everyone arranging a funeral automatically comes under this definition. Given that the 'extremely vulnerable' term featured prominently in the CMA's press release, we would urge the CMA to provide additional evidence to support such a strong statement.

- There is a view stated at paragraph 4.21 in the report that "the few consumers who compared prices of funeral directors online reported difficulties in doing so due to lack of transparency in pricing." We are confused by this statement as Footnote 158 (on page 45 of the report) states that "the CMA consumer survey found that most of those who compared two or more funeral directors (42 of 48) considered it easy (very + fairly) to get the information they needed to make a comparison." Surely this evidence doesn't support the statement made in 4.21.

Our view is that consumers are increasingly shopping around as evidenced by the growth of price comparison websites and the general use of the internet when selecting funeral options in the last 2 years.

As an example, our business, Low Cost Funeral Ltd is marketed exclusively online with a SEO and PPC driven strategy. This generates 500-1,000 enquiries a month – just for a small direct cremation business. All trends around online sales activity for funerals indicate that this is growing rapidly so we believe this section of the report is somewhat misleading with regards to the current position that we are witnessing ‘on the ground’.

### **Direct cremations / simple funerals**

- At 4.65, the report describes simple funerals and direct cremations as a temporary phenomenon on the basis that the CMA do not see them as proper substitutes for a traditional funeral.

The trends around direct cremation in the last 18 months show it to be growing at a significant rate. As such, this view is against the substantial amount of evidence that we provided on the growing popularity of direct cremation as part of our original submission.

As such, it is our view that the CMA have seriously underestimated the trends surrounding Direct Cremation. We believe that increased product choice is the answer to the issue of rising cremation prices. Our income per cremation fell by 2.69% last year as a result of having 3 cremation prices offered instead of 2 in 2016. This year we have 4 different price levels and next year we will offer 5. We did 15 direct cremations in 2015 - we will do circa 3,500 in 2018 (most at about 55% of the high midday price).

The only supporting evidence provided in the report is to quote from a Dignity plc statement to shareholders on the subject of simple funerals and direct cremation. We believe that a PLC is always going to hope that lower pricing is but a passing phase when addressing its investors. That said, if you actually look at the evidence announced by Dignity in November 2018 (for the period to 28<sup>th</sup> September 2018) it revealed that:

- **Full services (at Dignity crematoria) accounted for only 44% of total services – down from 60% in 2017.**
- **Simple funerals have risen from 7% in 2017 to 24% in 2018.**

We are also aware that the Coop started offering Direct Cremation in all their branches in June 2018. They have already sold 1,250 direct cremations in 2018 and expect this to rise to 5,000 in 2019. These trends do not appear to represent the characteristics of a ‘temporary phenomenon’. It is also worth noting that similar trends in Direct cremation have already taken place in the established funeral markets of USA and Australia where it makes up in the region of 30% of the funeral market.

We believe that the deaths of the ‘baby boomer’ generation (with their little regard for tradition), the lack of religious faith and a higher number of people with ‘middle class thinking’ will ensure that direct cremation, in its many but cheaper forms, will only continue to increase (as the trends suggest). We believe that this is already proving to be effective on bringing down the cost of both funerals and cremation.

### **Crematoria Quality relationship with price / Competition**

- At 5.26, there is reference to a private operator internal document which notes, “the importance of proximity in customer decision for those within the ‘core captive area’ of the



crematorium (i.e. within a 30-minute drive-time, at cortege speed) stating that inelastic demand supported by proximity (is) the most important factor in crematoria use.”

The report seizes of this statement and goes onto quote it in coming to its conclusions on quality, market power and price setting. We disagree with the way this statement is used by the CMA report to come to such definitive and in our opinion, misleading conclusions.

In terms of the statement itself, we disagree that the core area is the most important factor in crematoria use. To demonstrate this, we have taken the decision to build a crematorium at Barnby Moor in Bassetlaw where we have NO CORE AREA. We have done this because we are confident in our ability to compete on quality and price against any other crematorium operator.

Despite our view on this, it is note worthy to say that if you are looking to invest £5-6m on building a new crematorium, you must assess what % of your numbers are likely to be made up by a core area. This is an important factor but as stated, it does not have any bearing on the importance of quality of service / facility or whether price competition takes place. This is because regardless of the size of the core area, every crematorium has a % of ‘Battleground’ within its catchment area and no sensible operator can afford to lose 20-100% of its business.

- At 5.30, the report cites its own consumer research and the CMA consumer study to ‘prove’ that while consumers consider quality relatively more than price, only a very small number of customers choose a crematorium based on quality.

As stated above, at a number of our sites, we penetrate 20-30% outside of our minimum distance catchment areas owing to the quality of our facilities / staff. A perfect example is at Denbighshire when we regularly take services from Conwy even though Conwy has their own crematorium. In short, as evidenced above we can demonstrate that quality has a significant relationship to crematorium performance thus we fundamentally disagree with the method and the conclusions of the CMA report in relation to this issue.

- At 5.36, the report states that “the number of customers for which crematoria may genuinely compete is likely to be limited.”

As outlined in the Price Competition section above, most crematoria will have a battleground area where they have to compete with other crematoria for business of between 20% and 100%. We accept that there are a small number of crematoria that are located in isolated positions – over 30-60 minutes from a competing crematorium but even such a site will have some centres of population (located in between 2 sites) that compete. With this in mind, the CMA report demonstrates that there is no evidence to support the view that these isolated crematoria charge higher prices.

- At 5.37, the report states that ‘evidence available to the CMA consistently indicates that crematoria do not compete on price.’

We know that crematoria compete on price. Whether the family study the price of cremation or not will depend on what they have agreed with the funeral director. The point is that in every case, the funeral director or the bereaved family will be studying the price of cremation. There seems to be a total lack of acknowledgement from the CMA that the funeral director has a desire for the cremation price to be as low as possible. Crematoria have 2 client bases – the bereaved public and the local funeral directing community. There doesn’t seem to be proper understanding of this relationship within the report. In all cases,

it is in the interest of the family or the funeral director to demand a lower cremation price (which they frequently do.)

### **Link between quality and price**

- In paragraphs 5.57 and 5.58, despite clear arguments to the contrary, the report states that there is no clear link between quality offered and consumer choice.

In 5.57, the report attempts to discern whether crematoria use the provision of better-quality services and facilities as part of competing between themselves.

It mentions that crematoria operators (so not just Memoria) have told the CMA that they want to offer high quality service, and improve their standards, not necessarily to compete or to win customers, but because they understand the importance of this to the friends and family of the deceased. We would applaud the inclusion of this statement, which reflects the general professional tendency towards in-built empathy for the bereaved in both the funeral and crematorium industries.

The report then confirms that in fact, “providing a service that people want and value is part of the competitive process.”

However, in 5.58, the report cannot support this argument with the evidence they have gathered, because once again it states that “as explained above, customers rarely compare different crematoria, suggesting that, while quality may be a differentiating factor, the incentives to compete over quality to attract customers, may be limited”. And as a result, the conclusion is that quality of service and facility are not used in competition between crematoria.

As stated, and evidenced above, we believe this conclusion to be completely wrong.

The report’s previous references as to how customers behave in choosing a crematorium, is derived from a survey of just 76 people; and on the CMA’s own Consumer survey, where the number of people surveyed is not disclosed.

Our experience is that these very limited survey results can be conclusively refuted by our own practical experience, over several years, of opening new crematoria in areas that have been deprived of modern facilities, and high standards of customer care. This combined with experiencing Market Penetration levels of 100-130% of “normal” catchment (based on 30-minute drive times at cortege speed) as customers from outside the area, drive further than they theoretically should, in order to have a better-quality service.

We suggest that in further investigating the sector, the CMA should specifically interview people who have organised or attended such out of area services, to ask them why they behaved in this way. In Appendix 1 you will see a letter from a recent client, who spoke very specifically about why he appreciated the level of service we offered at Denbighshire, and that he was astonished to see such a high level of “service from the heart” and “palatial premises” in what was a “privatised” facility.

As previously stated, the gentleman’s testimonial is not an isolated case. We would also like the CMA’s reporting officers to look at the “Trust Pilot” scores of our crematoria. Trust Pilot’s rules are that all reviews submitted must be published without exception, so the views of the general public about our facilities are available for inspection, warts and all –

and they will quickly see that we are not exaggerating regarding these customers' preferences.

- 5.59 – 5.64 examine the difference in service times offered at crematoria and come to the conclusion that longer times are not important.

A bereaved family is paying for 2 things when they come to a crematorium – the service and the cremation. Is it not accepted that you pay more for a longer, more personalised service at a newer state of the art facility? For example, if you pay £600 for 30 minutes at one crematorium and £850 for 60 minutes at another, surely that is fundamentally different and should be expected? If the fee was separated out with the cremation element set at £300 on both – thus you were paying for £300 for 30 minutes and £550 for 60 minutes – would that not be fair economics?

- In 5.75, the report concludes that “crematoria do not have strong incentives to reduce their prices or improve their offerings to attract new customers” – going on to say, ““This means that in many cases, whilst there will be some customers for whom there is a genuine choice between two crematoria...these customers are likely to be a small proportion of the crematorium’s customers”

As already evidenced in the previous sections, this statement is simply erroneous. While most crematoria have a core area (not all as some are located in very close proximity to each other) where funerals are likely to come based on proximity, all crematoria always have ‘battleground’ areas where bereaved families have a genuine choice between 2-4 competing crematoria. Out of our 10 crematoria, the battleground area ranges from 20% to 100% - so these are clearly not ‘small proportion of our customers’. We have set out all of our arguments on core area / battleground splits in the section above on Price Competition / Market Power.

- In 5.78, the report states that “we consider that the above factors mean that crematoria have a high degree of market power”

We have evidenced conclusively in our own case that the customers for whom there is a genuine choice between two crematoria is much higher than the “small proportion of the crematorium’s customers” assumed by the CMA in para 5.75 – and we are very confident that this same analysis can easily be replicated for a high proportion of crematoria in the UK.

We have shown conclusively that the reason for the regular increases in price for the private operators is based on their need to cover the cost of capital incurred in providing extra capacity of high-quality facilities to the cremation market over time.

If it is accepted that these two factors are not proven by the report, then the statement in 5.78 that crematoria have a high degree of market power is erroneous.

- Finally, we note the CMA’s own observation in para 5.52, that having reviewed “the 16 crematoria in the UK that have no alternative crematorium within a 60-minute drive time, thus potentially facing particularly weak, or no, competitive constraints” the report found that, rather than charging consistently high fees, in fact they charged a broad range of fees, including the highest, and the lowest, in the UK.

It is obvious from this statement that, even if crematoria have some level of market power, there is no systematic application of this by crematoria operators, and that therefore there

is no systematic case for regulating them – apart from some of the pricing policies pursued by Dignity plc (15% of the cremation market).

### Cost of Capital

- Between 5.42 and 5.56, there is consistent implication that crematoria raise prices purely because they can. In 6.63, part of “Potential Cost Drivers”, the report states that “Large price rises are not on their own necessarily indicative of competition concerns, if they are clearly driven by industry-wide commensurately large cost pressures”.

As already stated, in the case of Memoria Limited since 2009, we have invested around £[ ] to build ten new crematoria; and these have added a substantial extra cremation capacity of very high-quality facilities to the market, which is currently used by the public to the extent of 10,000 standard cremations per year. This additional new capacity, has in the areas affected, reduced waiting times, given the public longer slot times, and provided improvements to comfort in the chapel, the availability of electronic images and music for services, better parking facilities, and in many ways (including most importantly improved levels of service standards) has improved the customer experience for our clients.

We supplied details to the CMA evidence to show that our cost of capital over the ten-year period has been, and will continue to be, around [ ]% p.a., which is fairly modest compared to many early-stage businesses. This implies a cost to Memoria Limited of £[ ] p.a., or £[ ] per cremation service supplied, payable annually, for each service.

If you take the price of the industry average standard cremation fee for 2009 it was £470, and indeed, our fee at that time was £[ ].

But that was an insufficient level of income to pay for the cost of capital incurred to create the extra, improved capacity; and the fee needed to rise by a further £[ ] to meet this, to £[ ] on all cremation capacity being created over that nine years. Once CPI over the period is taken into account, this gives an overall increase in price to £[ ] – coincidentally very close to our current average standard cremation fee.

The factor that enabled the new, high-quality cremating capacity to be financed, was an annual increase in fees to the order of 5% per annum.

Accordingly, we would argue that our price increases over this period were directly driven by our increase in costs over this period, and that according to the CMA’s position as set out in 6.63, Memoria’s record should not give rise to competition concerns.

Costs of the magnitude that Memoria has encountered are not “industry-wide”; but they do affect most private operators, including Westerleigh and Dignity.

In the case of Westerleigh, a similar calculation and analysis should be carried out. To our knowledge, they have invested around £100m (our estimate) to create extra capacity of 20,000 cremations over this period; but their expansion was funded by a private equity group, and their cost of capital may well have been well in excess of [ ]% per annum, perhaps accounting for their higher rate of price increase during this period.

As stated above, Dignity is a more complicated case. They own 46 crematoria but have only developed 5 new-builds in the last 10 years. That said, they have also made 2 major separate acquisitions in that period. Mercia / Memoria (Mk 1) in 2009 – 5 new crematoria (all less

than 4 years old) for £25m and Coop in 2016 – 5 crematoria (mix of old and new) for £43m. So, 15 additional crematoria under management. They have invested in 5 new ones themselves, bought 4 that have been built by other developers in the last 10 years and paid a premium for another 6 established sites. This will certainly have a cost of capital but we accept that their pricing strategy has been disproportionate when compared to the rest of the market. It is also not adding value to simply pay premiums for existing sites and then not improve them. This is not improving standards or adding capacity to the market so their ratio of new capacity to old unimproved capacity is far lower than for Memoria and Westerleigh; so, the above arguments about improving the customer experience cannot be applied as mitigating factors to their price increases.

But more than this, it is apparent from the analysis produced by the CMA that:

1. Dignity's price increases and current price levels are the highest of any in the crematoria sector, and
2. Dignity's returns on capital are almost certainly excessive, as they are the highest of any large funeral company on the international comparison set out in the report.

Our position is that within the private crematoria sector, Memoria and Westerleigh can produce solid arguments to show that cost factors – and principally the cost of capital for the new capacity they are supplying to the sector – are the justification for their regular increases in price over the last nine years; but Dignity almost certainly cannot demonstrate this to the same extent, and may well require some targeted measures to discourage profiteering behaviour in the future.

## **Final General Points**

### **The cremation industry needs to be assessed separately from the funeral directing industry**

There seems to be recognition in the CMA report that there are fundamental differences between the cremation and funeral directing sectors but we would emphasise that any MIR should look at each aspect separately.

A crematorium costs circa £6m to build and needs to carry out around 800 services per annum at approximately £800 per cremation in order to service its debt. Currently, there are 100s of UK independent funeral directors who charge over 3 times that sum (circa £2,500 a funeral) on an investment of £50,000 to £100,000 and so survive on 35 funerals p.a. Therefore, with the average funeral costing circa £3,800 in the UK, the cremation fee is only just over 20% of that but commands easily the highest investment sum (and so has to carry out nearly 30 times more services per annum than small funeral directors in order to break even). With this in mind, we would urge any MIR to assess the industries separately.

### **Price Regulation as a 'remedy'**

The UK cremation market is only worth £350 million per annum. Price regulation is very expensive to put in place and then administer. With this in mind, we believe that price regulation is hard to argue as a correct response to the issues faced.

Cremation is not a utility commodity like gas, electricity or water. It is a service with different products, prices, and supplied in places of differing quality and time slot lengths. With this in mind, it

is difficult to impose a one-size-fits-all price regulation approach. If the CMA take the time to fully understand our points, we hope that you will agree that price regulation would be an expensive over-reaction to the reality of the issues facing the industry.

In the event that the quality aspect of crematoria is ignored and price regulation was introduced, there could well be other unintended consequences. It could drive-out investment on facilities and staff as it would indicate (as the report does) that the quality of service and facilities were not important. This could cause all facilities to start a race to the bottom in terms of quality at a time when more investment is needed – particularly with older, local authority owned crematoria. Given our beliefs in the importance of the experience of bereaved families, we believe that this would not be of benefit to the consumer.

We would also point out that 65% of the cremation market is owned by over 190 local authorities. Given the way local authorities are governed, it is hard to understand how the CMA could regulate them in such a scenario that price regulation was introduced to the cremation industry as a whole.

Other suggested solutions made in the Interim report and currently discounted by the CMA are unworkable or would simply risk further increases the price of cremation to the bereaved client.

### **Our suggested alternative solutions / remedies**

We believe that the market is currently regulating itself in the majority of cases but we accept that the Dignity approach to pricing is difficult to justify. We suggest that there must be a more cost-effective way than price regulation given that we don't believe that it is needed for 85% of the industry.

We would think that the CMA could recommend that undertakings are sought from offending parties in lieu of reference (UILs) and perhaps a fair value inspection could be applied to all crematoria bi-annually. This could lead to some form of rating system with agreed price brands, such as used with hotels.

Another option would be for all crematoria to be directed to offer a minimum number of product options and with lower entry price points to ensure that all bereaved family requirements are catered for. This increases choice and can reduce the overall cost of cremation over time as has been evidenced with our own prices.

### **Conclusion**

In general, despite the limited research that has gone into the interim report, a number of bold conclusions have been outlined that make a number of subjective judgements which we fundamentally disagree with. It is these conclusions that have formed the basis for the justification to launch a MIR. As such, we would ask that the CMA closely consider our views on the cremation industry and ensure that these comments are given proper weight before making the decision that it is necessary to launch a MIR. It is not our position to comment on the funeral industry as part of this but we would ask that the 2 sides of the industry are kept separate.

Of course, we have no issue with the MIR proceeding but we would want a correct starting point that better understands the drivers of the industry before commencing on such an investigation. This is the only way that the correct outcome will be ultimately be found to improve the industry where improvement is needed. Our concern with the current report conclusions, is that they start from the wrong place, which could lead any MIR to further inaccurate conclusions which could lead to suggested remedies which could actually make issues worse.

We have over 100 years collective experience in this market and have a genuine desire to ensure that the correct course of action is taken. We do feel that the current report largely ignores our original evidence. We have a commitment to provide the best standards of service and facility to the public and we believe that the vast majority of the industry have the same commitment. We accept that anyone who is driving up prices without justification should be addressed. [REDACTED]

It is our overall view that fundamental changes in the industry in the last 2 years since the 2016 Select Committee Report and the emergence of Direct Cremation has meant that the industry is already responding to a number of the concerns raised in the report. These elements must be understood before any further action is taken. We remain keen to assist the CMA in ensuring that the right course of action is taken as part of our general commitment to bereaved families.