

# **Funerals market study: final report**

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Glossary

## Appendix A: Regulation

1. This Appendix provides an overview of the regulatory landscape for funeral directors and crematoria. It also considers the self-regulatory role of the main industry trade associations and the outcomes of previous examinations of issues in the supply of funerals at the point of need by the CMA's predecessor, the Office of Fair Trading (OFT).

### Funeral directors

2. Funeral directors are not regulated in England, Wales and Northern Ireland.<sup>1</sup> There are no licensing or registration schemes, no compulsory professional qualifications or training, nor other statutory restrictions on who can operate as a funeral director. Quality and service standards are not prescribed by law, and there is no statutory inspection regime for funeral directors' premises.
3. A regulatory regime is being introduced in Scotland.<sup>2</sup> The Burial and Cremation (Scotland) Act 2016 (2016 Act) will provide a statutory framework in Part 4 (sections 89 to 93) for inspection of funeral directors and in Part 5 (sections 94 to 97) for the licensing of funeral directors. However, as at the date of our report, these provisions are only partly in force.<sup>3</sup> In its 2015 Policy Memorandum to the Bill, the Scottish Government stated that regulation of the funeral industry "will address current concerns that there are few formal requirements to operate as a funeral director and that there is little independent scrutiny of funeral directors."<sup>4</sup>
4. Part 4 of the 2016 Act sets out a range of provisions which will apply in relation to the inspection of various parts of the funeral industry, including funeral directors,

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<sup>1</sup> Funeral directors are subject to a range of generally applicable laws, including health and safety and public health law.

<sup>2</sup> The background to the introduction of regulation is reflected in the reports of the *Infant Cremation Commission* and the *Report of the National Cremation Investigation*. The Commission, established in April 2013 and led by Rt Hon Lord Bonomy, was charged with examining the policies, practice and legislation related to the cremation of infants in Scotland. The Commission published its report in June 2014, setting out 64 recommendations to improve the processes in place when cremating infants in Scotland. Recommendation 63 of the Commission's report was for the appointment of an Inspector of Funeral Directors and recommendation 64 referred to regulation of the funeral industry. The National Cremation Investigation published its report in June 2016 and set out 15 general conclusions and recommendations. Recommendation 3, 4 and 5 of the investigation relates to the overall regulation of the funeral industry: "The Scottish Government should exercise its powers under the Burial and Cremation (Scotland) Act 2016 to regulate the Funeral Directing profession."

<sup>3</sup> As from 4 April 2019, the following provisions of the 2016 Act are in force: Part 1 (Burials) in part: - sections 1-7 (Burial grounds); sections 17-20 (Register and fees for burials); Part 2 (Cremation): sections 45-64; Part 3 (Arrangements) - sections 65-68 (Adults and Children); sections 69-86 (Pregnancy losses); sections 87-88 (Local authority functions); Part 4 (Inspection) in part: - sections 89 (appointment of inspectors) and 93 (reports); Part 5 (Funeral Directors) not in force; Part 6 (Miscellaneous) sections 98 -101; Part 7 (General) sections 102-113 other than section 102 (Information and registers to be kept in electronic form); Schedule 1 (Amendments); Schedule 2 (Repeals).

<sup>4</sup> [Burial and Cremation \(Scotland\) Bill Policy Memorandum](#)

crematoria and cremation authorities.<sup>5</sup> In its Policy Memorandum to the Bill, the Scottish Government said that it expected the introduction of inspectors would improve standards where necessary, address bad practice and improve public confidence in the funeral industry as a whole. An Inspector of Funeral Directors has been appointed and she has undertaken a review of the funeral profession in Scotland with a view to making recommendations to Scottish Ministers on how it should be regulated, including whether to introduce a licensing regime.<sup>6</sup>

5. Part 5 of the 2016 Act concerns funeral directors, and a statutory Code of Practice about the carrying out of a funeral director's functions<sup>7</sup> is proposed. This will be consulted on in due course, when section 97 of the 2016 Act is brought into force.
6. Part 6 of the 2016 Act provides Scottish Ministers with a power to issue guidance about the costs associated with making arrangements for a funeral.<sup>8</sup> The Scottish Government has carried out a public consultation on draft statutory guidance on funeral costs.<sup>9</sup> The overall aim of the draft guidance is to support transparency in the provision of funerals to help consumers understand, compare and choose the services that are right for them. Amongst other matters, the draft guidance sets out steps that funeral directors can take to improve transparency and availability of funeral pricing information.<sup>10</sup> In its consultation document the Scottish Government states that if any initial findings from the CMA's work are available later this year, these will be used to inform further development of the guidance. The guidance will not be enforceable.

### ***Self-regulation***

7. There is no obligation for a funeral director to belong to any trade association in the UK. However, many funeral directors are members of one or more trade associations, voluntarily agreeing to abide by their codes of practice which set certain conduct and service requirements.

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<sup>5</sup> In July 2017 the Scottish Government issued a consultation containing high level proposals on the content of Inspection regulations. Once finalised, the Regulations will set out the powers and duties of inspectors in relation to funeral directors, burial and cremation authorities. Work has begun on a Business and Regulatory Impact Assessment for the regulations.

<sup>6</sup> Section 94 of 2016 Act will give Scottish Ministers the power to create a licensing scheme covering the operation of funeral directors' businesses. Section 95 of the Act will allow Scottish Ministers to make regulations in respect of how a licensing scheme will operate. Neither of these sections was in force at the date of our report.

<sup>7</sup> Section 97 of the 2016 Act.

<sup>8</sup> Section 98 of the 2016 Act.

<sup>9</sup> <https://www.gov.scot/Publications/2018/08/2257>; <https://consult.gov.scot/social-security/statutory-guidance-on-funeral-costs/>

<sup>10</sup> The consultation is focussed on themes including: use of language and terminology; display of pricing; definition of a simple funeral and transparency of pricing at the point of sale.

8. There are two main trade associations representing funeral directors: The National Association of Funeral Directors (NAFD) and the National Society of Allied and Independent Funeral Directors (SAIF). Both set standards of service through their codes of practice, carry out inspections of their members' premises and provide practical guidance and access to training and qualifications. Based on the overall numbers of funeral directors and branches in the UK estimated in a funeral director's internal document, we estimate that between them, their membership represents just over 75% of funeral director branches.
9. The NAFD and SAIF's codes of practice have several common requirements, although the specific criteria or detail under each may differ. These include requirements relating to: professional conduct; provision of training to staff; transparency of information (including ultimate ownership details; availability of price lists on premises and in the home); marketing of services; complaints and redress.
10. The codes of practice differ in certain respects. For example, SAIF's Code of Practice requires that members must explain their full range of services that are relevant to the client, including the availability of a simple funeral, before giving them a written estimate.<sup>11</sup> The NAFD dropped the requirement for a simple funeral to be offered by its members, from its Code of Practice in 2014.<sup>12</sup>
11. The NAFD and SAIF monitor compliance with the codes of practice and carry out inspections of their members' premises:
  - Compliance with the NAFD Code of Practice is monitored by Standards and Quality Managers, who also inspect member firms under the NAFD's Code of Professional Standards, which covers more operational considerations in running a funeral home.
  - SAIF's Quality Assurance Programme requires member firms' individual offices to be visited and inspected to check for compliance with SAIF's Code of Practice. SAIF's Code of Practice also sets out certain requirements in relation to premises, vehicles and equipment.
12. Both codes of practice require member firms to have a formal written complaints procedure in place. People who are dissatisfied with a response to a complaint

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<sup>11</sup> Section 4.2 SAIF Code of Practice

<sup>12</sup> The NAFD says it removed this for a number of reasons, including "that families did not want or like the idea of their loved one having a simple (basic) funeral." See full explanation in the [NAFD's response](#) to CMA Funerals market study statement of scope.

from a member firm have access to independent conciliation and arbitration.

13. The NAFD and SAIF may enforce a range of sanctions on members, including suspension of membership and expulsion.
14. Both associations require training to be provided to staff, and this is assessed as part of the NAFD and SAIF's inspection programmes. The NAFD advised us that it actively promotes and encourages best practice by offering training benchmarked to national qualification standards.<sup>13</sup> SAIF pursues education and support through The Independent Funeral Directors College.<sup>14</sup>

### ***Previous investigations***

15. In 1976, widespread concern at the cost of funerals led the Secretary of State for Prices and Consumer Protection to ask the Price Commission to report on funeral charges and associated charges (including the price of coffins, burials and cremations). The Price Commission recommended that funeral directors should give clients a clear written estimate, and that a basic simple funeral should be made available and its price displayed in a prominent position on the premises. The Secretary of State asked the Director General of Fair Trading to negotiate a code of practice with the NAFD to cover these points.<sup>15</sup>
16. The Office of Fair Trading (OFT) published reports into the at-need funerals market in 1989 and 2001.<sup>16</sup> Recommendations from both reports focused primarily on increasing transparency (of price and ownership information) and the provision of information (by the industry and third parties) to help inform choice. Both reports focussed on industry self-regulation,<sup>17</sup> transparency of information and the role of the simple funeral, amongst other matters.
17. In 1989, the OFT concluded that people needed more information about the price of funerals. The report said that "there are few markets where price information is so hard to come by. The NAFD's code requires clients to be given a price list and a written estimate. Even if these requirements were complied with (and the evidence of our survey is that by and large they are not) the information probably comes too late. Very few people shop around (only 3 per cent of our survey) and,

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<sup>13</sup> Diploma in Funeral Arranging and Administration and Diploma in Funeral Directing, endorsed by Birmingham City University.

<sup>14</sup> Units of the IFD training include Foundation Funeral Practitioner, Funeral Operative and Funeral Administrator leading to an NVQ Level 3 Certificate in Funeral Practice from ONE awards.

<sup>15</sup> As reported in the OFT's Funerals report, 1989.

<sup>16</sup> Funerals published in 1989, and [A report of the OFT inquiry into the funerals industry 2001 \(OFT346\)](#)

<sup>17</sup> The 1989 report focussed on the NAFD Code of Practice; by the time of the 2001 report there were three main trade associations all of whom required their members to comply with a code of practice: The NAFD, SAIF and the Funeral Standards Council.

once they approach a funeral director the funeral is effectively sold.”

18. The OFT recommended that funeral directors should allow all those who come into immediate contact with the recently bereaved – such as doctors, hospitals and registrars, to hold a supply of their price lists. The OFT also recommended that funeral directors should make their price lists available to those with no immediate need of their services, if they did not already do so. Additionally, that they should prominently display a price list and that the NAFD should amend its code of practice to make this a requirement for its members. The OFT also said that funeral directors should consider including some price information (for example the cost of the basic simple funeral) in their advertisements in Yellow Pages, local newspapers etc.
19. In 2001, the OFT noted that “what tends to be lacking is information on the practical aspects of arranging a funeral such as choosing a funeral director, the range of options available and what to do if you are unhappy with the level of service. There is also a need to ensure that the information provided is understandable, accessible and provided when needed. The industry produces a wide variety of literature, which is good, but it often fails to inform customers about prices and the ownership of the business they are dealing with, which is bad. Failure to provide adequate information on these matters means that people have to make decisions without seeing the full picture.” The OFT also noted that compliance with industry codes of practice was patchy.
20. The OFT said that people arranging a funeral “often have little experience of arranging a funeral and show a reluctance to shop around or seek out information. This acts as a dampener on competition making it all the more important for there to be measures in place which provide the consumer with adequate protection and encourage long term changes to increase the overall competitiveness of the market.”
21. In 2001, the OFT said that recommending new legislation was seen as a disproportionate solution. Instead, the OFT suggested that consumer safeguards could best be achieved by building on the OFT’s initiative for encouraging trade associations to develop robust industry codes of practice. The principal recommendations of the 2001 report were:
  - Price lists should be prominently displayed and made available for people to take away. This includes making them available during home visits. The price of each coffin should be given in the brochure produced by the funeral firm.

- Written estimates and invoices should be provided for all transactions, with the principal services provided, including those provided by third parties, clearly itemised on both the estimate and the invoice, using descriptions that the public will understand. This should apply even where the funeral supplied is part of a package.
- Written estimates should be given out during the initial interview when the services available are discussed. Consumers should then be asked to confirm if they wish to proceed with the funeral arrangements.
- Every funeral outlet should publicise, in a prominent place, details of the organisation which has ultimate control of the business, preferably on the outside of the premises and on all promotional material relating to that business including that published in local directories. This requirement should be incorporated into the funeral industry codes of practice.
- Local authorities should strive to ensure that, when it comes to removals of bodies on behalf of the coroner, the contracted funeral business does not seek to influence the individual's choice of funeral director. The funeral business should be contractually obliged to provide information in a written form which sets out the consumers' right to choose another funeral business to carry out the funeral. This information should be produced or, at the very least, be overseen by the local authority, which should also take steps to monitor compliance. Similar mechanisms should be put in place by hospitals and nursing homes where contracts are also employed.
- The trade associations should seek to obtain OFT approval for their codes under the OFT's new approach to codes of practice. Compliance monitoring and complaints systems need particular attention.
- Funeral businesses that offer credit should take steps to find out whether they are required to obtain a consumer credit licence and comply with the Consumer Credit Act 1974 and the various Consumer Credit Regulations.
- The literature produced by local authorities and NHS trusts, as well as that produced by cemeteries and crematoria, should be made more widely available in places where those arranging funerals are likely to visit, particularly the Registrar's Office, and in institutions where deaths are likely to occur.

## **Cremation**

22. The practice of cremation developed in the 19<sup>th</sup> century, partly for public health reasons, but its legality was uncertain and crematoria were set up by local or private Acts. When introducing the Cremation Bill, Lord Monkswell said: “My Lords, ... There have been many private Acts passed for this purpose, and it is felt that the time has now come when the question of cremation ought to be under the general law and under uniform rights.”<sup>18</sup>
23. The law on cremation in England and Wales is set out in the Cremation Act 1902, the Cremation Act 1952, and the Cremation (England and Wales) Regulations 2008.
24. In Northern Ireland, arrangements for Belfast are set out in the Belfast Corporation (General Powers) Act (Northern Ireland) 1948 (which applies the provisions of the Cremation Act 1902 with necessary modifications) and the Cremation (Belfast) Regulations 1961. More generally, article 17 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 allows a council in Northern Ireland to provide and maintain a crematorium in accordance with the terms of that article. At the time of publication of our report, however, Belfast was the only local authority in Northern Ireland operating a crematorium.
25. In Scotland, the 2016 Act provides for the repeal of all existing legislation relating to cremation. As from 4 April 2019, the Cremation Act 1902 and the Cremation Act 1952 will be repealed and replaced by Part 2 of the 2016 Act. From this date, a local authority in Scotland has the power (but not a duty) to provide a crematorium, or to arrange with another person to provide a crematorium. Section 47 of the 2016 Act allows Scottish Ministers to make regulations which make provision about the management and operation of crematoria; the maintenance of crematoria; the operation of any equipment; and persons employed by cremation authorities (including in relation to training, qualifications and membership of professional bodies). The Cremation (Scotland) Regulations 2019 will come into force on 4 April 2019.<sup>19</sup> An inspector of crematoria was appointed in Scotland in 2015.

## ***Fees and charges***

26. A local authority needs an express power to impose fees or charges for the discretionary services (the category of services to which crematoria services

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<sup>18</sup> Hansard HL Deb 27 January 1902 vol 101 col 904-5

<sup>19</sup> Section 1(1), Cremation (Scotland) Regulations 2019.



belong) it provides in addition to its statutory functions and duties. The legislation enabling local authorities to offer cremation services gives an express power to charge for some services, and a general power to charge for other crematoria services, as follows.

27. In England and Wales, section 9 of the Cremation Act 1902 allows a burial authority to charge for the cremation of a body and section 12 of the Act provides for a fee to be fixed in respect of a burial service before, at, or after a cremation. The burial authority must keep a table of fees and make these available to the public at all reasonable times.<sup>20</sup> This applies also to Belfast in Northern Ireland. A similar power in Northern Ireland to fix the charges or fees for or in connection with cremations in any crematorium provided by a council is given by article 17(6) of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985.
28. In England and Wales, a local authority is given a general power to charge where it is authorised to provide a discretionary service to a person, and that person agrees to local authority providing the service, but the local authority has no express power to charge for the services. However, in such a case, the local authority has a “duty to secure that, taking one financial year with another, the income from charges ... does not exceed the costs of provision”.<sup>21</sup> This provision is supplemented by a general power to charge for services, given by section 3 of the Localism Act 2011, but this power also is subject to the “duty to secure that, taking one financial year with another, the income from charges ... does not exceed the costs of provision.”
29. Section 95(1) of the Local Government Act 2003 provides power for the Secretary of State, (in Wales, the National Assembly for Wales) to make an order enabling local authorities to set up a company under the Local Government and Housing Act 1989 in order to provide discretionary services as a trading activity. Local authorities do not generally, however, appear to have sought to set up trading companies for the purpose of providing cremation services.
30. Where the power to charge has been conferred expressly by statute but the basis for calculating the level of the charge is not specified (as in the case, for example, under the Cremation Act 1902) case law shows that the local authority must not set charges with a view to making a surplus or profit, and must set charges only for the purposes authorised by the statute granting the power to charge.<sup>22</sup>

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<sup>20</sup> Section 214 and Schedule 26, paragraph 24, Local Government Act 1972,

<sup>21</sup> Section 93, Local Government Act 2003.

<sup>22</sup> See *Attfield v Barnet LBC* [2013] EWHC 2089 (Admin) and the Welsh Audit Office paper, *Charging for services and generating income by local authorities* at page 17: <https://www.audit.wales/system/files/publications/income-generation-2016-eng.pdf>

31. In Scotland, a cremation authority which is a local authority has power under section 63 of the 2016 Act to charge such fees as it thinks fit in respect of a cremation carried out in the crematorium, and any other services provided by the authority relating to cremation. These fees must be published in paper form and on the website of the cremation authority.

### ***General provisions***

32. The Cremation (England and Wales) Regulations 2008 (2008 Regulations) came into effect on 1 January 2009. The 2008 Regulations set out the requirements for the maintenance and inspection of crematoria. The Regulations also contain provisions relating to: medical referees' functions; the conditions under which cremations may take place and the documentation that must be provided before a cremation may be authorised; the incineration of body parts; the disposition or interment of ashes; the registration of cremations carried out and the preservation of documents relating to the cremation. The Cremation (England and Wales) (Amendment) Regulations 2017 introduced new forms for use in applying for a cremation.

33. The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 enables the Department to make regulations in respect of the maintenance and inspection of crematoria, as well as a number of other related matters.<sup>23</sup> We understand that the Department has not issued any such regulations. Currently, the only 'Cremation Authority' in Northern Ireland is the Belfast City Council. The provision of crematorium provided by the Belfast City Council is regulated by the Cremation (Belfast) Regulations (Northern Ireland) 1961.

### ***Construction of crematoria***

34. Amongst other matters, the 1902 Act contains restrictions on where a cremation may be constructed. Section 5 of the Act states that "No crematorium shall be constructed nearer to any dwelling-house than two hundred yards, except with the consent, in writing of the owner, lessee and occupier of such house, nor within fifty yards of any public highway, nor in the consecrated part of the burial ground of any burial authority." The London County Council (General Powers) Act 1935, s. 64 reduced this limit to 100 yards in the case of crematoria built by borough councils.

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<sup>23</sup> Section 17(3), Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985.

35. In Scotland, the Policy Memorandum to the 2016 Act notes that the Scottish Government was unconvinced that a minimum distance (i.e. as set out in section 5 of the 1902 Act) was necessary, because its purpose was not clear from the 1902 Act, and to the extent that this was linked to concerns relating to emissions, this had been addressed through Scottish Environment Protection Agency emission regulations. As such the 2016 Act contains no minimum distance, with the Scottish Government noting that it would rely on the planning system to consider development applications for crematoria in the general context of a given location, taking into account the development plan and all 'relevant material considerations,' such that land is used efficiently and new sites are not prevented unnecessarily.
36. All new crematoria are subject to local planning rules and require planning approval. Crematoria providers are required to support their planning applications with evidence of a local 'need' for new crematorium provision. This is particularly important when developing crematoria in Green Belt areas where it is necessary to prove that any harm from building on the Green Belt is outweighed by other considerations, as set out in the National Planning Policy Framework.<sup>24</sup>
37. The meaning of what constitutes a local 'need' for a crematorium has been shaped by a number of planning decisions and appeals. Past appeal decisions have defined the level of quantitative and qualitative need required to justify a new crematorium on open countryside.<sup>25</sup>
- Quantitative need refers to the number of people who will be closer to a new crematorium than any other crematorium. Recent appeal decisions have defined an area to have a quantitative need where a new crematorium will be the closest crematorium for between 136,000 and 171,000 people.
  - Qualitative need typically refers to the number of people who currently live further than 30 minutes from their closest crematorium but will live within a 30-minute drive of the new crematorium. Recent planning decisions have defined an area to have a qualitative need where between 59,000 and 95,000 people will benefit from the reduced travel time. More generally planning inspectors have found that a drive of longer than 30 minutes (at cortege speed) is unacceptable. Providers may also make a qualitative need case by submitting

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<sup>24</sup> [National Planning Policy Framework \(July 2018\)](#)

<sup>25</sup> The numbers that follow are cited in a recent needs analysis as the level of quantitative and qualitative need used in a number of previous planning appeal decisions. For further details see page 5 of the [Bassetlaw Crematorium Needs Assessment](#) submitted to Bassetlaw District Council in support of a new crematorium.

arguments in relation to factors such as waiting times, chapel capacity and crematoria design and facilities.

38. Guidance issued by the Department for the Environment in 1978 is referenced in some planning appeal decisions.<sup>26</sup> This guidance explains that sufficient land is required to provide an appropriate setting for the crematorium, internal access roads, parking space, and space for the disposal of ashes.
39. The Federation of Burial and Cremation Authorities (FBCA) represents 85% of all cremation authorities in the UK. It has issued guidelines as to how crematoria should be sited and designed.<sup>27</sup>

### ***Environmental rules***

40. A permit is required to cremate human remains, as set out under the statutory Local Air Pollution Prevention and Control (LAPPC) regime in England and Wales, Scotland and Northern Ireland.<sup>28</sup> Permits are issued by the relevant regulator: that is, local authorities in England and Wales; the Scottish Environment Protection Agency; and district councils or the Northern Ireland Environment Agency in Northern Ireland.
41. Environmental rules exist to control air emissions from crematoria and the Department for Environment, Food and Rural Affairs (DEFRA) has published Statutory Guidance for Crematoria, which applies to the whole of the UK.<sup>29</sup> The guidance is aimed at providing a framework for consistent and transparent regulation of installations regulated under the LAPPC regime.
42. The Environmental Protection Act 1990 required crematoria to improve their emissions performance, which in some instances required cremators to be replaced and crematorium chimneys to be increased in height. All crematoria had to make these changes by 1997.
43. Mercury abatement equipment was required to be fitted to crematoria to ensure that, by the end of 2012, 50% of all cremations were carried out subject to abatement. All new crematoria since 2006 have had to fit mercury abatement

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<sup>26</sup> The Siting and Planning of Crematoria, LG1/232/36, Department for the Environment.

<sup>27</sup> Federation of Burial and Cremation Authorities, "A Guide to Cremation and Crematoria."

<sup>28</sup> That is: The Environmental Permitting (England and Wales) Regulations 2016; The Pollution Prevention and Control (Scotland) Regulations 2000; and The Pollution Prevention and Control Regulations (Northern Ireland) 2003. "Cremation of human remains" is defined as a relevant "activity" in Schedule 1, Part 2, Section 5.1 of each set of Regulations.

<sup>29</sup> Secretary of State's [Process Guidance Note 5/2\(12\) Statutory Guidance for Crematoria](#) issued in support of the Environmental Protection Act 1990.

equipment while existing crematoria can fit mercury abatement equipment or 'burden share'<sup>30</sup> or choose a combination of both approaches.

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<sup>30</sup> Provide a contribution to those crematoria that have had abatement equipment fitted. [CAMEO](#) is a scheme under which crematorium providers who could install abatement plant do so, and the cost is shared with those crematorium providers who could not install such abatement equipment.

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## Appendix B: Barriers to good decision-making

1. The process of choosing a funeral has been described by a funeral director as “the ultimate distress purchase”, “made infrequently by inexpert, emotionally vulnerable clients under time pressure ... clients don’t know what to expect, spend little time thinking about the provider and feel under pressure to sort things quickly”.
2. We consider below the key factors that impact on people’s ability to make informed choices in this market:
  - Time pressure
  - Customer vulnerability/emotional distress
  - Difficulties in ‘shopping around’

### *Time pressure*

3. After a death, the next of kin must register the death within five days. A funeral director cannot legally begin the process of arranging a cremation or burial until the death has been registered. The next of kin will also need to obtain a ‘green form’ from a registrar without which a burial or cremation cannot take place. Often, though, they will have already contacted a funeral director ahead of the registration of death.
4. In the case of death in a hospice or nursing home, it may often be necessary to make the arrangements for the body to be collected quickly. Regardless of the place of death, both the CMA consumer survey and consumer research found that consumers were keen to put the funeral arrangements into the hands of a funeral director relatively promptly to discharge the immediate necessities (including removing the body from the place of death and storing the body until the funeral).
5. In addition, some people, for faith, cultural or personal reasons, may want to hold the funeral relatively soon after death.
6. The need and desire to make the arrangements quickly may mean that consumers are not making a sufficiently well-informed choice about the funeral director they choose to carry out the funeral. It may also reinforce their inclination to employ short-cuts, such as relying on their previous experience of funeral directors or recommendations from friends and/or family.

## *Customer vulnerability/emotional distress*

7. The 'normal' consumer approach to making a purchase, which may involve a degree of research and active 'shopping around', is often disrupted when it comes to purchasing an 'at need' funeral. Family pressures, grief and indecision can all add to the stress of organising a funeral. A YouGov poll found almost a third (29%) of those who've done it saying they had to juggle competing demands from other members of the family, and 39% saying it was very difficult to organise such an important event while grieving. Over a fifth (22%) said they didn't feel in control of the process and over a quarter (26%) said they didn't find it easy to make decisions about the funeral.<sup>1</sup>
8. People are emotionally ill-equipped to make choices and decisions at the point when the services of a funeral director are needed.<sup>2</sup> A large group in the CMA's consumer research reported emotional distress as one of the factors for not shopping around. When probed around reasons for not considering different funeral directors, many explained that they had been struggling to handle their grief and deal with practical arrangements at the same time. Reflecting on this experience, respondents felt that considering different funeral directors and shopping around would have made their task even more complicated, which they did not want at the time.
9. The Good Funeral Guide in its response to the CMA statement of scope said: "bereaved people are frequently at a complete loss and grateful for guidance – this puts them in the position of being a vulnerable consumer".<sup>3</sup> Consequently, people typically want to delegate the responsibility for the funeral arrangements to a funeral director as soon as they can.
10. A funeral director provides what might be described as a 'distress service'. Funeral directors told us that their role was to help people negotiate a difficult and emotional situation, and this part of their service was highly valued by their customers. Further, respondents to the CMA consumer research felt that they lacked the necessary skills to arrange the funeral themselves.<sup>4</sup> Funeral directors are trusted to take on the arrangements for the funeral, to guide their customers through the process and ensure that the delivery of the funeral on the day goes smoothly.
11. There may also be 'social pressure' on the person(s) arranging the funeral, either from family or the wider community, to provide the deceased with a send-off that is appropriate and fitting for that individual. An important

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<sup>1</sup> See [Planning a funeral is a daunting task](#).

<sup>2</sup> [NAFD response to CMA statement of scope](#), page 1.

<sup>3</sup> [The Good Funeral Guide response to CMA statement of scope](#), paragraph f), page 4.

<sup>4</sup> [CMA consumer research](#), paragraph 4.4.3.



consideration was not to upset the family. This can be difficult to achieve, particularly if there is disagreement or absence of consensus about the sort of funeral that would be appropriate.

12. Funeral directors told us that they frequently see disagreements within families as to what should be spent on a funeral. Funeral directors explained to us that part of their role was to resolve differences of opinion about the arrangements. This may further explain why consumers are happy to defer to the funeral director, as a neutral third-party to the family, over the arrangements.
13. Some respondents in the CMA consumer research felt strongly that it was not respectful to the deceased to 'shop around', particularly on the basis of price, when making arrangements. Others were aware of cultural sensitivities surrounding funerals where 'shopping around' to save money may be perceived in negative terms (such as putting a 'price-tag' on the deceased).<sup>5</sup>
14. Given such circumstances, there is significant potential for people to make poorly informed purchasing decisions. There is also the potential for people in such vulnerable circumstances to be sold additional and unwanted services or products (upselling). Citizens Advice Scotland, for instance, told us that: "In carrying out our research for 'Funeral Poverty in Scotland' consumers raised the issue of upselling of coffins by funeral directors. A number of people we spoke to suggested that consumers were being led to mid-range coffins as a starting point".<sup>6</sup>

#### *Difficulties in shopping around*

15. The evidence and views we have received to date strongly indicate that most people do not 'shop around' for funeral directors. As one party commented: "Not only are people unaware of prices and unwilling, unable or too exhausted to shop around – believing all undertakers to be 'much of a muchness', they are generally completely unaware of the choices and potential, alternative options available".<sup>7</sup> Another party similarly commented: "Bereaved people often feel out of their depth when choosing a funeral, they simply don't have enough experience to know about the options available, so they will just opt for the first service that is offered".<sup>8</sup> We were also told by a consumer representative body that some customers are not aware that lower cost

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<sup>5</sup> [CMA consumer research](#), paragraph 4.3.6

<sup>6</sup> [Citizens Advice Scotland response to CMA statement of scope](#), page 2.

<sup>7</sup> [The Natural Death Centre response to CMA statement of scope](#), page 1.

<sup>8</sup> [Citizens Advice Chelsea and Kensington response to CMA statement of scope](#), page 2.

options are available and can find it embarrassing to talk about money difficulties with a funeral director.<sup>9</sup>

16. The CMA consumer survey found that (without prompting) only 4% of respondents with a choice of funeral director said they had gone online to find out about the funeral director they used.<sup>10</sup> No consumer interviewed in either the CMA consumer research or the CMA consumer survey had used a comparison website. Even when consumers did wish to carry out some research and price information was available (we have found there is limited visibility of pricing, particularly online) the specific components of the funeral package were not always easily comparable with other funeral directors' offerings.
17. The CMA consumer research found that most people did not compare funeral directors unless the initial quote was very expensive.<sup>11</sup> In circumstances where consumers did wish to compare prices and service quality, this could be challenging. The CMA's consumer research found that, for the small segment of the sample that had considered different funeral directors to help them decide who to use, they had found it difficult to compare prices online, because of:
  - a perception of limited information provided on funeral director websites
  - the way the pricing information was presented (it was typically shown as 'prices from £x')
  - a belief that prices on the website did not cover everything, principally because they were not itemised.<sup>12</sup>
18. It may also be difficult for consumers to compare funeral directors against certain aspects of quality. Co-op said in its response to the CMA's statement of scope that: "Standards of care for the deceased are very important, but differences in these standards may not be clear to the customer even after the funeral has taken place"<sup>13</sup> and that: "... transparency is not always achieved across the industry. This makes it difficult for consumers to compare packages across funeral directors and to understand if they're getting value for money and receiving the quality of service that they expect".<sup>14</sup> Dignity suggested that: "consumers do not currently have a clear understanding of

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<sup>9</sup> [Quaker Social Action response to CMA statement of scope](#), page 4.

<sup>10</sup> [CMA consumer survey](#), Tables 17/18. With prompting, 19% said they had searched online for at least some information about the funeral director (Tables 41/42).

<sup>11</sup> [CMA consumer research](#), paragraph 4.4.15.

<sup>12</sup> [CMA consumer research](#), paragraph 1.4.12.

<sup>13</sup> [Co-operative Group response to CMA statement of scope](#), paragraphs 2.14.

<sup>14</sup> [Co-operative Group response to CMA statement of scope](#), paragraphs 2.16.

the differences in quality and standards between funeral directors and tend to assume that quality is consistent ... there is no transparency in relation to the quality of the service provided and no easy way for consumers to measure or assess the difference.”<sup>15</sup>

19. Other respondents, including some consumer organisations, suggested that it is difficult to compare quality.<sup>16</sup> Fairer Finance said that: “even if customers are able to compare on price, it is almost impossible to compare on quality ... customers do not have any way of comparing what good looks like – especially if this is the first funeral they have arranged.”
20. In summary, a lack of transparency may limit the ability of customers to compare funeral director offerings in terms of price, quality and range of services.

#### *Other*

21. In addition to the above, we also identified the following issues that may limit the ability of consumers to shop around. These are listed below:
  - **The deceased’s body is in the care of the funeral director** – The CMA consumer research found that, by the time respondents met with the funeral director to discuss the funeral arrangements, they were already mentally and emotionally committed to using that funeral director because they had the deceased’s body in their care. At this point, even if there were issues with the service being provided by the funeral director, finding an alternative funeral director was not something that respondents wanted to consider because of both the potential cost (paying for the body to be moved) and the risk of delaying the funeral.<sup>17</sup>
  - **A perception that funeral directors provide the same level of service** – Research commissioned by Dignity<sup>18</sup> found that consumers believed that funeral directors operate to consistent quality and professional standards, regardless of any variation in costs. That is, people assume that all funeral directors will be able to provide them with a good standard of service and this may consequently further dampen consumer incentives to shop around.

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<sup>15</sup> [Dignity response to CMA statement of scope](#).

<sup>16</sup> See, for example: [Citizens Advice response to CMA statement of scope](#) and [Fairer Finance response to CMA statement of scope](#).

<sup>17</sup> [CMA consumer research](#), page 37.

<sup>18</sup> Trajectory Limited, [Time to talk about quality and standards](#).

- **Misleading ownership information** – We received comments from individuals and organisations responding to the CMA statement of scope about funeral businesses carrying a brand that suggested they were a local, family-owned business when in fact they were part of a larger business that had acquired them. This may adversely impact on consumer choice, particularly if the prospective purchaser has a strong preference not to use the services of a large business (or vice versa).
- **Misleading or inaccurate information** – Kensington and Chelsea Citizens Advice Bureau similarly commented in its response to the CMA statement of scope that: “Funeral directors are not always clear about the criteria for DWP Funeral Payments, and some are unwilling to assist their customers with an application, so it is often the case that the customer believes they will get a grant when in fact they are not eligible. This might lead them to commit to a bigger package than they can afford”.<sup>19</sup>
- **Retaining the ‘green form’** – The ‘green form’ is obtained from a Registrar following the death of an individual. Without the ‘green form’ the deceased cannot be buried or cremated. The funeral director will need to ensure that the person(s) arranging the funeral have obtained the ‘green form’ before they can make the arrangements. Our review of an anonymised database holding complaints provided to us during this market study found several instances where it was claimed that funeral directors who had the deceased’s body in their care had retained the ‘green form’.

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<sup>19</sup> [Citizens Advice Chelsea and Kensington response to CMA statement of scope](#), page 2.

## Appendix C: The role of entry in crematorium competition

- 1.1 This appendix outlines the evidence that we have gathered and some analysis in relation to:
  - a) Barriers to entry;
  - b) Past entry and future plans for entry; and,
  - c) How existing crematoria have responded to previous instances of entry.

### **Barriers to entry**

- 1.2 Crematorium operators have told us that barriers to entry exist in terms of the sunk cost of planning and constructing a new crematorium, identifying suitable locations, and planning regulations.
- 1.3 Private providers have stated that the cost of constructing a new crematorium is around £5 million and have told us that the planning process and construction can take up to ten years. Less complicated developments can take two to three years to gain planning approval and complete construction, while the process can take a significantly longer time when planning decisions are appealed. Crematorium operators also face regulatory barriers to entry. Section 5 of the 1902 Cremation Act (1902 Act) states that no crematorium can be constructed within 200 yards of a dwelling or within 50 yards of a public highway.<sup>1</sup> This reduces the potential areas in which a crematorium development will be permitted and rules out many urban areas, thus pushing many new crematoria into rural or Green Belt areas.<sup>2</sup>
- 1.4 Furthermore, private providers have stated that the cost of constructing a new crematorium has doubled over the last ten years, with the increasing cost of land, advances in technology and need for mercury abatement equipment driving up the cost of constructing new sites. We note that most new crematoria that recently entered appear to be the smallest scale possible, with a single chapel, and therefore consider that the entry cost estimates that have been given to us are likely to be at the lower end of the cost of entry.<sup>3</sup>

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<sup>1</sup> [The 1902 Act, section 5.](#)

<sup>2</sup> We note that even if these restrictions did not apply, this would not be likely to significantly increase the types of area over which crematorium operators would consider building a crematorium as areas close to highways or housing may not provide the secluded and private settings that a crematorium requires.

<sup>3</sup> In particular, we found that nearly all new crematoria constructed since 2008 have been single chapel crematoria.

- 1.5 In addition to the 1902 Act, other elements of the planning process can act as a barrier to entry. Crematorium operators, when seeking planning permission, typically support their planning applications with evidence of a local ‘need’ for new crematorium provision. The meaning of what constitutes a local ‘need’ for a crematorium has been shaped by a number of planning decisions and appeals. Past appeal decisions have defined the level of “quantitative” need<sup>4</sup> and “qualitative” need<sup>5</sup> required to justify a new crematorium.<sup>6</sup> Proving a local ‘need’ is particularly important when developing crematoria in Green Belt areas as in this case it is necessary to prove that any harm from building on the Green Belt is outweighed by other considerations, such as a ‘local need’.<sup>7</sup> However, even for developments not on the Green Belt, given the high risk of a planning application being appealed by local residents or objectors, and the political element of decision making by a council planning committee, crematoria developers often support their application with an analysis of need to make the best possible case for a new crematorium. Finally, we note that even if planning permission is granted, it may be granted with conditions that restrict the ability of crematoria to operate at certain hours, potentially reducing the number of cremations that it can conduct.
- 1.6 It is important to note that proving a need for a new crematorium is likely to be more difficult if the new crematorium is going to be located close to an existing crematorium. This is because an aspect of the qualitative need assessment is that a sufficient number of people will benefit from reduced drive times to the new crematorium (in particular, being within 30 minutes of the new crematorium where they were not before). If a new crematorium is located close to an existing one, it is unlikely that a large number of people will have shorter drive times to the new crematorium.
- 1.7 We also note that the ‘need’ test may lead to a race to be the first to enter, with crematorium operators attempting to enter before rivals in the knowledge that further entry that may challenge their position is relatively unlikely. For example, an internal document from a private provider notes that ‘once a crematorium has been established, it becomes unlikely that a

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<sup>4</sup> The number of people who will be closer to the new crematorium compared to any other. Previous decisions have considered a quantitative need exists where there will be 136,000-171,000 people for whom the new crematorium will be closest.

<sup>5</sup> Typically, the number of people who will now have less than a 30-minute drive time to the crematorium, who used to have greater than a 30-minute drive time, although other factors such as waiting times have also been taken into account. Previous decisions have considered a qualitative need exists where there will be 59,000-95,000 people who will, for the first time, have a crematorium within a 30-minute drive.

<sup>6</sup> Letchworth Crematorium Need Assessment, 2015.

<sup>7</sup> [The National Planning Policy Framework](#) states that construction of new buildings in the Green Belt should be considered inappropriate with some exceptions (e.g. agricultural buildings). Crematoria are not included in the list of exceptions.

proposed competing crematorium in the catchment area would be able to demonstrate need and be built.’

- 1.8 We have considered the role played by planning regulations as a barrier to entry and the expected result of weakening or loosening these regulations. It is not clear that weakening or loosening these regulations will lead to more entry. First, the economics of crematorium operation can act as a barrier to entry and contribute to a small number of suppliers being present in each local area. This suggests that removing the needs requirement or loosening other planning regulations may not necessarily lead to more entry and/or stronger head to head competition in local areas. Furthermore, it takes several years to build a new crematorium from planning to completion, and as such any effect of relaxing planning restrictions would only occur with a significant time lag.<sup>8</sup>
- 1.9 The identification of suitable sites may also be difficult for reasons other than proving need and satisfying the 1902 Act. Private providers have told us that suitable sites should be those of sufficient size, with good road access, and should be secluded, peaceful and screened. Furthermore, we have heard that even if suitable sites can be identified, they may be attractive to a wider range of developers (such as those building houses or retail units) and can reach a higher value under these alternative uses, increasing the costs of entry for crematorium operators.

### ***Past entry and prospects for entry***

- 1.10 There is a gradually increasing demand for cremation in the UK. The ONS predicts the number of deaths will increase to 630,000 in 2026.<sup>9</sup> Whilst we have not seen forecasts for the proportion of deceased being cremated, we note that this has also been increasing over time. In this context, and despite the high barriers to entry, entry has occurred and there are plans for further entry. Between 1 January 2008 and 31 July 2018, 46 crematoria have opened in the UK.<sup>10</sup> Of the new crematoria that have opened since 2008, only four have been opened by local authorities (three of which were new crematoria replacing older ones), with the remaining crematoria opened by private providers. Private providers have stated that they have current plans to open eight new crematoria across the UK.<sup>11</sup> In addition, the CMA is also

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<sup>8</sup> We note in particular that receiving planning approval may continue to take a long time given the high risk of developments being appealed on grounds other than need.

<sup>9</sup> [Table A1-1, Principal projection - UK summary](#).

<sup>10</sup> Three of these crematoria were replacements for older crematoria that had closed.

<sup>11</sup> One of which opened during the drafting of this report.

aware of a small number of local authorities (four) across the UK that have new crematoria under development.

- 1.11 We have considered the extent to which new crematoria can be expected to continue to be constructed.
- 1.12 At a national level, the evidence we have received suggests that the prospects of new entry are somewhat limited. A private provider stated that, were cremation fees to increase, this would make entry more viable in more locations. If fees do not increase, the potential for growth in the number of crematoria will be related to the death rate. Moreover, one private provider has stated that the 'project' of new crematoria entering to meet demand is 'now all but complete', and as such there is limited scope for new crematoria, and an investor report notes that the scope for new crematoria is limited, noting that, "it is estimated that only a single crematorium will be built in the country each year." However, another private provider has noted that there may be scope for further entry in certain areas, particularly where demographics have meant that there are now more older people in an area, or in densely populated areas where cortege travelling times may be becoming unacceptable. Although there has been entry, the average number of cremations per crematorium is relatively stable, suggesting that overall the increasing number of crematoria are keeping up with the growth in demand. This is consistent with our findings that new entry tends to occur in areas where existing crematoria are busy and potentially operating above capacity, and is consistent with the current planning regime that requires a potential entrant to identify the 'need' for a new crematorium.
- 1.13 At a local level, we have considered the incentives of private providers in constructing new crematoria. Due to the presence of high fixed costs and the resulting economies of scale that crematoria conducting high volumes can benefit from, potential entrants will want to ensure that they choose to locate in an area where they are able to conduct a high volume of cremations at profitable prices (so as to cover their fixed costs). Without the prospect to grow the market, given the overall demand is fixed, entrants are therefore likely to choose to enter in areas where demand is poorly served by existing crematoria and existing crematoria are operating above break-even. These may be areas where existing crematoria are very busy (with consequent long waiting times), or where for many people there is a significant drive time to the nearest crematorium. This is consistent with what we have been told by a private provider who stated that when deciding where to enter, "the economics of it [entry]" was to look for the potential to attract large volumes from existing crematoria and the market price being attractive (i.e. high).



- 1.14 Furthermore, whilst potential entrants have an incentive to locate relatively close to population centres (given the strong preference of customers to use a crematorium nearby), they may also have an incentive to locate relatively far from existing crematoria to reduce any element of head-to-head competition on price or quality.<sup>12</sup> This is consistent with the evidence we have received.
- 1.15 One private provider states in an internal document that, “it is rare for any competitor ... to build a second one nearby as the capital cost is prohibitive ... and might not be recouped; but this can still happen in those few areas where the demographics ... permit.” The same provider also told us that in identifying sites it is often not viable to enter close to an existing crematorium, and the only circumstances under which they would do this is if the existing crematorium had very high volumes. Another private provider told us that the “basic demographics” of entry was to enter at the opposite side of a city thus “pulling away” cremations from the existing crematorium.
- 1.16 As such, it not clear that entrants will provide a significantly increased competitive constraint on existing crematorium operators.

### ***Response to past instances of entry***

- 1.17 In this section we assess the responses to past instances of entry to understand whether such responses are indicative of strong or weak competition between crematoria. Crematorium operators have provided evidence as to how they respond to entry, and the impact that entry has on their volumes and the way that they set fees.
- 1.18 Crematorium operators have stated that, as customers choose crematoria primarily on the basis of location, when a new crematorium opens there is little they can do to compete against it for the customers for whom the new crematorium is closest. In particular, a private provider noted that, “lowering our prices is probably not going to get those people back.” This suggests that price competition between existing crematoria and new entrants is weak. A private provider noted that as it was in the process of opening new crematoria it would be able to make up the volume for losses where the existing private provider crematoria lost volumes due to new entry. Evidence from funeral directors as to the competitive response of an existing crematorium after entry is mixed and anecdotal. For example, a funeral director chain has noted that when a new crematorium opened at Beetham Hall in the south of the Lake District, offering long slots, and modern

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<sup>12</sup> As discussed above, some aspects of the “need” test may reinforce this incentive.

technological facilities, nearby crematoria did not change their offering or appear to respond in any way. However, another funeral director has noted the reverse, identifying some competition between an existing crematorium and a new entrant in Oxfordshire potentially leading to better facilities being offered at the existing crematorium.<sup>13</sup>

1.19 We have assessed how the volumes and fees charged by existing crematoria<sup>14</sup> change when a new entrant<sup>15</sup> opens a crematorium. We found that, on average, existing crematoria lose 5% of their volumes between the year before entry and the year after entry. This loss is reduced as time passes, with existing crematoria losing 3% of their volumes between the year before entry and five years after entry.<sup>16</sup> We found that, generally, the closer the entrant is to an existing crematorium, the greater the loss of volume at the existing crematorium. Figure 1, below, demonstrates this point.

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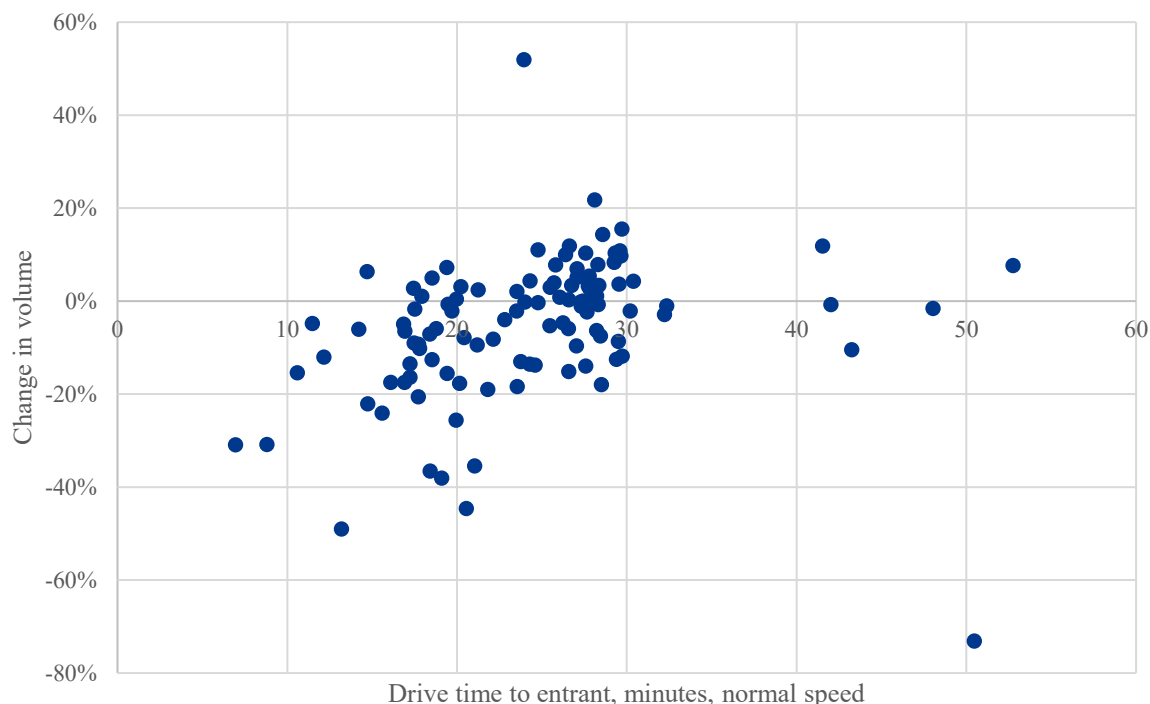
<sup>13</sup> [Individual Funeral Company response to the Statement of Scope](#). The respondent noted that when the new entrant opened, it offered a modern music system, and the ability to webcast the funeral. As a result, the incumbent crematorium responded by looking into offering these facilities

<sup>14</sup> For each example of entry identified, we considered incumbent crematoria to be all those crematoria within a 30-minute drive time (at normal speed) of the entrant, or, if there were fewer than two crematoria within 30 minutes the two closest crematoria to the entrant. We departed from an analysis at cortege speed to increase the number of existing crematoria for which we had observations.

<sup>15</sup> We looked at 29 instances of entry between 2009 and 2016. Our averages exclude one outlying existing crematorium that saw a large fall in volumes due to a fire and the subsequent closure of the site for some time.

<sup>16</sup> The five years includes the year of entry.

**Figure 1: Loss of volume between year prior to entry and year after entry, at existing crematoria, based on normal drive time to entrant**



Source: CMA analysis of Cremation Society data. We note the significant outlier at 50-minute drive time. The fall in volume at this crematorium was likely due to a fire which led to the crematorium being closed for a significant period of time and not due to a new entrant. In this analysis we departed from using cortege drive times to increase the number of observations.

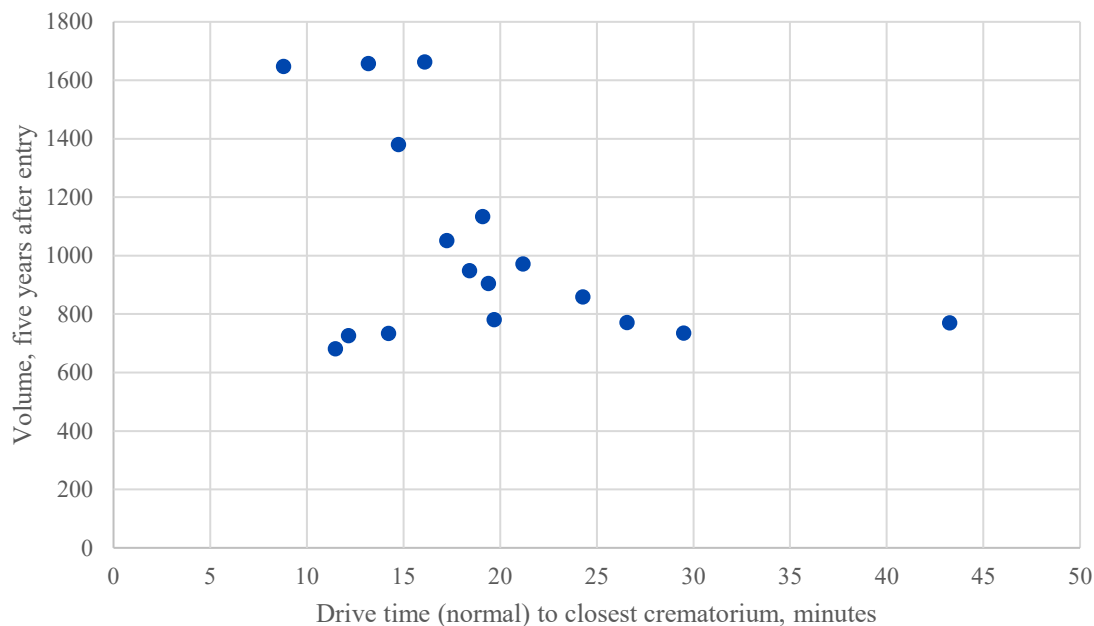
1.20 We have considered whether the large losses that certain existing crematoria incur after entry suggests that entrants should attempt to enter close to an existing crematorium (absent any needs test) to benefit from relatively large volumes. Evidence from entrants suggests that they have an incentive to avoid head-to-head competition on price and quality by locating relatively far from other crematoria (an incentive reinforced by the planning regime). However, we have found that in some instances entrants closer to an existing crematorium have higher volumes after five years<sup>17</sup> compared with those where the closest crematorium is further away, as demonstrated in Figure 2. This suggests that crematorium operators, absent a needs test, would need to weigh the costs of more intense competition on quality and price against the potential of gaining higher volumes by locating close to existing crematoria. We note that different strategies may be possible, for example, crematoria may choose to enter in areas with a high level of demand and a very busy existing crematorium, in which large volumes can be gained in a short time period, or alternatively may choose to enter further

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<sup>17</sup> We have heard that it can take up to five years for a new crematorium to build up their volumes and reach maturity.

away from existing crematoria and gain volume by serving a more captive area.

**Figure 2: Volumes at new crematoria in their fifth year of operation**



Source: CMA analysis of Cremation Society data. In this analysis we departed from using cortege drive times to increase the number of observations.

1.21 We found that at the time of entry, entrants tend to be more expensive than existing crematoria who are within 30 minutes of the entrant.<sup>18</sup> This suggests that new entrants do not provide a competitive constraint in terms of pricing, and, as such, even if regulatory entry barriers were removed or reduced it is unlikely that cremation fees would fall. Nearly 60% of existing crematoria price lower than the entrant. In particular, the closest existing crematorium to the new entrant is cheaper than the entrant in just over half of cases. Although existing crematoria tend to lose volumes following entry, existing crematoria do not respond by cutting prices. In particular, the two existing crematoria that are within 10 minutes of an entrant did not cut their prices, suggesting that to the extent that price competition exists between nearby crematoria, it is weak. We also compared the average fee changes at existing crematoria that faced entry and the average fee changes among all crematoria. We found that crematoria that had experienced entry increased their fees by an average of 13% between the year prior to entry and the year after entry. The average fee change for all crematoria is 13%.<sup>19</sup> This

<sup>18</sup> We compared fees of entrants and existing crematoria (all those within 30 minutes of an entrant or, where there are less than two existing crematoria within 30 minutes, we examined the two closest existing crematoria). We looked at all instances of new entry between 2009 and 2016, noting that for some entrants and existing crematoria we did not have fee data for the year of entry.

<sup>19</sup> The average fee increase for incumbents is based on the fee of the year prior to entry and the year after entry. That is, if entry occurs in 2010, the percentage increase is the difference between 2009 and 2011. We have

evidence suggests that existing crematoria are not changing their pricing strategy in response to entry. We have been told that, if anything, existing crematoria may respond to entry by increasing prices, to cover the lost volumes that they may experience as a result of entry.

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looked at instances of entry between 2009 and 2016, calculated the percentage fee increase of all incumbents and averaged to reach a 13% fee increase. When looking at fee increases for all crematoria we have calculated a rolling average fee increase over all the years we have considered. That is, we have calculated the fee increase between 2008-2010, 2009-2011, and so on to the fee increase for 2015-2017, for each crematorium, and then averaged all of these increases to reach 13%.

# Appendix D: Analysis of funeral directors' revenues

## Introduction

1. We have considered evidence on levels of, and trends in, the average revenue per funeral (excluding disbursements) and the average disbursements for at-need funerals (and various breakdowns). Our analysis was based on data provided by Co-op and Dignity, for the period 2013-2017.
2. The aim of this analysis was to understand:
  - i. the relative importance of funeral directors' charges and disbursements to the overall price customers pay to arrange a funeral;
  - ii. the extent to which funeral directors' charges and disbursements respectively have driven the increase in the overall funeral price paid by customers over the past years.
3. Finally, we have looked at the variation in average revenue per funeral between areas, based on branch level data.

## Average revenue per funeral: levels and trends

4. We set out below our analysis of volumes and average revenue per funeral over the period 2013-2017, broken down by type of funeral (burial and cremation; standard and simple).
5. In 2017, the proportion of at-need funeral volumes accounted for by standard funerals was [X]% (Co-op) and [X]% (Dignity). The proportion that were simple funerals was [X]% (Co-op) and [X]% (Dignity). The average revenue per standard funeral (excluding disbursements) was £[X] (Co-op) and £[X] (Dignity). For simple funerals it was £[X] (Co-op) and £[X] (Dignity). The proportion of funerals that were cremations in 2017 was [X]% (Co-op) and [X]% (Dignity). For Co-op, this proportion was [X]. [X] for Dignity, this proportion was [X].
6. Over the period 2013-2017, the proportion of Co-op funerals that were cremations [X], while the proportion of Dignity funerals that were cremations [X]. The proportion of simple funerals [X] for Co-op [X] and [X] for Dignity [X].
7. For each of Co-op and Dignity we calculated the annual increase in average revenue per funeral (excluding disbursements) for each year over the period 2013-2017. We also did this separately for standard and simple funerals. The

annual increases and the CAGR over the period are shown below. For comparison, we also report CPI.

**Dignity, increase in annual revenue**

	% increase on previous year				CAGR
	2014	2015	2016	2017	2013-2017
Standard at need	[X]	[X]	[X]	[X]	[X]
Simple at need	[X]	[X]	[X]	[X]	[X]
Standard and simple at need	[X]	[X]	[X]	[X]	[X]
CPI	[X]	[X]	[X]	[X]	[X]

**Co-op, increase in annual revenue**

	% increase on previous year				CAGR
	2014	2015	2016	2017	2013-2017
Standard at need	[X]	[X]	[X]	[X]	[X]
Simple at need	[X]	[X]	[X]	[X]	[X]
Standard and simple at need	[X]	[X]	[X]	[X]	[X]
CPI	[X]	[X]	[X]	[X]	[X]

8. The average revenue per funeral (excluding disbursements) [X] (Co-op) and [X] (Dignity) over the period 2013-2017. For Co-op, [X]. For Dignity, [X]. This compared with CPI which increased year-on-year by [X] on average.

9. The average revenue per funeral (excluding disbursements) increased year-on-year [X] for Co-op, [X]. It increased year-on-year [X] for Dignity, [X]:

i. [X].

ii. [X].

10. The graph below illustrates the change in Co-op’s average revenue per funeral between 2013 and 2017. The graph illustrates the changes in average revenue per funeral for both simple and standard funerals split out between cremation and burial funerals.

**Co-op average revenue per funeral 2013-2017**

[X]

Source: CMA analysis [X].

11. The graph below illustrates the change in Dignity’s average revenue per funeral between 2013 and 2017. It shows the changes in average revenue per funeral for both simple and standard funerals split out between cremation and burial funerals.

**Dignity average revenue per funeral 2013-2017**

[X]

Source: CMA analysis [X].

## Average disbursements: levels and trends

12. We collected information on average disbursements from Co-op and Dignity over the period 2013-2017. In 2017, average disbursements per funeral were [£] (Co-op) and [£] (Dignity). Co-op disbursements display [£]. [£], Dignity disbursements display [£]. For Co-op, average disbursements were [£]. [£], for Dignity, average disbursements were [£].
13. The major component of these disbursement costs were the cremation fees and burial fees for cremations and burials respectively. Based on information received from Co-op, in 2017 the average burial fee was £[£], and the average cremation fee was £[£]. The minister's fee was another significant disbursement for both cremations and burials. Other significant disbursement items were: the church fee for burials and the doctor's fee for cremations.
14. For Co-op and for Dignity, average disbursements per funeral increased at an average rate of [£] and [£] per year over the five-year period. For Co-op, this was [£]. For Dignity, this was [£].
15. Disbursements on burials increased year-on-year at an average rate of [£]% (Co-op) and [£]% (Dignity), while disbursements on cremations increased at an average rate of [£]% (Co-op) and [£]% (Dignity).

## Average revenue per funeral between branches

16. We analysed branch-level revenue and volume data provided by Co-op and Dignity to determine what differences in average revenue per funeral exist between branches of the same operator. This is illustrated by the operator's interquartile range in average revenue per funeral, which measures the revenue difference between the branch with the lowest average revenue out of the most expensive 25% of branches, and the branch with the highest average revenue out of the least expensive 25% of branches. The interquartile range for Co-op is £[£], while Dignity's branches have [£].
17. [£].
18. [£].
19. We investigated a number of factors that may be associated with different average revenue per funeral between branches. These included the type of area<sup>1</sup> (i.e. urban, rural, outer London and inner London) and the nation where the branch was located. We also considered the average income of the local area

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<sup>1</sup> As defined in the ONS document (page 5) [The 2011 Rural-Urban Classification For Small Area Geographies](#).



(using ONS data to categorise branches by the income decile of the population in their local area).<sup>2</sup> The results of this analysis were as follows:

- i. The average revenue per funeral for Co-op was [X].
- ii. The average revenue per funeral for Dignity was [X].
- iii. The average revenue per funeral for Co-op [X].
- iv. The average revenue per funeral for Dignity [X].
- v. For Co-op, the average revenue per funeral [X].
- vi. For Dignity, the average revenue per funeral [X].

## **Evidence on funeral prices and price inflation**

20. In this section we summarise some key evidence on funeral prices and funeral price inflation.

21. We note that the survey reports vary in terms of: time frame, methodology, and approaches to price estimation.

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<sup>2</sup> The income decile data was obtained from the Ministry of Housing, Communities & Local Government, English indices of deprivation 2015 dataset, <https://www.gov.uk/government/statistics/english-indices-of-deprivation-2015>. This dataset does not include information on Wales, Northern Ireland or Scotland; therefore, this analysis was conducted solely on branches located in England.

	Source (methodology)	What is included	Time period covered	Average price (latest report)	Average annual price inflation over report series
CMA consumer survey (2018)	331 UK adults age 18+ who were personally involved in arranging an 'at need' funeral where a funeral director was engaged to make some of the arrangements (face-to-face omnibus survey <sup>3</sup> )	Approximate total cost of the funeral arrangements	June 2016-June 2018	£3,000-£5,000	n/a
YouGov Funeral Planning (2017)	996 UK adults age 18+ who had organised a funeral in the previous five years (online panel survey)	Average price paid for a funeral including discretionary services (but excluding post-funeral services)	Price data for 2017 (time series data since 2013)	£3,618	7.65% per year 2014-2017
SunLife Cost of Dying (2018)	100 UK funeral directors (telephone survey)	Average price of a 'basic' funeral, excluding discretionary items	Price data for 2018 (time series data since 2004)	£4,271	5.88% per year 2004-2018
Royal London National Funeral Cost Index (2018)	2,102 adults (online panel survey) 1,011 funeral arrangers (online panel survey) ICCM data yourfuneralchoice.com data (mystery shopping of funeral directors)	Average price of "a specific low-cost funeral package"	Price data for 2018 (time series data since 2014)	£3,757	1.42% between 2014-2018

## 22. Summary of each of these reports and their findings:

- i. The CMA survey asked respondents to say how much they had spent on the most recent at need funeral they had arranged. Most frequently, respondents had spent more than £4,000 (36%), with 16% overall spending more than £5,000. Around a third of respondents (32%) had spent between £3,001 and £4,000.<sup>4</sup>
- ii. The Royal London Funeral Cost Index (2018) states that, in 2018, the price of a specific low-cost funeral package was £3,757. This had increased by an average of 1.42% per year between 2014 and 2018.
- iii. SunLife Cost of Dying Report (2018) states that the average cost of a 'basic funeral' was £4,271 in 2018. This represented an average annual rate of increase of 5.88% per year since 2004. The basic funeral includes: the funeral director fees (stated to normally include: coffin, hearse, care of the deceased, professional guidance), fees for

<sup>3</sup> To conduct its survey of consumers, the CMA commissioned the market research agency Ipsos MORI to include a set of questions across three waves of its weekly face-to-face omnibus survey (Capibus). The Ipsos MORI omnibus uses a high-quality, controlled form of random location sampling (known as 'random locale') to deliver nationally representative samples of the GB (or UK) general population. A fresh, free-found sample of respondents is interviewed in-home each week, using a computer-aided personal interviewing (CAPI) methodology.

<sup>4</sup> CMA consumer survey, Tables 37/38. 331 respondents who had been involved in arranging an 'at need' funeral in the last two years.

the cremation/burial; doctors' fees and clergy/officiate fees. SunLife also collect information on expenditure relating to discretionary items that are not included in the figures above (eg memorials, death notices, flowers, order sheets, extra limousines, catering etc.). In response to the consultation, several respondents commented on our use of the SunLife research, including that the reported average cost was higher than reported by some other sources and that the sample of funeral directors that SunLife obtained information from changed significantly in 2018. We note that there are other estimates of funeral costs and that methodologies vary (as shown in this appendix). We have used the SunLife research because, to our knowledge, it is the only source of long-term pricing information in the funerals sector. The CMA undertook a high-level review of the underlying data of the 2015, 2016, 2017 and 2018 SunLife reports and found that churn within the sample did not appear to have inflated the reported annual price rises. For instance, the average funeral costs for those funeral directors added to the sample in 2018 were slightly lower than for the sample of funeral directors overall. The average funeral price rise in 2018 was also larger (compared to the sample overall) for those funeral directors that were in the sample across both 2017 and 2018. Consequently, at this stage, we do not have reasons to believe that the rate of increase in funeral costs shown by the report is overstated.

- iv. YouGov (Funeral Planning 2017) reports that the average cost of a funeral was £3,618 in 2017, with an average increase of 7.65% per year since 2014 (although the cost remained stable between 2016 and 2017). This was based on the average cost of a funeral among online survey respondents who had organised a funeral in the preceding five years. Costs included: the ceremony/burial or cremation, and expenses including: cars, music, flowers, orders of service. It excluded expenses related to things occurring after the funeral (eg wake, memorials, etc).

## Appendix E: Analysis of cremation fees

1. This appendix provides additional background information:
  - (a) Background to the data that we have used to conduct our cremation fee analysis;
  - (b) Analysis of the most expensive and cheapest crematoria in the UK;
  - (c) Analysis of the relationship between quality metrics and cremation fees at private crematoria; and,
  - (d) Observations on the CMA's consumer survey, as it relates to crematoria.

### Background to cremation fee data

2. We have used data from the Cremation Society for our analysis of cremation fees. The Cremation Society has stated that they gather information on fees from all crematoria in the UK. The fee data we have used refer to the basic cremation fee, which applies to the vast majority of cremation service slots selected by customers of private crematoria.
3. Furthermore, we consider the basic fee as reported by the Cremation Society to be the most comparable fee across crematoria as it includes medical referee fees, environmental surcharges, and all fees for services necessary for a cremation, such as a chapel slot. In some circumstances, crematoria charge extra for certain services (for example, an organist, webcasting the service or a weekend surcharge), and this is not reflected in the basic fee. Throughout the market study, third parties have told us that they consider the Cremation Society data reliable.<sup>1</sup> Providers have told us that the cremation fee as reported by the Cremation Society is the cremation fee paid by the vast majority of customers.
4. A private provider has argued that cremation fees are, in reality, falling over time because customers have the ability to choose reduced-fee early morning slots or direct cremation. We note that the Cremation Society data do not include information on reduced cremation fees and the proportion of volumes that are basic or reduced fee at each crematorium. However, data from two private providers show that the proportion of cremations that are conducted at a reduced fee is not only low but has been stable over the last five years, suggesting that the take up of these lower price options has not increased. We also note that

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<sup>1</sup> We have noted one instance where fee information reported by the Cremation Society may be inaccurate over a number of years. Given data availability we have not corrected for this. We note that the Cremation Society relies on returns from crematoria and the data is only as reliable as the returns that are completed. We do not consider this to significantly impact our analysis given the nature of the error identified.

reduced fee early morning slots do not seem a close alternative to basic fee slots for many families. We also do not consider it appropriate to include direct cremation (also referred to as unattended cremation) fees in our analysis of cremation fees given it is a different proposition to a cremation (for example, mourners are not present and there is no service).

5. We also considered whether crematoria charged different fees depending on the customer (e.g. between different funeral directors) but did not find any evidence of this.

## **Most expensive and cheapest crematoria**

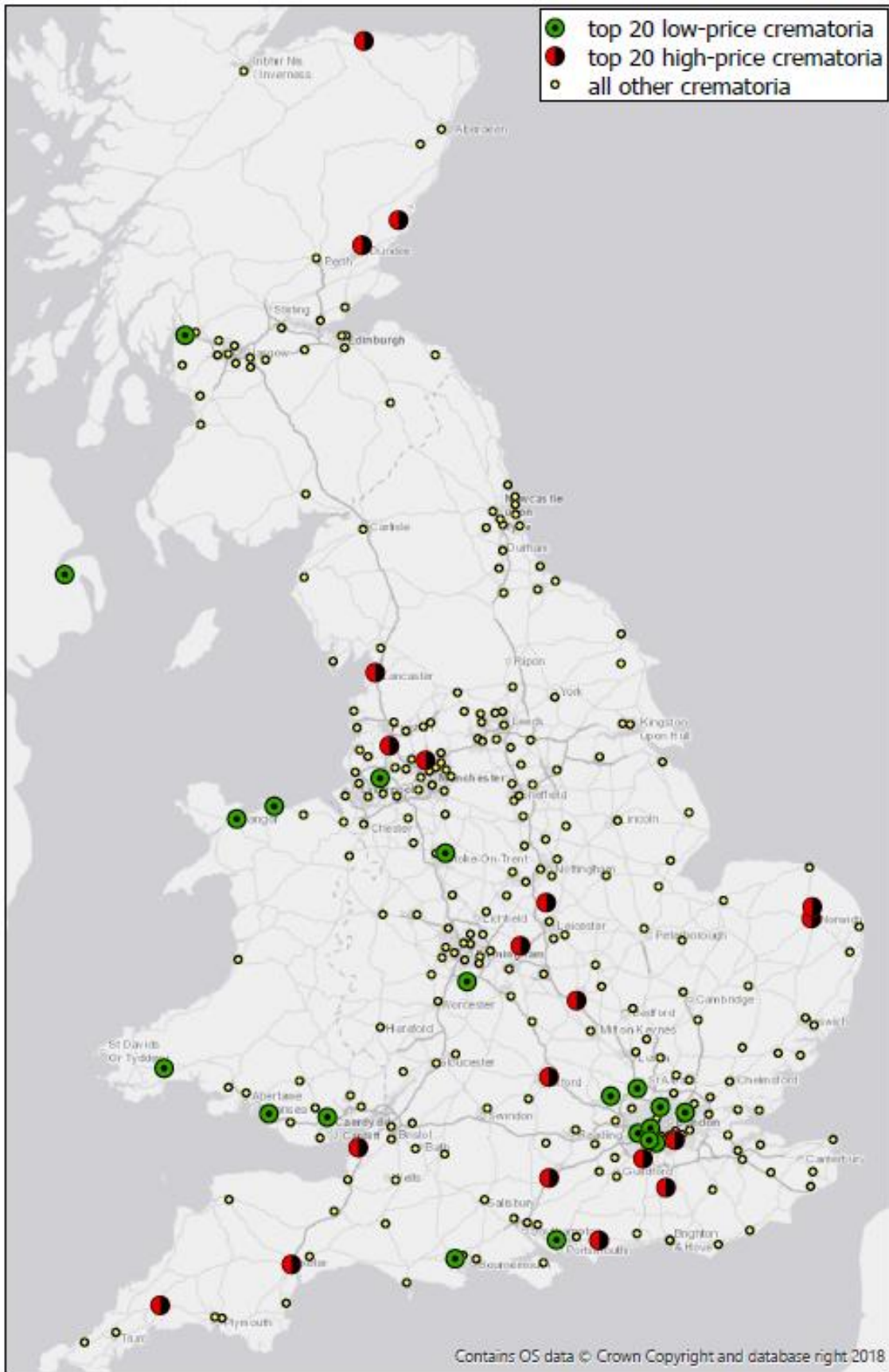
6. We have assessed the locations of the most expensive and cheapest crematoria in the UK to understand the extent to which there are parts of the UK that are cheaper or more expensive than others.
7. The locations of the most expensive and cheapest crematoria relative to all other crematoria are shown below. Figure 1 does not show that high- and low-price crematoria are clustered in any particular part of the country. Each nation has low-price crematoria and high-price crematoria (except for Northern Ireland, where there is only one crematorium). Notable initial observations include:
  - a) The South East, whilst being identified by some respondents to the Statement of Scope as being potentially more expensive due to land and labour costs,<sup>2</sup> has a mix of high and low-price crematoria, some of which are very close to one another;
  - b) There are high- and low-price crematoria in both rural areas and in urban areas;<sup>3</sup> and,
  - c) Some crematoria that are isolated (i.e. they have long drive times to alternative rival crematoria) are among the most expensive crematoria in the UK, whereas others are among the cheapest.

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<sup>2</sup> See [LGA response to Statement of Scope](#).

<sup>3</sup> For example, in conurbations, there are low-price crematoria in St Helen's (near Liverpool/Manchester), in Mortlake and Kingston-Upon Thames (London), and high-price ones in Bury (Greater Manchester) and Beckenham (South London). In rural areas there are low-price ones in Narberth in South Wales and Colwyn Bay in North Wales and high-price ones in Weston-Super-Mare and Bodmin.

Figure 1: Crematoria with the highest and lowest basic fee in the UK, 2017



Source: CMA analysis of Cremation Society data

8. Based on the analysis above, there is limited evidence to suggest that there are parts of the UK that are particularly expensive or cheap.

## **Relationship between cremation fees and quality measures**

9. Private providers have stated that they offer a high-quality service compared with local authorities and that this can help to explain the difference in local authority and private crematoria prices.
10. There are many aspects of quality, not all of which are measurable. We note comments from a private provider's internal documents in which an industry expert states, "the real mark of quality in a crematorium is the human service they provide", which is a measure of quality for which comparable data is unlikely to exist.
11. We have considered the extent to which longer slot lengths<sup>4</sup> and the availability of visual tributes and streaming services are associated with higher cremation fees.
12. In relation to booking slots, we have used data from the Cremation Society that shows booking slots and service times are longer, on average, at private crematoria, compared with local authority crematoria. The average length of a booking slot for a local authority crematorium in 2018 was 41 minutes compared with 53 minutes for private providers. Furthermore, we have found that booking slots and service lengths have increased over time. However, our analysis of Dignity cremation fees and the booking slot length at Dignity crematoria (the private provider for which we had the most observations) does not show any clear relationship between slot length and cremation fee, with some of the cheaper Dignity crematoria offering one-hour slots and some of the more expensive Dignity crematoria offering 45-minute slots.<sup>5</sup> Booking slot length appears to be driven by capacity considerations, and, as such, we may not expect to find a strong relationship between the length of a booking slot and the cremation fee charged.
13. The same applies with the availability of visual facilities and streaming services, with some of the most expensive Dignity crematoria not offering these facilities, whilst some cheaper crematoria (including cheaper local authority crematoria) do.

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<sup>4</sup> Private providers have argued that being able to offer longer slots to families is a measure of quality.

<sup>5</sup> We also note that the average fee at Dignity crematoria offering 45-minute slots was £[REDACTED] whilst the average fee at Dignity crematoria offering one-hour slots was £[REDACTED].

14. Furthermore, a private provider told us that the prices initially set at their new crematoria may not be reflective of the quality differential relative to neighbouring crematoria or the investment made in the facility.

## Observations on the CMA's consumer survey

15. We make references to our consumer survey data, as it relates to crematoria, in our main report. Respondents to our interim report made a number of criticisms of our customer survey. In summary, these criticisms were:

- a) The survey did not ask enough people about how they chose a crematorium, in particular, the CMA's survey asked only 76 people why they chose the crematorium they did;<sup>6</sup>
- b) The survey did not make a distinction between customers who had organised a cremation at a private versus a local authority crematorium, and nor did the survey ask enough people from enough local areas to draw conclusions;<sup>7</sup>
- c) The survey asked customers why they chose the crematorium that they did, even though: in some instances; the funeral director may have helped with the decision; and where customers delegate the decision to the funeral director, they are not in a position to exercise a choice;<sup>8</sup>
- d) The survey could be subject to recall bias;<sup>9</sup> and,
- e) The survey produced some counterintuitive results and as such should not be relied on.<sup>10</sup>

16. In addition, Pure Cremation noted that the CMA should, in any next phase of investigation, do further customer research to better 'explore their motivations for choice more thoroughly.'<sup>11</sup>

17. We have considered these points. However:

- a) we state in the report that many customers do not perceive a choice of crematorium, and do not compare two or more crematoria. As such, the sample of people who are eligible to respond to questions relating to how

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<sup>6</sup> [Westerleigh](#) and [Memoria](#) response to interim report.

<sup>7</sup> [Westerleigh](#) response to interim report.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> [Pure Cremation](#) response to interim report.



they chose a crematorium will be, by definition, small. We have made it clear where the results from our survey are based on a small sample size;

- b) we recognise that the choice of crematorium for some customers may be driven by the funeral director, although the customer may have some input into this. To the extent that certain factors are important to the customer, this may be factored in the final choice.
- c) we have factored the possibility of recall bias into our analysis, and have also attempted to minimise this by surveying people who had organised a funeral within the two years to June 2018 (over half of our sample answered the survey in reference to a funeral arranged in the 12 months to June 2018); and
- d) we have looked at the survey results in the round taking into account our other consumer evidence, and bearing in mind any inherent limitations in this sort of survey.

## **Appendix F: Summary of responses to the interim report and consultation**

### **Responses – summary**

1. The CMA provisionally concluded in its interim report that the reference test is met and that it would be appropriate to make a reference in relation to both the supply of services by funeral directors at the point of need and the supply of crematoria services in the UK. The CMA commenced a period of consultation, from 29 November 2018 to 4 January 2019, seeking representations from interested parties on the provisional decision to make a market investigation reference (MIR).
2. In addition, the CMA also said it would welcome any specific evidence from respondents on the quality of care of the deceased and issues specific to religious groups that were not covered in the interim report.
3. We received a total of 111 responses to the interim report and consultation document. 56 of these were formal responses to the consultation. We received 31 submissions from funeral director firms, including Dignity plc (Dignity) and the Co-operative Group Limited (Co-op), a range of independent firms and the main trade associations. We received responses from three private crematoria operators, in addition to Dignity (who is active in both the funeral director and crematoria sector).
4. Many of the responses expressed views and/or commented on the evidence and analysis of competition set out in the interim report and did not respond directly to the consultation questions. These views, where relevant to the proposal to carry out an MIR, the scope of the proposed MIR and the consultation questions about the features of the market, have been reflected in this summary of responses. Similarly, where respondents commented on whether the reference test has been met and whether the CMA should exercise its discretion to make an MIR we have captured these comments.
5. The majority of respondents who expressed a view on whether the reference test for an MIR was satisfied were supportive of a MIR, although not all necessarily agreed with the features of concern identified by the CMA, the underlying analysis and/or the conclusions drawn from that analysis.
6. We also asked for views on our current thinking on the types of remedies that an MIR could consider. We are grateful for the views and suggestions received.

## **Views on whether to make an MIR**

7. Of those who expressed a view on whether the reference test for an MIR was met and whether the CMA should exercise its discretion to make a reference for both the supply of services by funeral directors at the point of need and the supply of crematoria services in the UK, 33 respondents supported the CMA proposal to make an MIR and five did not.
8. Parties supportive of an MIR included Dignity and Co-op, the two largest funeral directors; the National Association of Funeral Directors (NAFD; the largest private crematoria operator (Dignity); Citizens Advice Scotland and Quaker Social Action. Parties that did not support an MIR were: Funeral Partners Limited (Funeral Partners, the third largest funeral director); Westerleigh Group Limited (Westerleigh) and Memoria Limited (Memoria), the second and third largest private crematoria providers.
9. Broadly speaking, funeral directors, including the largest trade associations, the NAFD and SAIF, were supportive of an MIR of both funeral director and crematoria services. There were, however, some reservations about the proposed scope of the MIR, the features of concern identified by the CMA and the CMA's analysis and conclusions reached from its analysis.

## **Views of those opposed to an MIR**

10. Funeral Partners was of the view that, based on the evidence set out in the interim report, an MIR is not the most appropriate course of action. Instead, it emphasised the need for a comprehensive and clear legislative solution which would be best achieved by legal reform, with the introduction of regulation and mandatory minimum standards for funeral directors. It also recommended campaigns and guidance to promote greater consumer education and awareness in relation to funerals. It said that were the CMA nevertheless to proceed with making an MIR, the scope of the reference should be limited to the supply of crematoria services.
11. We received three responses from private crematoria operators.<sup>1</sup> Westerleigh was of the view that the evidence presented did not represent a sufficient basis to make an MIR. It considered that the CMA's proposal to make an MIR in relation to the supply of crematoria services was not appropriate and would be more likely to have adverse effects than to result in remedies that would benefit consumers. It noted that this was particularly the case given that most crematoria are operated by local authorities, and most of the potential

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<sup>1</sup> We did not receive any responses from any local authorities who operate a crematorium.

remedial options which would be available to the CMA at the end of a market investigation will therefore be available at the end of the current market study, in the form of recommendations to government and/or local authorities.

12. Memoria submitted that the CMA needed to better understand certain areas, for example, that the CMA should research the significant changes to the structure of the cremation market in the last 10 years before determining whether an MIR of the supply of crematoria services is needed. Memoria also argued that the CMA had significantly underestimated the importance of the quality of its facilities and services and its incentives to improve its offerings. Memoria argued further that all its crematoria have to compete in the local market on price and that the CMA had underestimated the significance of, and potential increase in, direct cremations and simple funerals.

### ***Undertakings in lieu of an MIR***

13. Only one party offered to agree undertakings in lieu (UILs). SAIF said that it believed the features identified by the CMA in relation to funeral directors were ‘...capable of being effectively and comprehensively remedied by an undertaking covering all SAIF members’, and SAIF made an open-ended offer to work with the CMA to agree detailed undertakings and various measures to ensure compliance across its members.
14. Memoria and CPJ Field Funeral Directors Limited suggested that the market features identified by the CMA could be addressed by UILs. However, neither provided any indication as to exactly what such UILs might cover in practice.

### **Scope**

15. Most of the comments we received on the scope of the proposed MIR were supportive. Some respondents did suggest some additional areas for investigation be added to the proposed scope. These additional areas included the following:
  - Pre-paid funeral plans, including the redemption of pre-paid funeral plans
  - Cemeteries and burial fees
  - Arrangements relating to the removal of bodies
  - Governments’ funeral expense assistance
  - Coffins.

## ***Pre-paid funeral plans***

16. Eleven respondents, including the three largest funeral directors (Dignity, Co-op and Funeral Partners) and the main trade associations (NAFD and SAIF), said that pre-paid funeral plans should be brought within the scope of the proposed MIR. They argued that pre-paid funeral plans account for a large part of the funerals market and are becoming increasingly popular. Further, funeral directors providing at-need funerals are also active in the pre-paid plan part of the funerals market.
17. The NAFD considered that: ‘...it simply isn’t possible to understand the funeral market without taking [pre-paid funeral plans] into account’. SAIF commented that pre-paid funeral plans “are designed to deliver a product at the point of death, namely a funeral which then becomes an at-need funeral’. Similarly, Co-op told us that: ‘...whether a funeral purchase is made at the point of need or pre-need, in both cases a funeral will need to be delivered and consumers have certain expectations about the quality of service and standard of care that will be provided by a funeral director when delivering that funeral’.
18. Funeral Partners commented that while: ‘...the sales process of pre-need services may be different to at-need, the delivery of “pre-need” services happens in the same overall environment as ‘at-need’ services. Important matters regarding the actual delivery of the funeral (such as overall care of deceased, overall legislative compliance and overall front-of-house quality) are applicable to both “at-need” and “pre-need” services at the point a plan is redeemed’. Other respondents (Co-op, CPJ Field) shared this view, considering that the scope of the proposed MIR should be extended to cover pre-paid funeral plans at the point of redemption. Co-op added that this was necessary so that: ‘...remedies targeted at improving quality of service and standard of care in delivering a funeral can apply across the sector’.
19. In addition, SAIF was concerned about the adverse effect on consumers when a pre-need plan is redeemed that does not have an allocated funeral director at the plan point of sale.
20. The Funeral Planning Authority (FPA) considered that HM Treasury’s (HMT) ongoing review of pre-paid funeral plans was likely to result in Financial Conduct Authority (FCA) regulation of the sector. The FPA considered that FCA regulation could result in higher regulatory compliance costs that could adversely impact on smaller to medium independent firms, forcing them to exit from the market, reducing competition within the overall funeral market.<sup>2</sup>

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<sup>2</sup> [Funeral Planning Authority](#) submission.

Another respondent, CPJ Field, said in its submission that the CMA needed to take into account HMT's work on pre-paid funerals even if it did not incorporate it into the scope of the proposed MIR.

21. Concerns were also expressed about how remedies designed to address market failure in one part of the funerals market might lead to unintended consequences<sup>3</sup> and/or cause detriment in another part of the market if pre-paid plans were not brought within scope.<sup>4</sup>

### ***Cemeteries and burial fees***

22. Six respondents said that cemeteries should be included in scope and a further eight responses said that burial fees should be included. In addition, we received two responses about local authorities charging higher burial fees to non-residents than to residents. The responses we received on this issue were generally concerned about above inflation increases in burial charges and the impact that this then had on the overall cost of a funeral.
23. SAIF said in its submission that the CMA had understated the importance of burials, noting that a UK average of 23% of funerals involved a burial.<sup>5</sup> SAIF also noted that some religious groups have no option but to use burials.<sup>6</sup>
24. Some of the responses received, for example the response received from Freeman Brothers Funeral Directors (Freeman Brothers), considered high charges to be the result of a lack of alternative options for people who wanted to bury the deceased in a specific cemetery. The Institute of Cemetery and Crematorium Management, however, noted in its submission that burials and cemeteries were 'currently unsustainable', with 'the vast majority of authorities subsidising their burial services' and the private sector '...showing little interest in establishing new cemeteries'.
25. SAIF also commented that some local authorities, motivated by spending cuts and pressure on local authority budgets, may be able to impose considerable and unjustifiable increases well above inflation even where there is an abundance of cemetery space, as a way of reducing deficits.
26. Two respondents said that higher charges particularly affect those who are resident in a local authority area that does not provide cemeteries.<sup>7</sup> One

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<sup>3</sup> [Avalon funeral plan](#) submission.

<sup>4</sup> [Funeral Planning Authority](#) submission.

<sup>5</sup> [Cremation Society of Great Britain 2017 statistics](#) SAIF also note the figure may be higher in rural areas of England, Wales, Northern Ireland and particularly Scotland.

<sup>6</sup> Both Muslim and Eastern Orthodox funerals are exclusively burials.

<sup>7</sup> It was put to us that the rationale for local authorities charging a higher fee to non-residents is to help preserve scarce burial space for its own residents.

respondent argued that charging non-residents a higher rate may discriminate against certain religious groups and ethnicities, adding that some religious groups and ethnicities have over time developed traditions of, or become accustomed to, using particular authorities' burial facilities.<sup>8</sup>

27. Quaker Social Action commented that without including cemeteries within the scope of the proposed MIR it was unlikely that any adverse effect on competition identified by the CMA could be remedied effectively and comprehensively (because funeral directors who also own cemeteries may offset any price caps imposed by remedies of an MIR on their funeral services by increasing cemetery costs or pursuing aggressive upselling techniques).

### ***Arrangements relating to the removal of bodies***

28. Co-op commented on the role of intermediaries, such as coroners, care homes and police removals. Co-op argued that this first point of contact with consumers, prior to a full discussion of costs and options, was important (because, as the CMA research found, consumers typically commit to their early choice of funeral director and do not switch). Co-op said that arrangements between intermediaries and funeral directors should be brought within the scope of the proposed MIR so that the CMA could better understand how these arrangements (both formal and informal) may be affecting consumer decision-making and/or the initial choice of funeral director.

### ***Governments' funeral expense payment assistance***

29. Three respondents (Funeral Partners, SAIF and Brodies Funeral Services Limited (Brodies)) said that funeral expenses payment should be included within the scope of an MIR:<sup>9</sup>
- Funeral Partners argued that the government subsidy is an economic feature of the market which impacts competition between funeral directors and should be included within the scope of the proposed MIR. It told us that it was Department for Work and Pensions practice not to confirm that a payment will be made until after a final invoice has been produced after the funeral. This means that any funding shortfall from an application for financial assistance has to be met by the customer. Any fees that cannot be recovered from the customer by the funeral director have to be written

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<sup>8</sup> [Summary of responses from individuals](#).

<sup>9</sup> Funeral expenses payment, currently capped at £700, is available to people on a low income who are receiving certain benefits to help them pay for a funeral.

off. In addition, Funeral Partners notes that the number of successful applications for financial assistance has declined.

- SAIF argued in its submission that the current level of financial assistance available to individuals has remained frozen at its current level since 2003 and that the essential charges involved in arranging a funeral have increased. It suggested that this is making it increasingly difficult for people on low incomes to cover the costs of a funeral.
- Brodies observed in its submission that government has ‘...moved from trying to deliver a normal funeral to simple funeral, which waters down respect even more’.

### ***Coffins***

30. Two respondents said that coffins should be in scope. Both respondents considered that the mark-up applied to the wholesale price of coffins by funeral directors was ‘very significant’. The respondents also commented that coffins offered by funeral directors as eco-friendly or green often attract a premium price/higher margin and are the subject of significant mark-ups.
31. The respondents also suggested that it can be difficult for customers to compare different coffin types and prices because the coffin descriptions used by different funeral directors can vary.
32. In addition, concerns were raised about local authority crematorium practices in relation to the acceptance of certain coffin types. We were told that some local authorities refuse to accept certain coffin types or would only accept them if modifications were first made to the coffin.

### ***Other comments on scope***

33. Other points made about the scope of the proposed MIR included the following:
  - The Association of Private Crematoria and Cemeteries argued that the CMA should look at local authority cost recovery practices in the context of their crematoria operations.
  - Freeman Brothers said in its submission that Public Health funerals are ‘problematic’ and that the CMA should examine the provision of services by local authorities.



- Two individuals who responded to the consultation said that GP certification fees and medical referee fees should be included within scope.
- Another individual respondent said that the CMA should include the costs and arrangements associated with the repatriation of the body of the deceased.

## Funeral Directors - comments on market features

### *Customer vulnerability and difficulties engaging at the point of need*

34. Many of the responses received, including from individuals who had personal experience of arranging a funeral, agreed with the CMA's analysis that people find it difficult to engage at the point of need and that they are vulnerable. Poppy's Funerals Limited (Poppy's) told us: 'A small minority of our clients are empowered and informed before they contact us. These people know what they want and need. They will call us with clear wishes and instructions. Their perspective is, "we are going to do this thing. Will you facilitate it?" but the majority of people who contacted us said, "I have never done this before. I am at sea. I am not myself. What should I do?"'<sup>10</sup>
35. However, some funeral directors and their trade associations challenged the CMA's interim report conclusions and in particular the characterisation of a funeral as: 'the ultimate distress purchase, made infrequently by inexperienced, emotionally vulnerable clients, under time pressure' considering that the CMA had overstated the vulnerability of customers purchasing funeral services.<sup>11</sup>
36. For example, AW Lymn The Family Funeral Service (AW Lymn) commented that, while customers may be vulnerable, it does not mean that they are then taken advantage of. One of the trade associations, the NAFD, similarly argued that because an individual is in a 'heightened emotional state' it does not follow that "...the purchaser is unhappy with their choice or unable to make an informed decision'.<sup>12</sup>
37. Many respondents noted that some consumers, particularly those on low income, could be financially vulnerable. This was chiefly regarded as being a consequence of inadequate support being provided by government and the perception of the need to reform funeral expenses payments.<sup>13</sup>

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<sup>10</sup> [Poppy's Funerals Ltd](#) submission.

<sup>11</sup> The quotation is from an internal document provided by a funeral director.

<sup>12</sup> [National Association of Funeral Directors](#) submission.

<sup>13</sup> See, for example, [Freeman Brothers](#) submission.

### *Evidence of advanced planning*

38. Funeral Partners stated that the purchase of pre-paid plans, which have become increasingly popular and the redemption of which account for a significant proportion of funerals carried out, demonstrates that some people have thought about what they want in advance. These people are making their funeral preparations in advance at a time when they are engaged and less emotionally vulnerable. Dignity, in its response, also made the same point noting that: 'The decision process in many cases starts well before death. For example, many nursing homes will ask whether a family has a preferred funeral director on admission into the home. For this reason, we believe it is not correct to describe all customers as potentially vulnerable'.
39. Further, some respondents commented that where the death is reasonably foreseeable (ie where a person is receiving specialist medical care or palliative care) then they may make their preferences clear and/or the family may carry out some research in preparation.

### *Empowered consumers*

40. Poppy's told us that 'education is the key' and that consumers would be less vulnerable if they were empowered and informed if they were aware of their options.<sup>14</sup> CPJ Field considered that the reasons why consumers might not be as well-informed was because of the 'taboos' around death and a general unwillingness to engage with the subject matter (for example, discuss issues related to the care of the body).<sup>15</sup>
41. In relation to customers' being inexperienced, CPJ Field commented that it has tried to encourage greater customer engagement, undertaking proactive advertising campaigns to try '...to educate the public to plan ahead for funerals' noting that this has been difficult to achieve because '...death and funerals are not typically topics which people are comfortable discussing'. Another respondent similarly commented that customers have historically not wished to engage 'with matters relating to death, dying and funerals'.<sup>16</sup>
42. Another respondent also noted that while customers might be inexperienced, they were 'rarely vulnerable'.<sup>17</sup>
43. AW Lymn told us that decisions were not always made in a hurry or at a time of emotional distress, noting that customers can change their minds about

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<sup>14</sup> [Poppy's Funerals Ltd](#) submission.

<sup>15</sup> [CPJ Field](#) submission.

<sup>16</sup> [Poetic Endings](#) submission.

<sup>17</sup> [Brodies Funeral Services Ltd](#) submission.

what they want (or do not want) right up until the point at which the funeral takes place.<sup>18</sup>

### *Shopping around*

44. Freeman Brothers commented in its response that it believed that: ‘...most customers are generally competent consumers with an understanding of price-checking and consumer behaviour’. Other funeral directors made similar comments in their submissions arguing that the CMA had in its interim report understated the incidence of shopping around.
45. As support for their assertions they noted the following:
- People do know ball-park costs (ie must have done some research).<sup>19</sup>
  - People do know firms by reputation/ask friends/relatives for recommendation on which firm to use.
  - We should not assume that everyone is emotionally affected in the same way; some people can act rationally and do shop around.

### *Responses agreeing that customer vulnerability and difficulties engaging at the point of need is a market feature*

46. Many of the responses we received agreed with the CMA analysis and research findings that consumers are generally vulnerable when purchasing funeral services. This section provides an overview of the responses about this feature from respondents considering customers to be vulnerable and to have difficulties in engaging at the point of need.
47. The Good Funeral Guide commented in its submission that customers ‘can be described as vulnerable due to the unique nature of a transaction that is carried out at a time of extreme stress without clear information being freely provided to them before a decision is made’.
48. The Good Funeral Guide submission goes on to say that the ‘...lack of awareness of the general public about the actual costs involved in carrying out a funeral also contributes to their vulnerability as consumers’, adding that ‘if the public is unwilling to research or engage with the funeral industry until

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<sup>18</sup> AW Lymn submission.

<sup>19</sup> Freeman Brothers submission.

necessary, then such figures quoted by the media easily become an assumed “cost of a funeral”.

49. This lack of awareness and inexperience was also commented on by other respondents. For example, a secular minister responding to the consultation told us that ‘The bereaved rarely know what to expect. They generally have very low expectations of the funeral, expecting it to be a painful formality’. They focus on doing “the right thing” and assume that there is a way that “things must be done”... [Funeral directors] do not inform people of the true range of choices that might be available to them’.<sup>20</sup>
50. While some industry respondents have argued that customers are not as vulnerable as the CMA’s conclusions in its interim report, other industry respondents were broadly supportive of its findings in this respect. For example, SAIF Charter commented in its submission that funeral directors understand that ‘...due to societal attitudes towards death and dying, the majority of families arranging a funeral at the point of need have not made price comparisons and that, due to the impact of bereavement, many may be vulnerable’.
51. The responses we received from consumer representative groups and individuals, where they commented on this market feature, agreed that customers were in a vulnerable position. For instance, Dundee Funeral Support Service commented that: ‘Grief, distress and financial concerns...dictate against people making considered choices’.<sup>21</sup>
52. Another respondent told us that some people were more vulnerable to upselling of flowers, coffins, hearses etc. They said that this was because funeral directors know that people will feel bad if they are seen to be rejecting the social norm or trying to keep the cost of the funeral down. In addition, ‘to admit that it was a poor service just adds to the sorrow, confusion and distress of bereavement’.<sup>22</sup>
53. Another respondent, Quaker Social Action, commented that customers who were financially vulnerable may over commit because of poor transparency of payment terms and conditions.
54. Some of the comments that respondents have made in relation to customer vulnerability are also relevant to other market features the CMA identified in its interim report, for example, lack of transparency. Poppy’s, for instance,

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<sup>20</sup> [Summary of responses from individuals.](#)

<sup>21</sup> [Dundee Funeral Support Service](#) submission.

<sup>22</sup> [Summary of responses from individuals.](#)

commented that: 'Anything that encourages the funeral sector to be more transparent would result in better informed, less vulnerable consumers'.

55. Where respondents have commented on customer vulnerability in the context of other market features their responses are captured in the relevant sections below.

### ***Customers' unresponsiveness to measures of price and quality***

56. Many of the respondents that commented on this market feature agreed that price was not the primary driver of customers' decision-making. For example, many of the responses commented that people were not shopping around and that haggling over price was regarded as 'disrespectful'<sup>23</sup> and 'churlish'.<sup>24</sup>
57. The larger funeral directors (Dignity, Co-op and Funeral Partners) told us that the market was becoming more competitive and that price was of increasing importance to their customers. They commented on the increasing popularity of lower cost funeral options, including direct cremations and recent reductions in prices by funeral directors. Dignity asserted in its submission that, in such an environment, a policy of regular annual price increases was not sustainable. The NAFD said that the market was becoming more competitive commenting on the increased number of new funeral directors entering the market and lack of dominance of large firms.
58. We also received representations from funeral directors expressing concern that customers focused on price were getting lower levels of care and a poorer quality service from funeral directors, particularly from new funeral directors offering low-cost funerals. Some funeral directors were of the view that a direct cremation does not provide the deceased with a suitable send-off, regarding it as a low-cost option unsuitable for their customers.
59. Kenyon's Meridian Funeral Home, referring to its own fee levels, told us that: 'people think I must not offer as good a service as the ones charging a lot more'.
60. We received a number of comments from funeral directors arguing that the CMA had placed too much focus on price and not enough on quality issues in its interim report.<sup>25</sup> Quality in the context of many of the responses was

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<sup>23</sup> [The Good Funeral Guide](#) submission.

<sup>24</sup> See [Summary of responses from individuals](#).

<sup>25</sup> See for instance, [CPJ Field](#) submission.

considered to be the standard of service received and the options available to customers.<sup>26</sup>

61. Funeral directors asserted that shopping around was ‘...simply not the priority’<sup>27</sup> and that satisfaction, quality and choice was much more important to customers than price.<sup>28</sup> Freeman Brothers also noted that the wishes of the deceased outweighed considerations of cost.
62. Other responses received noted that people were typically inexperienced purchasers and often ‘...feel pressurised into sorting out details without delay’. SAIF Charter also commented that: ‘...the time-pressured nature of the purchase and inexperience in the market also contribute to consumer unresponsiveness to measures of price’.
63. Further, very few respondents commented at all on people switching between funeral directors. The responses that did mention switching, without exception, told us that people do not switch, even if they are unhappy with the service they are being provided with.<sup>29</sup> Respondents said that this was because people had already incurred some costs ie removal and storage of the body<sup>30</sup> or did not know that they had the option to change funeral director.<sup>31</sup>

### ***Customers’ inability to assess quality/ value for money (vfm)***

64. Some respondents to the consultation agreed that there was variation in quality across the sector and that it was difficult for customers to assess the relative quality/vfm of competing funeral directors. For example, one of the larger funeral directors, Co-op, said that the quality of service and standard of care provided to consumers was ‘very inconsistent across the industry’. Some respondents to the consultation considered that this made like-for-like comparisons of different providers’ funeral offer difficult. Some respondents also commented on the bespoke nature of the service being provided and the increased demand for personalised service.
65. Some respondents also told us that customers’ assessment of quality typically focused on front-of-house issues (people, premises, car fleet, etc) rather than back of house issues (refrigeration, storage, mortuary facilities, documented processes, etc). Respondents commented that this was because customers

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<sup>26</sup> See for instance, [AW Lymn](#) submission.

<sup>27</sup> [SAIF Charter](#) submission.

<sup>28</sup> [Funeral Partners](#) submission.

<sup>29</sup> [The Good Funeral Guide](#) submission.

<sup>30</sup> Or paid a large upfront deposit.

<sup>31</sup> See [Summary of responses from individuals](#).

assume that the back-of-house services provided are standard across different providers and/or regulated.

66. For instance, Funeral Partners stated that the standard of back-of-house facilities ‘...vary dramatically’. Funeral Partners also noted that, in relation to front-of-house quality, the variation in quality between different funeral providers was not always visible eg caring staff. Further, because of the taboo nature of talking about issues related to the care of the deceased’s body, people did not typically ask about the back-of-house facilities.<sup>32</sup> This made it difficult for customers to assess the relative quality of different funeral firms.<sup>33</sup>
67. Funeral directors also told us that the taboo nature of the subject, coupled with the distress nature of the purchase, meant that customers did not engage very effectively with the purchasing process. This made it difficult for them to make informed choices on quality and vfm criteria as they might in other consumer markets.
68. However, this was not a view that all funeral directors universally subscribed to. For example, some industry respondents, such as CPJ Field, observed that ‘...consumers prioritise other elements over price’ and that ‘...the vast majority of consumers have no problem paying for their selected funeral services’.
69. We received some responses from funeral comparison websites. A comparison website, About the Funeral, told us that consumers using its website were looking at price, noting that the majority of searches made on its website requested the results be shown in price order (95.2%).
70. Memoria also told us that: ‘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’.
71. Some funeral directors considered that existing comparison websites’ price information may not be accurate and could mislead some customers.<sup>34</sup> Some funeral director responses also noted that comparison websites could not measure quality or enable comparisons of a funeral director’s suitability/unique selling point.
72. Some of the responses commented on the low levels of complaint, high satisfaction ratings, repeat custom and positive recommendations to new

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<sup>32</sup> See for example, [Poppy's Funerals Ltd](#) submission.

<sup>33</sup> See for example, [Dignity Funerals Ltd](#) submission.

<sup>34</sup> [AW Lymn](#) submission.

clients as support for the view that customers were happy with the quality and value of the services being provided by funeral directors.<sup>35</sup>

### ***Lack of transparency***

73. While noting that some price information was available to customers, either directly from the funeral director by telephone or in the form of a price list, respondents broadly accepted that lack of transparency was an issue and were supportive of better online price transparency.
74. SAIF said “it is our intention to make online publishing of price mandatory for those members with websites” and NAFD said “the NAFD intends to consult with members on adding additional mandatory requirements in the Code of Practice in regard [to visibility of pricing information]” and “we are working to develop a template pricing structure, which could ensure that all our members reported their pricing in a consistent manner.”
75. Dignity told us that its branches would display their prices online by the end of March 2019 and Co-op said it was developing an online pricing tool and introduction of a uniform package offer across its business. We also received responses from other funeral directors telling us that they publish their full price list online. Some funeral directors (for example, Co-op) pointed to the CMA’s own consumer research that found that people do broadly know what to expect in terms of prices and the choices available to them.
76. However, while generally supportive of greater online pricing transparency, industry respondents also highlighted the difficulties in achieving this goal due to the bespoke nature of a funeral service and the impact of third-party costs (disbursements) on the final cost of a funeral.<sup>36</sup> Many also noted in this context difficulties in making like-for-like comparisons of price (see the preceding section).
77. As well as a lack of transparency in relation to online prices, we were told there was also a lack of transparency in relation to terms and conditions (ie payment and repayment terms, debt collection practices) charges for services (ie package prices not being broken down sufficiently) and the provision of those services (particularly in relation to back-of-house issues eg how and where the body is stored).
78. Other transparency issues raised included the variation in terminology used, the costs of collection and charges for out of hours services.<sup>37</sup> One

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<sup>35</sup> See for example, [Funeral Partners](#) submission.

<sup>36</sup> [CPJ Field](#) submission.

<sup>37</sup> [Quaker Social Action](#) submission.



respondent, Allcock Family Services, commented that some people may not be aware of what is involved in a direct cremation and, consequently, purchase a service that was not what they wanted (or as low cost, if additional services have then been added).<sup>38</sup>

79. Many respondents commented on the lack of transparency in the sector in respect of the ownership of funeral homes. While this issue was raised more often in the responses we received from consumer bodies and individuals, some funeral directors agreed that it was ‘...important that ultimate ownership is visible to the client’.<sup>39</sup> For example, SAIF commented in its submission that ‘...the rules on transparency of ownership needs to be extended to include all forms of advertising and to be made more prominent on company signage’ arguing that it would ‘...improve consumer awareness on true ownership allowing for more informed decisions and improve competition’.

### ***Point of sale (POS) advantage***

80. As considered in the preceding sections, people can find it difficult to engage. The responses we received from funeral directors and their related trade associations explained that funeral directors understood this and that they did not steer people towards specific services or products, but rather guided them in a caring and sympathetic way through the decision process.<sup>40</sup>
81. Freeman Brothers told us that funeral directors ‘have the advantage of dealing with bereaved people everyday and ...[were] experienced in talking to them sensitively about implications of their requirements; budgets; ways to reduce costs without affecting the overall service; low-cost coalitions to create a meaningful funeral; and so on’. Funeral Partners recognised that ‘hard sell’ could happen ‘in certain instances in the industry’, while noting that such instances were likely to be rare. It also argued that if the practice (of upselling) was prevalent in the sector that there would be a higher level of complaints, lower levels of customer satisfaction and an adverse impact on a firm’s reputation.
82. The NAFD observed that the CMA’s own consumer research found that the majority of interviewees felt that costs were explained to them clearly and that they did not feel pressurised.
83. The bereaved may be accompanied by other people whose role is to support them in the decision-making process. AW Lymn provided some evidence

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<sup>38</sup> [Allcock Family Funeral Services](#) submission.

<sup>39</sup> See for example, [Funeral Partners](#) submission.

<sup>40</sup> See for example [Dignity Funerals Ltd](#) submission.

showing that many people arranging a funeral are typically accompanied at the meeting with the funeral director. Typically, it will be other family members supporting the person closest to the deceased, but sometimes it can be a professional, distant family member or a person not close to the deceased.<sup>41</sup> AW Lymn added that these people are there to provide both emotional support and to ensure that there is someone to look out for the interests of the bereaved in the transaction.

84. Some respondents pointed us to the CMA's own consumer research as support for the view that it would be very difficult, where the individual is following the wishes of the deceased, for the funeral director to sell them something they do not want. In addition, some said that the lack of complaints evidence demonstrated that people were not feeling exploited and that they were happy with the choices they were making. They also noted that they would take a reputational hit and risk a loss of repeat custom if they were not giving customers what they wanted.<sup>42</sup>
85. We also heard from consumer representative bodies, some smaller funeral director firms and individuals expressing the contrary view. These respondents told us that people are: '...vulnerable to being reassured by a kindly and confident sales person'.<sup>43</sup>
86. The Good Funeral Guide told us that customers are susceptible to suggestion and will frequently select mid-range services and products. Poppy's told us that: 'It would be easy for a funeral director to manipulate that power imbalance to maximise profits and minimise logistical challenges'.
87. Another respondent, a secular minister commented that: 'Funeral director advice is...frequently strongly biased towards the optimum functioning of their business and not consumer choice or welfare'.

### ***Ineffectiveness of self-regulation***

88. We received comments that were critical of the existing trade associations' approach to self-regulation, both in terms of their representativeness of the sector and their ability to enforce quality standards and deliver good customer outcomes. There was though some support for the existing trade bodies self-regulatory role. For example, Abbey Funeral Services Limited considered that membership of a trade association should be mandatory for all funeral firms (and that they operated robust quality inspections). Another recognised the

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<sup>41</sup> [AW Lymn](#) submission.

<sup>42</sup> [Funeral Partners](#) submission.

<sup>43</sup> [Kensington Citizens Advice](#) submission.

difficulties in enforcing high-standards in an unregulated/unlicensed market (because the expulsion of a funeral director from its trade association does not prevent it from continuing to trade).

89. There was a broad consensus across all respondents that more robust regulation of standards and transparency in the funeral sector was necessary. The large funeral directors, the NAFD, SAIF and SAIFCharter supported this position. Co-op said that, because there are ‘...no licensing requirements and the industry is largely unregulated’<sup>44</sup> that some funeral directors are not sufficiently focused on quality. NAFD said it ‘would like to see greater oversight of the funeral profession’ to improve transparency and set minimum [quality] standards. SAIF said that a ‘fit-and-proper’ person test was required to help improve back-of-house standards. SAIFCharter considered that a ‘legally enforceable code of conduct’ would help to remedy the lack of transparency.

## **Crematoria services - comments on market features**

### ***Customer vulnerability and difficulties engaging at the point of need***

90. Memoria considered that not everyone arranging a funeral should ‘automatically’ be considered to be vulnerable, citing evidence from a YouGov poll that found that people did not find arranging a funeral difficult (eg 61% did not find it difficult to organise the event, even though they were recently bereaved; 74% didn’t find it difficult to make decisions about the funeral).
91. The London Cremation Company (LCC) accepted that the bereaved can be very vulnerable, while also pointing to: ‘...considerable evidence that the funeral and burial/cremation sectors have listened and responded to many of the more negative pre-conceptions of the rigidity of funeral practices’.
92. Harbour Modern Funeral Service, a supplier of direct cremation services agreed with the CMA’s finding that: ‘...few people research their options at a difficult time and often feel pressured to make a quick decision’. Pure Cremation, another provider of direct cremation services, noted that the taboo nature of the subject matter contributed to poor levels of engagement. The Good Funeral Guide also considered that crematoria customers were vulnerable, for the reasons outlined in their submission. In addition, they also commented that: ‘...many crematoria do not make it straightforward for members of the public to access information about pricing and availability of

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<sup>44</sup> [Co-operative Group Limited](#) submission.

service times, or make it easy for bookings to be made without a funeral director involved.”

### ***Customers’ unresponsiveness to measures of price and quality***

93. Private crematoria operators told us that they did compete on price. For example, Memoria told us that the emergence and significant rate of growth of direct cremation products/services over the last 18 months showed that the industry was responding to customer demand for cheaper funerals (and that this was not a temporary phenomenon).
94. Memoria also told us that quality has a significant relationship to crematorium performance, noting that it was able to draw customers from outside of its immediate vicinity owing to the quality of its facilities and staff.
95. Memoria also noted the CMA’s own findings on crematoria fees, which was that there was a broad range of fees being charged across the UK. Memoria considered that this finding supported its own observation that crematoria prices do vary in response to local competitive conditions.
96. Westerleigh noted that cremation was a cheaper option than burial (indicating that people are responsive to price, hence the growth in popularity of cremation over time and, more recently, the increased popularity of direct cremation). Westerleigh also argued in its submission that the growth of private crematoria was of itself evidence of customer demand for higher quality services and competition on quality grounds. Westerleigh also commented that it was not unusual for private operators in a market to differentiate themselves from the existing, traditional or publicly operated providers by offering higher quality and a higher price. Westerleigh goes on to note that in return for the higher fee, customers get a better-quality service (eg more flexible time slots, longer service times, better facilities, premises, building and grounds quality).
97. In addition, Westerleigh noted that where customers do have a choice they will travel longer distances than the CMA has initially found. Crematoria operators also commented that they have responded to demand for longer time slots,<sup>45</sup> as well as highlighting the many positive comments received from the people that use their facilities.<sup>46</sup>
98. The LCC commented that it does offer good value for money, illustrated by the length of slots offered and continual review and development of its

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<sup>45</sup> See for example, [LCC](#) submission.

<sup>46</sup> [Westerleigh Group](#) submission.

service. It also observed that across the sector choice options (as a manifestation of quality) had improved too: ‘...compared with 25 years ago such items as choice and variety of floral tributes, funeral transport and music have expanded enormously, giving those left behind the opportunity to celebrate a life in a far more relevant and personal manner than previously was the case. Similarly, in terms of religious beliefs, a far higher proportion of services are now held at the Crematorium and the majority of these are led by civil celebrants and humanist practitioners and there are also far more facilities available for those who wish to strictly adhere to their religious beliefs and customs such as witnessing the charging of the coffin’.

99. The Good Funeral Guide considered that the limited number of crematoria accessible to bereaved people in any area meant that price and quality ‘...are rarely a factor in deciding which crematorium to choose. Convenience or previous experience or connection with a crematorium is far more likely to be relevant’.
100. Beyond Limited told us that its evidence showed ‘...that crematoria with no local competition charge above the national average’.
101. Westerleigh considered that in a like-for-like comparison between operators that it was ‘...much less clear that private operators can be considered the most expensive’. To support its argument Westerleigh provided some supporting evidence to show that, on a fee per minute basis, the fees of a private operator (offering a longer time slot) were lower compared to a publicly-owned crematorium offering a shorter time slot.
102. Pure Cremation commented in its submission that: ‘People cannot be responsive if they don’t have access to the informed insights that they need, so that they know *how* to be responsive’.
103. The LCC commented that newer more accessible crematoria were more popular with customers and would have a larger catchment area as a consequence. It also noted that it regularly received positive comments about its service standards (ie people are able to assess quality).
104. Westerleigh observed that: ‘...the funeral directors hold the direct relationships with consumers and represent the point at which those consumers exercise a choice between competing crematoria, the CMA could consider the scope for remedies requiring funeral directors to (for example) provide fuller information to customers on the range of crematoria options available and the associated costs’.

105. Pure Cremation commented in its submission that: 'Limited visibility of pricing and limited access to clear information is certainly a factor in hindering choice' (while noting that such problems are not exclusive to the funeral industry).

### ***Low number of crematoria / High barriers to entry***

106. We received very few comments on either of these features in the responses to the interim report. Where we did receive comments, these identified planning permission issues and the high-cost of investment in crematoria facilities as the main issues (consistent with CMA's analysis). For example, The Good Funeral Guide considered that 'planning issues and high capital outlay' contributed to the low number of crematorium in any given area.
107. By way of further illustration, Harbour Modern Funeral Services noted hurdles in obtaining planning permission that restrict the supply of crematoria (current legislation effectively restricts new build to green belt land) and the proof-of-need criteria based on having to demonstrate more than 1000 deaths per year within a 30-minute drive time and no current crematoria serving the area.
108. Dignity also noted lack of economic viability as an issue in this context too. We did receive some comments suggesting that there was over-capacity in the market and this could be driving higher cremation fees. Pure Cremation said: 'We do not need more crematoria: we have more than enough to complete the efficient cremation of the deceased in each year, even with an aging demographic to consider – but as people demand longer service times and more facilities open, each facility becomes less efficient, and more expensive, per cremation. Building more crematoria is not the answer. In fact, this will increase funeral costs as each venue (old and new) must recover that substantial investment through a smaller number of services per locality'.<sup>47</sup>
109. Memoria commented in its submission that the high cost of investment in building new crematoria facilities meant that it had to be competitive on price in order to gain sufficient market share for it to be able to recoup these initial, high investment costs.

### **Quality of Care of the deceased**

110. In our interim report, in addition to seeking representations from interested parties on the provisional decision to make a MIR, we also said that we would welcome evidence and views on the quality of care of the deceased. We said

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<sup>47</sup> Pure Cremation submission.

that we would like to hear from people who have witnessed standards of care which they considered to be unacceptably low.

111. The picture that has emerged from the representations received is mixed. One embalmer commented that of the premises visited ‘...most were very basic but on the whole were clean and tidy’<sup>48</sup> and another commented that ‘In general and over many years, my experiences of ‘back of house conduct’, has been mainly positive’.<sup>49</sup> However, we also received representations providing examples of what on the face of it would appear to be poor practice and inadequate back-of-house facilities.

### ***Individuals working in the industry, including embalmers***

112. We received 6 representations from embalmers. Embalmers, in the course of their work, will visit many funeral homes and are, therefore, in a good position to be able to provide evidence and views on the quality of the back-of-house facilities that they have used.

113. The representations we received commented on issues such as:

- Poor quality mortuary facilities (inadequate ventilation, drainage, poor standards of cleanliness, no clinical waste facilities).
- Inadequate storage facilities, including limited space, poor refrigeration, poor state of repair (both premises and equipment).
- Lack of knowledge of staff/poor training (about proper methods of care for a deceased body, removal of implants - such as pacemakers, issues of poor standards of care and severe decomposition).

### ***Comments from other interested parties***

114. In addition to the representations received from individuals working in the industry, 10 further responses provided in their submissions to the CMA evidence and views about the quality of care of the deceased. Some of these comments are captured in the preceding sections on the market features, where the parties talk about quality and how regulation and/or licensing might improve quality across the sector, in particular relation to the ‘back-of-house’ facilities of funeral homes.

115. Funeral Partners stated in its submission that: ‘We believe that the vast majority of consumers take quality for granted in relation to how their loved

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<sup>48</sup> [Summary of responses from individuals.](#)

<sup>49</sup> [Summary of responses from individuals.](#)

one's body is being cared for, assuming incorrectly that there are mandated quality standards which apply. In reality, there are significant discrepancies between providers'.

116. Funeral Partners explained further that '...perceptions of quality will not usually extend to "back-of-house" standards in the eyes of consumers. However, this is something we believe is nevertheless of substantial importance to consumers, albeit there is limited awareness of the differences in 'back-of-house' standards and divergent industry practices. This is largely due to common misconceptions amongst consumers including, for example, that the industry is already regulated and/or that all 'back-of-house' treatment and facilities will be much the same'.
117. Poppy's noted that: 'It is very rare for a client to want to know in depth the thought and care we've put into our treatment of the body'.
118. As well as identifying the same issues of concern as set out at above, the responses we received from other interested parties noted the following additional issues:
  - Lack of identification procedure for the deceased, increasing the risk of incorrect identification of the deceased.
  - Lack of any documented processes around the procedure for handling and storing ashes, increasing the risk of incorrect identification of ashes.
  - Compromises on the quality of care shown for the deceased not apparent to the consumer (no lining in the coffin if the deceased is not viewed by the family).
  - Mortuaries being combined with vehicle storage facilities.
  - Lack of respect for the deceased (inappropriate comments made by staff about the deceased).

### **Issues specific to faith groups**

119. We also asked for evidence and views on issues specific to religious groups, to see whether we had in the interim report overlooked any issue of relevance.
120. We received submissions from the Churches Funeral Group (CFG), on behalf of the Church of England, the Sikh Council, the Catholic Bishops Conference of England and Wales (CBC). The Muslim Council of Britain (MCB) confirmed that it did not have any additional views to those submitted by the Gardens of



Peace Muslim Cemetery (GPMC), an affiliate of the MCB. We also received representations from Humanists UK, a charity that aims to represent non-religious people.

121. The responses were all supportive of the CMA's proposal to make an MIR. Some did have comments on the scope of the proposed market investigation reference. For instance, the CFG considered that the scope of the reference should be extended to include funerals involving burial as well as cremation. We should also note in this context that the GPCM response, while not arguing for an extension of scope, commented that 'The Muslim Community is now the only community which believes in Burials' and that it has '...a big concern' about burial space.
122. All of the responses from Faith groups (and Humanists) commented on various of the market features identified by the CMA in its interim report, either agreeing with the findings or providing additional examples to further illustrate the features identified in the CMA's interim report (particularly around consumer vulnerability, high cost of funerals and poor price transparency). For instance, the Humanist response states that: 'We are in full agreement with the critical areas of concern which the interim report has identified and welcome the opportunity for a full investigation into how people who have to arrange funeral ceremonies can be better supported emotionally, psychologically, and financially'.
123. The responses did not identify specific issues not covered or overlooked in the interim report. The Sikh Council, for example, noted that: '...the Sikh tradition is to cremate and there are a growing number of funeral directors that cater for the Sikhs which is helpful but the rest of it in relation to charges etc is no different to [that] experienced [by] other communities'. The GPCM submission similarly comments that: 'Generally speaking, Muslim Funerals are supposed to be very simple but we have noticed that families now are demanding more and for which are they willing to pay more. However one of the main issues we face is the disparity between funeral directors in terms of the level and standard of service provided. Cost is an issue as families are struggling'.
124. Some of the responses did though highlight some of the issues identified in the CMA's interim report that were of particular concern for people of a particular faith. For example, the following issues were noted in some of the submissions received:
  - The Sikh Council highlighted particular concerns about crematoria slot length, noting that 'crematoria are busy in areas of high Sikh, Hindu, Jain and Buddhist populations. The slot size is kept short to allow more

funerals. There needs to be minimum time set which takes account of an actual community need’.

- CBC commented ‘...that the rituals and rites of a Catholic funeral may lead to a higher cost than a non-religious funeral. For example, if one has a Reception of the Body into the church the night before, there will be an additional cost from the funeral director to transport the coffin to the church. A Catholic funeral also involves paying a fee to the parish’.
- The GPCM commented that: ‘...the level of £700 has not been reviewed for over 30 years and yet prices have increased substantially in that period’ and that this causes difficulties in being able to cater for the religious requirements of the deceased, particularly in relation to funding public funerals for Muslims.
- A secular minister was of the view that the CMA had ignored “a new non-religious trend to honour the individual” through more bespoke and personalised funeral ceremonies.

125. In addition to the responses we received from the interested parties identified at paragraph 121, some of the other responses to the interim report also commented on issues specific to religious groups.
126. CPJ Field considered that the requirements for funeral services ‘differ vastly’ across different ethnic groups and religions and that this has ‘...a knock-on effect regarding the time pressure for the delivery of funeral services, third party services/disbursements and other restrictions as to how funeral services are delivered’. CPJ Field concluded that: ‘We therefore do not agree that the issues identified in the Study can be deemed to be “essentially the same” across all religions and ethnic groups’ and that ‘...any remedies [the CMA] proposes must take this diversity into account’.
127. Similarly, SAIFCharter considered that ‘...religious belief may influence the importance placed on the speed at which a funeral director can arrange a funeral. The ability of funeral directors to meet such religious requirements may, in turn, restrict some families’ choice in the marketplace and potentially drive up their costs. Considering this, SAIFCharter asks that the CMA assess the impact that specific religious needs, particularly the need for arrangements to take place within a certain timeframe, has on the price, range and quality of options available to families in any subsequent market investigation’.
128. Kensington and Chelsea Citizens Advice (KCCA) told us that while people belonging to a faith organisation would have their funeral arrangements

managed by their temple, synagogue or mosque, there were also people not taking part in organised faith activities that might wish to be buried in accordance with their beliefs. KCCA said that these people ‘...can get very short shrift from the mainstream services’ and that: ‘It is not acceptable for any funeral company to simply refuse to take on work for minority faiths simply because they feel it is too much trouble’.

129. The Good Funeral Guide said in its submission: ‘Apart from major faiths, we believe it is essential to also consider the large – and increasing - number of people who choose to have a secular funeral and who are currently unrepresented as a group’. Of particular concern to the Good Funeral Guide was: ‘...the current system of funeral directors allocating celebrants to clients’ which it considered was ‘...restricting the quality and choice of funeral ceremonies available to bereaved people’. The KCCA submission also identified this issue commenting that: ‘...the funeral companies have links to local celebrants which may preclude them from encouraging their customers to consider their own faith ministers first’.
130. Similarly, a response from a celebrant, told us that: ‘The issues that you have identified in relation to the transactional aspects of funerals do differ for many modern secular funerals, as people are beginning to use alternative venues and create more individual, personalised and creative ceremonies’, adding that: ‘Funeral ceremonies are no longer similar across all faiths. People are now choosing funerals outside of the conventional, choosing alternative venues and longer time slots, requiring funeral directors and ceremony venues to work more flexibly and collaboratively with the consumer and/or officiant’.

## Appendix G: Terms of reference

1. The Competition and Markets Authority (CMA) in the exercise of its power under sections 131 and 133 of the Enterprise Act 2002 (the Act) hereby makes a reference to the Chair of the CMA for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 for an investigation in relation to the supply of funerals and related goods and services in the United Kingdom.
2. In accordance with section 133(2) and (3)(b) of the Act the group shall confine its investigation to the effects of features of such market or markets for funerals and related goods and services in the United Kingdom as exist in connection with the (a) the supply of services by funeral directors at the point of need; and (b) the supply of crematoria services.
3. The CMA has reasonable grounds to suspect that a feature or a combination of features of the markets for the supply of those goods and services in the United Kingdom prevents, restricts or distorts competition.
4. For the purposes of this reference:

- 'services by funeral directors at the point of need' means

services provided by a funeral director in connection with the arrangements for a funeral, and including, but without limitation:

- guidance and support to the family and/or persons arranging the funeral;
- collection, storage and care of the deceased;
- organisation and services carried out on the day of the funeral;
- the supply of goods and services to facilitate the arrangements, including, for example, the coffin, hearse and limousine(s);
- intermediary services between the customer and third parties, such as the crematorium or burial site, a doctor or medical practitioner, a minister or celebrant;
- discretionary services that are provided by the funeral director directly or as an intermediary between the customer and third parties, such as memorials, death notices, venue hire and catering, flowers, Order of Service etc.;
- the provision of services by funeral directors in connection with the redemption of a pre-paid funeral plan,

but excluding:

- the provision of pre-paid funeral plans.

- 'crematoria services' means

the services provided by a crematorium in connection with the cremation of the deceased, including the provision of a chapel or specific place for attended cremations, the committal and the associated sales of additional products and services, such as memorials, audio-visual support and hospitality.

## Appendix H: CMA Board Advisory Steer

### Background

1. The CMA's updated procedural guidance on market studies and market investigations (Guidance) states that, where the CMA undertakes a market study leading to a market investigation (MI), in addition to drafting the formal terms of reference for the MI, the CMA Board may append an advisory steer to the reference decision setting out its expectations regarding the scope of the MI and the issues that could be the focus of the investigation. The Inquiry Group is expected to take this into account, although it will continue, as required by the legislation, to make its statutory decisions independently of the CMA Board.<sup>1 2</sup>
2. The CMA's report on the responses to its consultation on the draft Guidance notes that "the Terms of Reference restrict scope in some ways (by limiting the description of goods or services), but any advisory steer could supplement this by, for example, advising the Group to focus on certain issues."<sup>3</sup> The CMA also indicates that the steer is "simply intended to provide additional clarity over the views (if any) of the Board on the expected scope of the MI, including issues to be addressed or issues that it considers do not require further consideration, based on the previous work undertaken."
3. Accordingly, the CMA Board's advisory steer to the Inquiry Group for the MI relating to the supply of funerals and related goods and services in the United Kingdom (the Group) is set out below.

### Advisory steer

4. This advisory steer forms part of the CMA's funerals market study decision. It is separate from, but supplements, and should be read in conjunction with, the Terms of Reference.

### Focus of the MI

5. Based on the evidence and analysis gathered to date, our view is that there are reasonable grounds for suspecting that the features or combination of those features described in paragraphs 8.29 to 8.36 of the funerals market study final

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<sup>1</sup> [Market studies and market investigations: Supplemental guidance to the CMA's approach](#) (Paragraph 3.39, CMA3, July 2017)

<sup>2</sup> In its [Response to the consultation on guidance on market investigations](#) the CMA stated: "We believe [the steer] will help maximise the potential synergies between MSs and MIs carried out by the CMA and reduce the risk of unnecessary duplication, by allowing the Board to take more explicit account of the work undertaken in an MS in setting out its views on the appropriate scope of an MI. We therefore consider that these changes are consistent with the creation in ERRA13 of the CMA as a single competition authority, a key rationale for which was to avoid duplication and to bring about greater efficiencies in markets work, while preserving the independence of decision-making between MSs and MIs which remains central to the regime."

<sup>3</sup> *Ibid*, para 2.71.

report prevent, restrict or distort competition.

6. The central concern arising from the market study is that people are paying higher prices for funerals than can be justified. Underlying this is the fear that people in these challenging circumstances are not in a position to make the best choices and are vulnerable to exploitation.
7. The CMA has found evidence that for a considerable number of years the largest firms of funeral directors have implemented consistently large annual price increases, without reference to underlying cost pressures. The CMA is not persuaded by the argument it has heard that higher prices are justified by better quality of service. Profit margins achieved by the largest funeral directors have been high by international standards.
8. Cremations account for 77% of funerals in the United Kingdom. The largest operators of private crematoria have implemented price rises of between 6 and 8% every year for the past eight years (and higher in the years before that) and again, the CMA is not persuaded that industry cost pressures can fully explain such levels of price inflation. Some local authorities (which operate around two thirds of all crematoria) have also implemented large price increases, although on average, these have been lower than those implemented by private crematoria.
9. The purchase of a funeral cannot be avoided, nor delayed; many customers are extremely vulnerable at the point of purchase and as a consequence, have difficulties engaging. Therefore, a full appreciation of the circumstances under which choices are made is needed. This is true both for the assessments of any adverse effects on competition (AEC), but also for the approach taken to remedy any AEC identified.
10. The group will weigh up the evidence and reach its conclusions independently, but if it reaches a view that there are features of the markets that give rise to an AEC and that remedies are appropriate, such remedies will need to be designed in a way that results in sufficient confidence that vulnerable consumers will be protected. This is in line with the government's draft strategic steer to the CMA<sup>4</sup> which states that the CMA should make markets work well for vulnerable consumers, and with the CMA's own commitment to protecting vulnerable consumers.<sup>5</sup> The CMA's wider programme of work to learn more about how people's circumstances can affect their ability to engage in markets and get a fair deal has focussed on how the CMA can help vulnerable consumers. This work acknowledges that carefully thought through remedies which control outcomes may be a proportionate and effective remedy to address harm.<sup>6</sup>
11. Our initial view is that the scale of detriment could be very high. If this is true, we would expect a range of remedies to be assessed including those controlling

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<sup>4</sup> [The Government's Strategic Steer to the Competition and Markets Authority \(annex A to the Consumer Green Paper\)](#). The Consumer Green paper states that "Competition should drive the best deals, but no one should be exploited if they lack the time or capacity to engage and the vulnerable should be protected).

<sup>5</sup> [CMA Annual Plan 2019-20](#).

<sup>6</sup> [Consumer vulnerability: challenges and potential solutions](#) (CMA, February 2019)

outcomes.

### **Specific issues**

#### *Services provided by funeral directors arising from the redemption of pre-paid funeral plans*

12. Around 200,000 pre-paid funeral plans are sold each year, and redemptions of funeral plans currently account for around 15% of all funerals. The provision of pre-paid funerals comprises two elements: the first is the sale of plans (by pre-paid plan providers) which allow customers to pay in advance for their funeral: this is essentially a financial product, but which guarantees the future delivery of certain services, as defined by the plan, rather than a sum of money.<sup>7</sup> The second element is the funeral service itself, which will be delivered by a funeral director at redemption.
13. The government, led by the Treasury, is currently reviewing the pre-paid funeral plan sector with a view to designing a more appropriate regulatory framework. The government's objectives are to ensure that all pre-paid funeral plan providers are subject to robust and enforceable conduct standards; there is enhanced oversight of providers' prudential soundness; and consumers have access to appropriate dispute resolution services if things go wrong.
14. Given the Treasury's review of pre-paid funeral plans, the CMA's consultation on whether to make a reference proposed to exclude from the scope of a reference both the provision of pre-paid funeral plans, and the provision of services by funeral directors pursuant to pre-paid plans. However, the CMA proposed to include the provision of 'top up services' (i.e. the purchase of additional services at the time of need that are not covered by the funeral plan, but which families may wish to buy when time comes to organise the funeral). The CMA received several submissions arguing that the CMA should bring within scope, the supply of pre-paid funeral plans and/or the supply of services by funeral directors pursuant to prepaid plans.
15. The provision of pre-paid funeral plans is clearly within the ambit of the Treasury's review and for this reason it was excluded from the market study and it is excluded from the Terms of Reference.<sup>8</sup>
16. However, submissions to the CMA's consultation on the proposed reference noted the similarities between the delivery of funeral services irrespective of whether they were purchased in advance or at the time of need. They also noted the importance of ensuring any CMA remedies targeted at improving the quality of funeral director services applied in both situations to avoid any unintended

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<sup>7</sup> According to The Treasury, a funeral plan is a contract under which a customer makes one or more payments to a provider, who subsequently arranges or pays for a funeral upon the death of the customer. Providers either invest these payments in a trust fund or take out a form of insurance against the life of the customer. This enables customers to pay for a funeral in advance and safeguard against inflation.

<https://www.gov.uk/government/consultations/pre-paid-funeral-plans/pre-paid-funeral-plans-call-for-evidence>

<sup>8</sup> The Government's consultation covered the marketing and sale and the financial and prudential aspects of pre-paid plans; this can be distinguished from the delivery of funeral services by a funeral director on redemption of a pre-paid funeral plan.



outcomes.

17. We considered it important to take steps to avoid the risk of any potential regulatory gap that might arise from expressly excluding the provision of services by funeral directors pursuant to pre-paid plans from the terms of reference. We therefore decided to extend the Terms of Reference to include the provision of services by funeral directors in connection with the redemption of a pre-paid plan. We consider that, in seeking to close this regulatory gap, it is important to ensure we do not duplicate Treasury's regulatory efforts.

## Glossary

<b>AEC</b>	Adverse effect on competition.
<b>'At need'</b>	At the time of bereavement. Also referred to as 'at the point of need'.
<b>Citizens Advice</b>	A national charity providing free, confidential and independent advice to people wanting help to solve money, legal and other problems.
<b>Citizens Advice Scotland</b>	A Scottish charity providing free, confidential and independent advice to people wanting help to solve money, legal and other problems.
<b>Customer</b>	The person purchasing a funeral at the point of need.
<b>CMA research</b>	Refers to the research carried out on behalf of the CMA, either the consumer research conducted by Research Works or the consumer survey conducted by Ipsos Mori.  Where we refer to CMA research the associated footnote will identify the source.
<b>Codes of practice</b>	The rules of membership for a trade body. A code is a set of written rules, which may be statutory or informal, that explain how members of the trade or profession should behave. Codes typically set minimum quality standards, responsibilities and details about how the code will be monitored and enforced.
<b>Co-op</b>	Co-operative Group Limited, including its Co-op Funeralcare division. Co-op operates funeral director branches under both its Funeralcare brand and local brand names.
<b>Cremation fee</b>	There are two types of cremation fee: a basic fee (also known as 'full fee'), a reduced fee (for example, for public health funerals provided by the local authority or for early morning slots).
<b>Crematorium operator</b>	Refers to either a private or local authority provider of crematoria services.

<b>Crematoria services</b>	The services related to the cremation of the deceased.
<b>Cremation Society</b>	The Cremation Society of Great Britain is a registered charity which promotes the practice of cremation. It has assisted both private companies and local authorities in setting up new crematoria and has pressed government to ensure that cremations can be practised with the fewest possible restrictions.
<b>Dignity</b>	Dignity plc – a large provider of funeral services in the UK. It also operates crematoria and offers pre-paid funeral plans.
<b>Direct cremation</b>	A direct funeral including a cremation without a ceremony.
<b>Disbursements</b>	These are costs, such as cremation and burial fees, doctor's certificates, minister's fees and newspaper notices, that are out of the control of the funeral director and are passed on by the funeral director to the customer.
<b>Discretionary services</b>	Discretionary services are optional services provided by the funeral director directly, or, as an intermediary between the customer and third party. This could be for items such as memorials, death notices, venue hire, catering, flowers, order of service, etc.
<b>DIY Funeral</b>	A DIY funeral is where the family of the deceased undertakes all of the tasks that would typically be carried out by a funeral director.
<b>EBITDA</b>	Earnings before interest, tax, depreciation and amortisation.
<b>FBCA</b>	The Federation of Burial and Cremation Authorities provides services to the owners and operators of cemeteries and crematoria across the whole of the UK.
<b>Funeral Partners</b>	Funeral Partners Limited
<b>Funeral director</b>	A person or a business involved in making the arrangements for funerals and providing support and advice to the bereaved

<b>Funeral home</b>	Refers to the premises the funeral director conducts its business from. This will typically include a shop front and facilities to store and care for the deceased.
<b>Funeral package</b>	The bundle of services and products supplied by a funeral director to a customer.
<b>Funeral services</b>	Refers to the arrangements for the funeral provided by and made by the funeral director. These services can be quite broad, ranging from the time spent with the client, both planning the event and providing emotional support, to the logistics of the funeral itself.
<b>Green Belt area</b>	Is a designation used in land use planning to retain areas of largely undeveloped, wild, or agricultural land surrounding or neighbouring urban areas.
<b>Home area</b>	Refers to the area that was local to where the deceased had lived for a large proportion of their life.
<b>ICCM</b>	Institute of Cemetery and Cremation Management provides policy and best practice guidance to burial and cremation authorities and its corporate members.
<b>Independent funeral director</b>	Also referred to as 'independents'. Any funeral director that is not Dignity, Co-op, a regional Co-op, or Funeral Partners. Typically, these are small family owned businesses. However, some operate on a larger scale and may operate across a region or regions of the UK and have several branches under a branded identity.
<b>Inspector of Crematoria</b>	The Inspector of Crematoria is responsible for ensuring that Cremation Authorities in Scotland adhere to current legislation and best practice. In addition, the Inspector has a role in responding to complaints or queries from the public, can inspect cremation registers and other statutory documentation, provide direction to crematoria managers and staff, as well as supporting the development of future primary legislation on burials and cremations.
<b>Inspector of Funeral Directors</b>	The Inspector of Funerals carries out formal inspections of the funeral industry, in line with the powers set in the Burial and Cremation (Scotland) Act 2016 and the related regulations.

<b>Internal document</b>	Refers to all documents in the possession of the respondent to our information request, including documents prepared by external consultants and other parties employed to provide advice and expertise that would be subsequently used by the respondent to our information request.
<b>Large funeral director</b>	Refers to firms that have a large number of funeral homes and broad geographic coverage. Throughout the report, we use the term to include one or more of: Dignity, Co-op and Funeral Partners.
<b>Local authority</b>	An administrative body in local government responsible for providing a range of public services, including education, social care, roads and transport, waste management, leisure services, housing and planning and other related public services.
<b>Memoria</b>	Memoria Limited, a supplier of crematoria services.
<b>Mercury abatement</b>	As a signatory to the Oslo-Paris Commission (OSPAR) agreement on eliminating mercury emissions from crematoria, the UK has agreed that by 2020 all crematoria within the UK will have a zero emissions rate.
<b>MIR</b>	A Market Investigation Reference provides for a more detailed examination of whether there is an adverse effect on competition (AEC) in the market(s) for the goods or services being referred. Following a market investigation, a wide range of legally enforceable remedies are available to make the market(s) more competitive in the future.
<b>NAFD</b>	The National Association of Funeral Directors represents more than 3,700 funeral director firms nationwide, UK and overseas suppliers to the profession and overseas funeral firms.
<b>OFT</b>	Office of Fair Trading - one of the predecessor bodies to the CMA.
<b>ONS</b>	Office for National Statistics. The UK's largest independent producer of official statistics and the recognised national statistical institute of the UK.

<b>Pre-paid funeral plan</b>	A contractual arrangement with a provider that allows a person to pay in advance for their own or another person's funeral.
<b>Private providers</b>	Refers to operators of privately owned crematoria ie excludes local authority owned crematoria.
<b>Quaker Social Action</b>	Quaker Social Action is a registered charity that provides help and support to people on low incomes in East London and the UK.
<b>Regional Co-ops</b>	There are a number of regional companies operating under the Co-op brand.
<b>Respondents</b>	A person who was interviewed for the purposes of the CMA research.
<b>Royal London</b>	The Royal London is a mutual insurance society and publishes an annual funeral cost index.
<b>SAIF</b>	The National Society of Allied and Independent Funeral Directors represents more than 870 privately owned independent funeral director firms in the the UK.
<b>Simple Funeral</b>	Refers to a more limited, lower cost funeral that may: exclude provision of limousines; have no/limited choice of slot for the funeral service; have no viewing options and/or include a basic coffin with no/limited opportunity to upgrade.
<b>Slot</b>	Also referred to as booking slot and cremation slot: the amount of time that a crematorium allows for a cremation, including where relevant time allocated for a ceremony in the crematorium's chapel.
<b>Statement of scope</b>	A document setting out the purpose and scope of the CMA's Funerals market study inviting submissions from interested parties on any of the issues raised in the document and accompanying market study notice. Published on the CMA website on 1 June 2018.
<b>Standard funeral</b>	Refers to the most common types of funeral package sold by funeral directors ie typically including: <ul style="list-style-type: none"> <li>• Guidance and support to the family</li> <li>• Collection and care of the deceased</li> </ul>

	<ul style="list-style-type: none"> <li>• Organisation and services carried out on the day of the funeral, which includes an attended funeral service or ceremony prior to the cremation/burial.</li> <li>• Intermediary services between the customer and third parties (crematorium, minister etc)</li> <li>• Provision of discretionary services (flowers, order of service etc).</li> </ul>
<b>SunLife</b>	SunLife Limited is a financial services company that offers a funeral plan. It also publishes an annual analysis of the basic costs of a funeral (cost of dying report).
<b>UILs</b>	Undertakings in lieu. The CMA has the power under section 154 of the Enterprise Act 2002 to accept UILs of making an MIR.
<b>Westerleigh</b>	A trading name of Western Topco Limited and supplier of crematoria services.
<b>Work and Pensions Select Committee</b>	A committee appointed by the House of Commons to examine the expenditure, administration, and policy of the Office of the Department for Work and Pensions and its associated public bodies. Currently chaired by the Rt Hon Frank Field MP. Published a report <i>Support for the bereaved</i> ( <a href="#">HC 551</a> ), 31 March 2016.
<b>The 1902 Act</b>	The Cremation Act 1902 – the 1902 Act is an <a href="#">Act of Parliament</a> of the Parliament of the United Kingdom. The major purpose of the Act was to allow burial authorities to establish <a href="#">crematoria</a> .