



SUBMISSION BY THE CO-OPERATIVE GROUP

Response to the CMA's Statement of Issues

A INTRODUCTION AND EXECUTIVE SUMMARY

- 1.1. The Co-operative Group (the Co-op) is one of the world's largest consumer co-operatives. We're member-owned, with over 4 million active members, and have a clear purpose of championing a better way of doing business. Our Co-op Funeral and Life Planning business provided approximately 71,000 at-need funerals in 2018 and a further approximately 22,000 funeral redemptions. As at 2 January 2019, we had 1,053 active funeral homes in our estate. Our aim is to provide high quality products and services that meet the needs of our customers and members at an affordable price. We do not operate crematoria.
- 1.2. We understand the CMA's decision to refer the markets for funeral services at the point of need, including the delivery of pre-need plans at the point of redemption and crematoria services, for an in-depth market investigation. We look forward to continuing to work closely with the CMA in order to help protect consumers and families of the deceased and ensure that they have access to high standards of funeral care at an affordable price.

Executive summary

- 1.3. We agree with the CMA that there are aspects of competition which are not working well in the funerals sector and which require intervention in order to remedy. However evidence from the market does not support the initial view, set out in the CMA Board Advisory Steer, that the "*scale of detriment could be very high*". Aspects of the funerals market are highly dynamic, particularly on the supply side. There is already a significant level of competition, innovation and disruption taking place to which customers are responding:
 - 1.3.1. There is significant new entry, in aggregate, equivalent to a new large national operator in the market and this has had a material impact on our business.
 - 1.3.2. In response to the new entry, we have led the way with low cost options, which have become prevalent and their uptake has grown rapidly. Currently, our low cost options (Simple funerals and Cremation without Ceremony), which were hardly present before 2016, represent over [X] of all at need funerals we provide, and close to [X] of all funerals we deliver (including redemptions of pre-need funerals).
 - 1.3.3. Low cost options interact with more traditional choices with significant variations in the uptake of low cost choices across our funeral home network, [X].
 - 1.3.4. For our business, average selling prices have been falling in real terms and have been flat since 2016.

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- 1.3.5. This increase in competition has led to a decline in profitability of Co-op's at-need funeral business in every year since 2015, [~~§~~]. This is consistent with competitive pressures constraining profit margins in this industry. Competition has also affected volumes of funerals delivered from existing homes.
- 1.4. We believe there is substantially more change to come. To give just one example, since 15 April 2019, our prices for each funeral package and likely local third party costs for each home are now transparently available online,¹ before a potential customer has any kind of face-to-face or telephone interaction with us. Customers can now also submit online the initial details relating to the arrangement of the funeral. These are responses to the competitive pressures in the market and demonstrate that the process of change will continue.
- 1.5. Whilst many of the issues that relate to funerals are true also for crematoria, the same level of change is not visible. In particular, as the CMA recognises, there is significant local concentration in many crematoria markets and very limited scope for new entry as the capital outlay required is substantial and planning consents are difficult to secure.
- 1.6. For the reasons outlined above, and explained further in this submission, we therefore consider that the CMA Board Advisory Steer's initial view of the issues in the funerals market is overstated. However, we recognise that there are issues which need to be remedied. For both funeral directors and crematoria, customer vulnerability (both emotional and potentially financial) and the challenge of engaging many customers means that a "simple" transparency remedy to provide information to customers will not be enough to address all of the CMA's concerns. However, we do consider that a package of remedies in relation to funeral directors' services which is targeted not only at improving transparency, but which also addresses sales practices and the risks to quality, can effectively and proportionately address the CMA's competition concerns, without the need to resort to any form of price regulation for funerals. As the CMA itself recognises, price regulation is a measure of last resort, where there is no prospect of more proportionately addressing causes of competitive failures by more direct means. We do not believe this is the case for the funeral market.
- 1.7. By contrast, in other respects, funerals markets in the UK are under-regulated compared to other markets internationally, where requirements for transparency go hand in hand with regulation of funeral quality. Particularly in an environment where the CMA (rightly) wants to spur price and other forms of competition, it is essential that (i) the information about aspects of quality that customers can assess is readily available along with price and that (ii) those aspects of quality which are important to customers but not easily assessed by them are properly safeguarded. Otherwise, there is a very real risk of a race to the bottom as providers come under greater pressure to offer the lowest headline prices.
- 1.8. In the remainder of this submission, we address the key elements of the Issues Statement:
- 1.8.1. Part B sets out our comments on the CMA's summary of the background and its approach to the investigation, including on the scope of reference and the areas of focus that the CMA proposes;

¹https://www.co-operativefuneralcare.co.uk/arranging-a-funeral/immediate-concerns/how-much-will-a-funeral-cost?_ga=2.249020935.1404785700.1556095388-1054770769.1552567599

1.8.2. Part C sets out our response to the CMA's review of sector characteristics, market outcomes and theories of harm. In particular:

1.8.2.1. Section 3 sets out our observations on the characteristics of the funerals sector;

1.8.2.2. Section 4 addresses certain aspects of the CMA's comments on market outcomes;

1.8.2.3. Section 5 responds to each of the CMA's potential theories of harm

1.8.3. Part D provides our initial views on the remedies options set out in the Issues Statement.

B. BACKGROUND AND CMA'S APPROACH TO THE INVESTIGATION

In this section we have set out a number of observations, in particular on the scope of reference and proposed focus of the CMA's investigation.

2. Scope of reference and CMA's proposed focus

2.1. Further to consultation on the scope of the reference, we agree that the CMA has struck an appropriate balance between focusing on delivery of at-need and pre-paid funerals, but avoiding overlap and duplication with the Treasury's work on the sale of pre-paid funeral plans. In that context, it is right, as the CMA flags at paragraph 40, that it does not invest resources in looking at the terms of pre-paid plans, other than in the event that those terms impact on the supply of funeral services. The CMA may well find that pre-need sales are an important driver for funeral directors as pre-need plan redemptions now form an important aspect of the business accounting for, in our case, approximately [X] of funerals we conduct. Others seek to secure funerals through linking with insurers that offer "Guaranteed over Fifties" products that pay out a fixed sum on death. These products are frequently used to cover funeral expenses, but the funerals ultimately sold to these customers can substantially exceed the fixed sum paid out by the product.

2.2. In terms of the areas on which the CMA proposes to focus, we agree that it is important to gather evidence in relation to quality considerations, vulnerability of customers at the point of need and how different circumstances may have an impact on the options available to customers and their ability to make informed choices in every channel, including in branches, on the telephone and online.

2.3. However, we would encourage the CMA to look more closely at selling practices in its review. Selling practices may indirectly be captured in the CMA's analysis of vulnerability and transparency, but we believe that in linking these issues with other themes, the CMA risks examining these aspects insufficiently and will miss opportunities to develop remedies that could make a significant difference to competition in the market. Experience from our own business shows that changes in the sales process, for example in how information is presented to customers, can result in materially different customer outcomes.

2.4. We believe that the CMA is right to conclude, as it does in paragraph 42 of the Issues Statement, that local concentration is unlikely to be a material adverse driver of price inflation or other adverse outcomes. However, we note that the CMA is nevertheless proposing to examine local competition, notably as set out at paragraph 84, in looking at the impact of new entry, or pricing changes, at a local level. Co-op makes decisions at national level in many

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respects and to some extent at local level. Local competition, aggregated across our business, is as likely to be reflected in national policies (such as the pricing and policy for our Simple funerals or Cremation Without Ceremony) as it is in local responses, where discretion given to individual homes is necessarily limited. We do see a consistent pattern that shows an impact on our business where there is local entry.

C. SECTOR CHARACTERISTICS, MARKET OUTCOMES AND POTENTIAL THEORIES OF HARM

3. Characteristics of the funerals sector

3.1. The CMA has identified a number of key characteristics of the sector which it expects to take into account when gathering and interpreting evidence. We have set out our observations on each of these below.

3.1.1. Vulnerability of customers: We recognise that many customers are vulnerable at the point of purchase and this can constrain their ability to make informed decisions. However, even such customers, when presented with options in a transparent and clear manner will make different decisions, better suited to their needs. For example, the roll-out of our Funeral Choices brochure, designed to improve the customer journey, resulted in marked changes in customer decision making, including a significant increase in the uptake of Simple funerals.

3.1.2. Bundling of products and services: There are good reasons for the funeral director's central role in the process, which are to the benefit of consumers including (i) crucially, managing an otherwise potentially overwhelming process for the customer, who is looking for help at a time of distress; (ii) in relation to certain product or service elements, where such bundling ensures safety/quality of service for example to be confident that a coffin is of the right standard and safe for cremation, or that limousines are safe and reliable, as a very visible part of the funeral director's offer, which reflects on the quality of the funeral overall; and (iii) providing a more limited range creates efficiencies, for example in costs of buying in the relevant product or service. In practice, where choice can be appropriately offered, it is and the options are set out clearly for the customer. For example, Co-op does not (save in relation to Cremation Without Ceremony, where the cremation is unattended) constrain the crematoria used by customers, or limit the choice of minister or celebrant.

3.1.3. Funeral differentiation and pre-determined packages: To best help customers, there is a balance to strike between simplifying options and presenting clear and easily understandable choices, and ensuring that the funeral is bespoke and relevant to each customer. We have sought to strike that balance by creating clear packages, with transparent prices for each, but permitting flexibility for clients to customise them. Those choices do have to be presented clearly and fairly and, as set out below, we believe remedies that address selling practices and framing of different offers may well be part of the solution to the problem of customers making poor choices or being captured early in the process, without fully considering their options. Co-op's Funeral Choices, which was launched in July 2017 to improve the customer journey, provides customers with all of their options (including low-cost options), as well as the pricing, at the outset of the funeral arrangement, so that they are able to make an informed choice.

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- 3.1.4. Unregulated nature of funeral services: It is a key characteristic of the market that there are no minimum standards of quality in terms of service provision to customers and care for the deceased, including care that takes place 'behind the curtain'. As we discuss in further detail below, the quality of service provided to consumers and the standard of care for their loved one is very inconsistent across the industry, with some funeral directors focusing on low prices at the expense of the quality of service and standard of care they offer, or attracting customers with low prices but then upselling at the point of sale. However, the evidence shows that where consumers become aware of failings in the care of their loved one, this is of primary importance to them and causes strongly negative consumer reactions. Lack of regulation of funeral services is unusual by international standards and in many jurisdictions some form of regulatory regime is in place.

4. Market outcomes

- 4.1. In carrying out its analyses, the CMA will need to:
- 4.1.1. recognise that profitability is falling and understand the reasons for this;
 - 4.1.2. take into account the variations in quality between funeral providers, particularly in the care of the deceased which takes place behind the curtain, which is of primary importance to customers;
 - 4.1.3. recognise recent innovations and their effect on the market; and
 - 4.1.4. have regard to the market power of crematoria, with high barriers to entry, and a lack of innovation in the crematoria market.
- 4.2. In the remainder of this section, we expand on these comments, which are raised in response to a number of points made by the CMA in the Issues Statement.

Profitability

- 4.3. We note the CMA's intention to carry out a profitability analysis and we will engage meaningfully in relation to that exercise as part of the CMA's direct requests for information to Co-op. As the CMA observed in its decision to make a reference, profitability is falling. It has continued to fall, even since publication of that report, with published 2018 results for both Co-op and Dignity showing further and sharp reductions in profitability [X]. In carrying out its analysis, it is important the CMA recognises that profitability is falling and the reasons for this.

Quality

- 4.4. As stated above, in our experience, there are material differences in quality between funeral providers and between crematoria. Some are clearly observable and potentially measurable, both to the CMA and customers (for example quality of visible infrastructure, such as cars and premises) and some are observable but difficult to measure (for example helpfulness of staff, friendliness – but may in part be apparent in the extent of staff time/presence in relation to a funeral). Others are not observable by customers, but can be assessed by the CMA or potentially another regulator (for example quality/investment in behind the curtain assets, or in processes that minimise failures and ensure the deceased is treated with respect). Care of the deceased is of primary importance to customers. We suspect that many consumers believe that regulation of funeral quality is a "given" and that many assume there is some form of

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regulation that governs the provision of funerals. This is confirmed in the CMA's own survey evidence and that of third parties.²

Impact of innovation

- 4.5. As regards innovation, we explain at paragraphs 5.5-5.12 below that consumers do respond to innovation and new products in the funerals market and that, where there is an appropriate level of transparency and clarity for consumers when arranging a funeral, many will select a low-cost funeral in making a fully informed choice. There will therefore be remedies available to help customers make better choices.

Crematoria and market power

- 4.6. Even as a significant funeral director, we have not, in general, felt able to negotiate crematoria fees.³ In practice, as the CMA has identified, there are relatively few areas with multiple competitors where there is scope for competitive interaction. That is, to a significant degree, inherent in the nature of crematoria, where barriers to entry are high and development of multiple additional providers is unlikely. We do consider that at the margins, aspects of the planning regime may limit the potential for innovation in the crematoria sector. For example, planning requirements that assume a need for significant parking and a high level of local traffic throughput may limit opportunities to develop facilities focussed only on direct cremations.
- 4.7. There is very wide variation in cremation charges by location, from approximately £400 to over £1000,⁴ which is only partly accounted for by variations in service. We note that there are differences in the market, given that there are both privately owned and local authority crematoria operating in the UK. Our experience of each is not substantially different, and to the extent legally possible, there is no reason to apply different remedies to each kind of operator. There is also scope to innovate and improve transparency in crematoria for example in showing options for available booking slots online or to funeral directors and so ultimately provide choice for customers.

5. Theories of Harm

Difficulties many people have in engaging with the funerals purchasing process

- 5.1. The CMA has identified a number of concerns in relation to how the funerals market operates. In particular, many consumers understandably find it difficult to engage at the point at which they purchase and, as a result, they do not properly assess and take account of all of their options, pricing differentials and variations in quality. These arise partly from the customers themselves, as the CMA has observed, but also in part from how some funeral providers choose to engage with customers in their sales process.

Customers do not fully take account of quality differentials when making purchasing decisions

² CMA Funeral Market Study Final Report, paragraph 4.19(c).

³ [X]

⁴ See data published by the Cremation Society of Great Britain: <https://www.cremation.org.uk/content/files/CFLT%202018%20-%20Cremation%20Fee%20League%20Tables%202018.pdf>

- 5.2. Quality is highly important to consumers, including the care of the deceased. However, this is not generally observable by consumers as this mostly takes place behind the curtain. The evidence shows that where consumers become aware of failings in the care of their loved one, this is of primary importance to them and causes strongly negative consumer reactions.
- 5.3. In our view, the inadequate level of quality in the market, particularly for the unobservable aspects which take place behind the curtain, constitutes a market failure. The CMA should seek further evidence (beyond anecdotal evidence) of how widespread inadequate levels of quality provision is in the market. We note that the CMA is proposing to explore quality standards, as per paragraphs 37(b)-(c), 52(b)(iii) and 85 of the Issues Statement. We believe that such standards should focus on those elements of quality which are not visible to customers and cannot be assessed – predominantly relating to transport, care of the deceased and traceability. These need to be concerned not only with questions of health and safety, but should also address expectations of dignity of the deceased.
- 5.4. There are a number of developing and existing regimes that the CMA can draw on for an appropriate regulatory framework. Importantly, that includes the work of the Scottish Inspector of Funeral Directors, who is currently consulting and considering recommendations to regulate the sector. These are matters that are addressed in a number of other regimes, including those in other jurisdictions and in the approach of the Human Tissue Authority, which sets standards for public mortuaries. The enforcement framework to support regulation is as important as the content of regulation. For example, the Health and Safety Executive ("HSE") already publishes guidance which addresses the management of the risks of infection on funeral premises,⁵ however these are not mandatory, not proactively enforced and we believe they are inconsistently applied.

Customers consider low-cost options to be good alternatives to more expensive ones

- 5.5. Low-cost options, in particular simple funerals and direct cremations, have been launched in recent years and are now available to consumers market-wide. Co-op originally introduced its Simple funeral in 2014, and re-launched it in 2016. Our Cremation Without Ceremony option was launched in May 2018.
- 5.6. The initial take up of these new products has been rapid and demand for them has continued to grow, both for Co-op and more generally across the sector, [REDACTED]. There has been significant uptake of Co-op's Simple funeral package since the 2016 re-launch and following the introduction of Co-op's Funeral Choices in July 2017, which provides customers with all of their choices and the pricing at the outset of the process for arranging a funeral, [REDACTED]. Additionally, there was a rapid increase in uptake in September 2017 in Scotland, when the price of Simple funerals was reduced (as indicated by the third vertical blue line). Where customers choose a funeral for themselves, in a pre-need plan, the proportion choosing a Simple funeral is higher again – [REDACTED].

[REDACTED]

[REDACTED]

⁵ Health and Safety Guidance HSG283: <http://www.hse.gov.uk/pUbns/priced/hsg283.pdf>

[REDACTED]

- 5.7. The increase in uptake of Simple funerals across the UK in July 2017 demonstrates that many more consumers do opt for a Simple funeral when they are provided with clear, upfront information about the range of options available and the prices of those options. Additionally, the increase in uptake in Scotland in September 2017, when the price of Simple funerals was reduced in Scotland, demonstrates that consumers are sensitive to price and do respond to price reductions.
- 5.8. The take-up of Simple funerals has increased over time, both on average across the whole Co-op estate and when looking at product mix in individual funeral homes. For example, in 2014, Simple funerals constituted only 6.3% of product mix for at-need funerals, but this has increased year on year and by 2018, this figure had increased to 24.3% [REDACTED]. Similarly, Dignity's simple funeral option accounted for 19% of all of Dignity's funerals in 2018, compared with 7% in 2017.
- 5.9. There is a significant variation in the uptake of low cost options in different homes across our network, such that for a substantial proportion of our homes, in excess of [REDACTED] of funerals provided are low cost options. It appears that [REDACTED]. This indicates that Co-op's Simple funeral does act as a competitive constraint on other types of funerals and that there is substitutability between standard funerals and simple funerals.
- 5.10. Equally, there has been a rapid take-up of Co-op's Cremation Without Ceremony option since it launched in May 2018, as shown in the figure below. In less than one year, it has grown to become 5% of Co-op's product mix.

[REDACTED]

[REDACTED]

[REDACTED]

- 5.11. Our customers therefore have shifted decisively and sustainably from higher cost options to lower cost options and their decision of whether to take up a lower cost option appears to be strongly influenced both by the price differential, when compared to traditional options, and by the manner in which these choices are offered. They do therefore seem to be a good alternative for many, and customers' choices are influenced by the information that they receive in the sales process.
- 5.12. The evidence shows that each time a new product is launched, the offer improved, or low cost options are presented more accessibly (i.e. at the outset of a discussion and equivalently to other options), uptake of the low cost option (whether Simple funerals, or more recently, Cremation without Ceremony) increases rapidly and is sustained. The pattern appears to be similar for other providers, such as Dignity. Notwithstanding the vulnerability of many customers when buying a funeral, they do respond to the new choices made available to them.

Customers are increasingly shopping around

- 5.13. Of the 24% of consumers that the CMA's Market Study consumer survey identified as not having a funeral director already known or recommended to them that they intend to use, it appears that over half (13% of the total) do search online for some information about the funeral director they use.

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- 5.14. Our own funeral website receives 2 million hits a year, a significant number, considering we conduct around 100,000 funerals a year. Many consumers will also have some previous experience, whether from having organised funerals in the past, or an awareness of marketing of pre-need plans that provide some sense of what a funeral comprises and what it is likely to cost.
- 5.15. It is clear that customers are shopping around, but the lack of consistent transparency across the sector makes it difficult for customers to find relevant information concerning the price, quality and range of different funeral directors.
- 5.16. As initial online research becomes more and more the default starting point for purchases for many customers (as it is for other services), it is likely that the rate of shopping around will increase – provided the relevant information online is accessible to customers.
- 5.17. We agree with the CMA that it should test whether the same can be said for crematoria. We suspect that customers are less aware they have choices in this regard, and indeed their choices are more limited, with more than one third of crematoria having no alternative within a 30 minute drive time and nearly two thirds having either no alternative or just one.⁶

Firm behaviours in the supply of funeral services

Responses to competition and entry

- 5.18. There has been substantial new market entry in the past six years, which is equivalent in aggregate to a large operator and has been, to a large extent, driven by independent operators. There has also been organic growth by existing operators. New entry has been focused where demand is highest (i.e. where mortality counts are highest), as would be expected in a competitive market.
- 5.19. This new entry has negatively impacted Co-op's volumes and growth rates where local competition has intensified, as well as in our business overall, demonstrating that consumers are reacting to increased competition in local areas. This has also spurred us and others to compete and innovate. For example, we have led the way in:
 - 5.19.1. Re-launching our Simple funeral package in 2016 and introducing our Cremation Without Ceremony option in May 2018;
 - 5.19.2. Reducing the price of our Simple funeral from £1,995 to £1,675 in Scotland and £1,895 in England and Wales;⁷
 - 5.19.3. Enhancing our offer to Co-op members through a discount on funerals;
 - 5.19.4. Introducing an additional price band in our structure, to allow us to address competition from lower priced rivals; and
 - 5.19.5. Introducing a "Guaranteed to Beat" offer in the case of like-for-like quotes.

⁶ CMA Market Study Final report, paragraph 5.32.

⁷ In each case, exclusive of disbursements.

- 5.20. Competitive forces are therefore working more effectively than the CMA suggests and will continue to do so.

Sales practices

- 5.21. The CMA discusses a number of issues in relation to the sales practices of some funeral directors in the Market Study Final Report, in the context of lack of transparency at paragraphs 4.22 to 4.33, and at paragraph 86 of the Issues Statement, including practices which make it more likely that customers pay high prices or purchase more expensive funerals (such as a failure to provide all available options, including low cost options). However, the remedies section of the Issues Statement does not include a separate category of remedies to address such sales practices. We agree that the sales practices of some funeral directors can limit a customer's knowledge of the range of funeral options available, particularly given that they may well be vulnerable and easy to manipulate in the circumstances, so they may end up not choosing the option they would have preferred if they had received all the information on the available options, including their respective prices. While some have been making changes to help consumers, this has not been consistent across the industry and more remains to be done. For example, there are prevalent practices to secure funerals at an early stage through, for example, incentives to intermediaries, or through below cost coroner removals. Such practices distort the exercise of choice by customers at a later stage in the process. It would be appropriate to consider this as a distinct theory of harm which may need to be addressed through additional remedies.
- 5.22. For our part, we have sought to present information to our customers in a number of ways that allow fair comparisons and clear choices, which redress potential customer vulnerability by helping them access information in a manageable way:
- 5.22.1. We provide training and materials to our client-facing colleagues to support fair and balanced initial conversations with our clients. We provide at the start of the conversation a clear and full overview of our Funeral Choices packages (including our Simple and Cremation Without Ceremony packages) and our pricing, together with client brochures, making it clear what is and is not included with each option. Colleagues are trained to assess vulnerability in customers and to deal with it appropriately;
- 5.22.2. We have improved our transparency online, with a comparison table showing what is included for each of our Simple, Traditional, Classic and Cremation Without Ceremony options;
- 5.22.3. We have just launched a new online pricing tool, which will provide our customers with our prices and an indication of likely third party costs in their local area⁸;
- 5.22.4. Our customers are always clear about who they are dealing with. All of our Funeral Choices packages are available under the Co-op brand and across all of our sales channels, including our Simple and Cremation Without Ceremony packages; and

⁸ https://www.co-operativefuneralcare.co.uk/arranging-a-funeral/immediate-concerns/how-much-will-a-funeral-cost?_ga=2.140728502.541733811.1557404256-1572589547.1554993187&_gac=1.16393090.1557404256.EA1aIQobChMI9r3g_aDI4QIVBxDtCh3ldwZFEEAYASAAEgLGIPD_BwE

- 5.22.5. We have recently completed a three year programme of migrating all of our private name homes in Great Britain to our Co-op 'Pioneer' brand to provide a consistent brand and client journey, to ensure that our clients understand with whom they are contracting and what level of quality they can expect at every step.
- 5.23. We make sure that other factors do not influence customer choices. For example, in the case of a simple funeral, Dignity requires payment of the funeral in full 48 hours prior to the service. This may lead a family thinking about cost to be concerned about finding a substantial lump sum at short notice or risk the funeral not taking place. This is not the case in our business, where all customers, regardless of funeral type, are invoiced after the funeral. The only upfront payment we take is for disbursements, where we take no margin and are otherwise at risk.
- 5.24. In an environment where vulnerable customers look for guidance from trusted third parties, such as hospitals and care homes, customers need to be fully aware if an intermediary is directly or indirectly being paid to influence a customer's choice of funeral home (including through commission payments and donations).
- 5.25. In addition, coroner removals should not be offered at uncommercial rates in order to secure funerals (with 46% of deaths in England and Wales involving coroners). These practices distort decision making and risk pointing customers toward higher priced and/or poor value operators.

Meeting different customer needs

- 5.26. As the CMA has identified, there are significant differences in customer expectations for the arrangement of a funeral that arise from different social, faith related and cultural factors. These range widely but include:
- 5.26.1. Expectations for how quickly a funeral must be conducted;
 - 5.26.2. Expectations for a coffin (or no coffin);
 - 5.26.3. The nature of a service or celebration;
 - 5.26.4. Level of involvement of the family's faith community;
 - 5.26.5. Level of formality for example in dress of the funeral directors; and
 - 5.26.6. Custom and practice around washing and dressing the deceased.
- 5.27. These can differ substantially to the expectations of a traditional Church of England funeral and sensitivity to these is increasingly important as our society has become more diverse and it is crucial for funeral directors to adapt to meet those needs.

D REMEDIES

6. Remedies

- 6.1. In this section we have set out our initial comments on the right approach to remedies, in response to the Issues Statement. We will comment more fully as the inquiry progresses.
- 6.2. The CMA's concerns can be remedied with proportionate and targeted regulation. In this section we consider the types of remedies which we believe will address proportionately the

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CMA's concerns regarding the funerals markets. We also explain why we do not believe that price regulation is an appropriate avenue for the CMA to take in addressing its concerns.

- 6.3. Regulation focused on encouraging better, more informed consumer choices by providing clear information (transparency), supported by appropriate safeguards on conduct (sales process) and ensuring high standards (quality) will have a substantial positive impact on outcomes for consumers. There is already evidence, for instance, that changes in sales processes can have a substantial impact on consumer choices, which suggests that remedies around sales processes and options could have a strong beneficial effect.
- 6.4. Ultimately, remedies that address the underlying causes of any adverse effects on competition are likely to be substantially more effective and less likely to cause distortions of competition than remedies that attempt to control ultimate outcomes.
- 6.5. The table below summarises Co-op's initial views on remedies that are likely to be appropriate and effective in relation to funeral director services.

Category of remedies	Co-op suggested potential options
Information/transparency remedies	<ul style="list-style-type: none"> a) Funeral directors to publish their prices online, with full details of the service included in the price; b) Funeral directors to provide customers with all options, including both simple funeral and direct cremation alternatives, at the outset of a funeral arrangement; c) Funeral directors to disclose prices for defined third party disbursements (which should only include minister or officiant fees, burial/interment and gravedigger fees (for burials) or cremation fees and fees for cremation documents (such as doctors' fees) for cremations); d) Funeral directors to make group ownership of individual homes clear; e) The existing NHS "end of life pathway" guidance could incorporate some information about organising a funeral, drawing on the funerals advice that the CMA has already published.
Remedies to regulate quality of service	<ul style="list-style-type: none"> a) An enforced regulatory regime for the aspects of quality of funeral directors and funeral homes that are not visible to customers; b) Enforcement of minimum quality standards, including inspections of unobserved aspects of quality and upfront transparency in relation to quality. c) Any regulatory regime should also apply to third party suppliers of coffins (and any other appropriate elements of a funeral that may be sourced from third parties by the customer)
Sales process remedies	<ul style="list-style-type: none"> a) Regulation of the point of sale – what is offered, how it is presented, how customers are secured. b) Funeral directors to always offer customers clearly defined low-cost options, including both simple funeral and direct cremation alternatives at the outset of a funeral arrangement;

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	<ul style="list-style-type: none"> c) Funeral directors to present all options, including low cost options, to customers upfront in a clear, transparent and equivalent way. d) Funeral directors should always include defined core services that would be reasonably expected by a customer in advertised headline prices for a funeral. e) When passing on third party disbursements, funeral directors to do so at cost, without any mark-up; f) Funeral directors to be prohibited from directly or indirectly making payments to third party intermediaries in order to secure referrals or recommendations unless the existence of those payments is clearly disclosed to the customer at the point of referral or recommendation (and at the first interaction with the relevant funeral director); g) Funeral directors might also be prohibited from discriminating over when payments are required for different kinds of funeral types, in order to apply subtle pressure to choose the option with deferred payment.
Market opening remedies	<ul style="list-style-type: none"> a) A cap on any exit or switching fees a funeral director can charge to a customer wishing to transfer the deceased to a different funeral director.

Transparency remedies

- 6.6. Greater transparency, particularly online, would protect the most vulnerable consumers and strengthen competitive dynamics in the industry, addressing (at least in part) some of the CMA's concerns.
- 6.7. The increase in uptake of Simple funerals after its re-launch in 2016, and the introduction of Co-op's Funeral Choices approach to the sales process, demonstrates that transparency remedies, coupled with appropriate sales process remedies (discussed further below) can have a significant impact on outcomes for consumers.
- 6.8. An appropriate and proportionate package of transparency remedies could include requirements for all funeral directors to:
- 6.8.1. Publish their prices online;
 - 6.8.2. Provide customers with all options, including both a simple funeral and direct cremation alternatives, at the outset of a funeral arrangement;
 - 6.8.3. Disclose prices for defined third party disbursements (i.e. intermediary fees, which should only include minister or officiant fees, burial/internment and gravedigger fees (for burials), or cremation fees and fees for cremation documents (such as doctors' fees) for cremations); and
 - 6.8.4. Make group ownership of individual homes clear.
- 6.9. We note that the CMA is considering the role of intermediaries, including medical practitioners and other medical service providers, care homes and their employees, critical illness charities and solicitors, in providing information to customers and encouraging them to shop around. There are some contexts where intermediaries could play a role in providing information to

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customers – for example, the existing "end of life pathway" within the NHS could incorporate some information about organising a funeral, drawing on the funerals advice that the CMA has already published.

- 6.10. We note that the CMA is also considering the scope for price comparison tools as a means to help customers compare providers. We recognise that price comparison websites may be beneficial to consumers when comparing the price of products where price is the key driver of choice and the underlying product is simple and relatively standardised. However, in their current form, they do not adequately capture or communicate to consumers the variation in either service or quality, which are a key driver of choice for funerals, where consumers are arranging a unique one-off event. This means that comparisons of packages and options of different funeral directors that aren't necessarily 'like for like' and thus risks undermining the ability of consumers to make an informed choice. As such, we do not consider that price comparison tools are an appropriate way to address the CMA's concerns.
- 6.11. It is essential that if customers are encouraged to make direct comparisons of price then (i) the information on quality aspects that customers can assess is readily available along with pricing and (ii) those aspects of quality which are important to customers but not easily assessed by them are properly safeguarded. Otherwise, there is a very real risk of a race to the bottom as providers come under greater pressure to offer the lowest headline prices to customers who are not regular buyers of the services and may well be vulnerable.

Quality regulation

- 6.12. Quality is highly important to consumers, including both the observed and unobserved services, but quality standards are variable and there are limited incentives for many funeral directors to provide good quality behind the curtain care. Better quality regulation of funeral directors and funeral homes is needed, through a properly enforced regulatory regime, particularly to focus on the aspects of service that are not visible to customers. Such remedies would address any incentives to diminish product and service quality levels that could arise not only from price regulation, but also improved transparency in relation to price, range and options. Quality regulation is therefore needed in conjunction with any transparency remedies (irrespective of price regulation).
- 6.13. Effective regulation of quality is likely to include both inspections of unobserved aspects of quality and upfront transparency in relation to quality. There are a number of developing and existing regimes that the CMA can draw on for an appropriate regulatory framework. Importantly, that includes the work of the Scottish Inspector of Funeral Directors, who is currently consulting and considering recommendations to regulate the sector. Transparency and quality remedies have been tried and tested in other countries and many countries regulate quality, with a focus on care of the deceased. Another relevant parallel is regulation of public mortuaries by the Human Tissue Authority in the UK which sets expectations for appropriate premises, facilities and equipment, recognising the objective of ensuring the dignity of the deceased.⁹ There is no reason why the relevant standards, appropriate in this context, are not equally appropriate in the context of a funeral home or crematorium. Such standards need to be focused on achieving the right outcomes (in particular in relation to the dignity of the

⁹ See for example Post-Mortem examination standards and guidance, elements of which address for example traceability of bodies, state of the premises, storage arrangements and appropriateness of equipment: <https://www.hta.gov.uk/sites/default/files/Code%20B%20PM%20Standards%20and%20Guidance.pdf>

deceased and preservation of the body) but need not be prescriptive about how those outcomes are achieved, as long as the framework is appropriately enforced.

- 6.14. The enforcement framework to support regulation is as important as the content of regulation. For example, the HSE already publishes guidance which addresses the management of the risks of infection on funeral premises,¹⁰ however these are not mandatory, not proactively enforced and we believe they are inconsistently applied.
- 6.15. We do not believe this is an issue that can be fully addressed through provision of information – as the CMA suggests at paragraph 136. KPIs can only assist in circumstances where customers have a number of real choices to assess and are prepared to engage with the information required to make that choice. We believe that in relation to some aspects of quality, concerning transport and care of the deceased that is not the case. Ultimately, customers want, and are prepared to believe that their loved ones are well cared for (at least to a minimum standard) and cannot be expected to engage in assessing KPIs on this topic.
- 6.16. We understand the CMA's concerns about whether increased standards might raise barriers to entry or stifle innovation (for example, paragraph 135 of the Issues Statement). That risk can be mitigated in some respects – for example through sufficient transition periods for providers to meet standards, or some flexibility in how appropriate outcomes are achieved, all supported by a regulator that can give guidance and enforce appropriately. However, ultimately if providers are operating at standards that are not visible and do not meet expectations of ensuring dignity of the deceased, then this will need to be addressed.

Sales process remedies

- 6.17. In addition to transparency and quality regulation, there may need to be more regulation of the point of sale, in terms of what is offered, how it is presented and how customers are secured. There is already evidence, for instance, that changes in sales processes can have a substantial impact on the choices customers make, which suggests that remedies around sales processes and available options could have a strong beneficial effect for customers and reduce detriment.
- 6.18. For example, the CMA might consider requiring funeral directors to offer clearly defined simple funeral and direct cremation options and to present all options, including low cost options, to customers upfront in a clear, transparent and equivalent way. It is unlikely that customers will be in a position to answer questions or discuss their financial standing (which may itself change as a result of the bereavement) in a way that would permit assessment of financial vulnerability. Customers should however always be shown a range of options to suit different needs.
- 6.19. Practices to encourage upselling of additional elements to a funeral, once a customer has been secured by an attractive headline price, either for a funeral plan that is being redeemed, or for an at-need funeral, may also need to be addressed. For example, advertised headline prices for a funeral might be required to always include defined core services that would be reasonably expected by a customer. It would also be helpful for customers to know what percentage of funerals are sold at the headline price.

¹⁰ Health and Safety Guidance HSG283: <http://www.hse.gov.uk/pUbns/priced/hsg283.pdf>

- 6.20. Funeral directors might also be prohibited from:
- 6.20.1. Adding mark-ups on disbursements where they are simply passed through to customers. This could well be an important additional safeguard in the event that the CMA chooses to price regulate crematoria fees in some form.
 - 6.20.2. Discriminating over when payments are required for different kinds of funeral types, in order to apply subtle pressure to choose the option with deferred payment.
- 6.21. As set out above at paragraph 6.9, there is a role for intermediaries to play in providing information to customers. However, in order to protect the customers' best interests, and ensure that this is not a conflict of interest for the intermediary, it is important that such intermediaries should not be able to enter into referral arrangements with funeral directors whereby they receive any commission or other benefit without disclosing that arrangement to customers. Otherwise the risk is that intermediaries are used by some funeral directors to secure funerals at an early stage in the process, in circumstances where the customer is not well placed to make a considered decision and the intermediary is in a position of trust.

Market opening remedies

- 6.22. We note the CMA's proposals for market opening remedies to lower barriers to entry, including requiring that funeral directors unbundle elements of their packages of services to give customers the flexibility to source such elements from elsewhere if they wish to, for example, to buy the coffin from a third party supplier. We agree that the customers should have flexibility to choose particular elements of the funeral.
- 6.23. However, greater upfront transparency and better sales processes will most likely address the CMA's concern without the need for a remedy which is likely to create complexity and distress for customers in the decision-making process, without adding much further benefit (for example, if it is only a small number of elements of the funeral arrangement that can be unbundled).
- 6.24. Further, if customers purchase a coffin from a third party supplier, it is important that the coffin is of a suitable quality and fit for purpose. There would also be, in addition to the likely distress to the family, a reputational risk for the funeral director undertaking the funeral, if the coffin fails in some way. Consequently, if market opening is to be implemented, it is important that any quality regulation applies to third party suppliers of coffins (and any other appropriate elements of a funeral that may be sourced from third parties by the customer).
- 6.25. Finally, there may be some benefits lost if funeral directors cannot be confident of volumes to secure better prices from suppliers, which can then be fed through to customers.
- 6.26. We agree with the CMA that the arrangements for the care of the deceased immediately after the death are not visible to customers and that many people assume that standards are in place. As the CMA recognises, there are often arrangements in place between care homes (and other third parties) and funeral directors for the deceased to be transported that funeral director's premises within a short time period. Some funeral directors then charge prohibitively high fees to a customer to cancel and/or switch funeral directors, as well as making it difficult for another funeral director to access their premises.
- 6.27. We therefore suggest that there is a cap on any exit or switching fees that a funeral director can require a customer to pay in the event that they wish to use a different funeral director to arrange the funeral, in order to prevent customers essentially being 'locked in' to a funeral

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director that they may never have chosen. Additionally, a cooling-off period should be offered to enable customers to change their mind without incurring fees.

Price regulation

- 6.28. Price regulation of funerals would be unnecessary and disproportionate if the above remedies are put in place. Further, price regulation risks unintended consequences, including:
- 6.28.1. Restricting innovation and product differentiation: innovation in funerals is taking place worldwide and in the UK, including direct options, simple funerals, online-only options and more personalised funerals. There is a risk that innovation is stifled and that product differentiation is restricted due to the format of price regulation, ultimately reducing consumer choice.
 - 6.28.2. Reducing quality: low-quality care of the deceased is already an issue in the market, and there is a risk that the focus on lower prices (and need to reduce prices) may further lead to low-quality provision (a 'race to the bottom').
 - 6.28.3. Restricting competition on price: there is a risk that providers compete less on price when prices are regulated.
 - 6.28.4. Reducing new entry: there is a risk that fewer new entrants will enter the market if prices are regulated, thereby reducing competition.
- 6.29. There are almost no examples of price regulation of funerals in other comparable countries. Price regulation can only be found in parts of Spain (where it may not be enforced) and part of Canada (where it is very limited). This suggests that there are significant challenges and downsides to price regulation in this sector that mean that other countries have chosen not to adopt such a remedy. We suggest that the CMA investigates the reasons why price regulation has not been put in place elsewhere before making any decisions as to whether to introduce it in the UK.
- 6.30. Energy and payday lending are two of the most salient and recent examples of price caps in the UK. In both cases the underlying product was relatively uniform in nature. The payday lending price cap is not strictly a 'cost plus approach' and it resulted in significant market exit. In energy, vulnerable customers were easily identifiable as those who have a prepayment energy meter, have a default energy tariff or benefit from the government's Warm Home Discount and are on a default energy tariff. It would much more complex to create a price cap which is targeted at vulnerable customers in the funerals market.
- 6.31. Design of a price regulation remedy, even of the simplest kind, would be very challenging in this context and has not been attempted in any comparable market with similar levels of diversity in the nature of the product and different types of provider.
- 6.32. Below we discuss the four specific price remedies set out by the CMA in the Issues Statement and the concerns we have about each of them.
- (a) Cost orientation condition: require firms to set prices which reflect the costs incurred in providing the service, through imposition of a cost orientation obligation*
- 6.33. This remedy would require funeral directors to allocate central costs, including overheads and capital expenditure, across products. As the CMA is aware, this is a market characterised by

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a large number of operators, some of which are very small. The level of financial sophistication required to undertake this exercise means that this remedy is unlikely to be suitable, or proportionate. Given that independent funeral directors account for over 60% of all at-need funeral revenues, any remedy would need to cover these smaller operators.

- 6.34. In addition, monitoring and enforcing this remedy is likely to present significant challenges given the large number of operators in the market and the bespoke nature of the products offered by these providers.
- 6.35. Even for larger players such as Co-op, a cost orientation condition would be complex to implement and, due to the high proportion of fixed costs in our business, the outcome would be driven to a large extent by the chosen cost allocation approach rather than reflecting the business reality.
- 6.36. Such a remedy is likely to limit product innovation and new funeral director business models appearing over time, as in some cases these may require pricing that involves cross-subsidy between products or product elements. The remedy is also likely to lead to cost inflation over time, as funeral directors would have no incentive to keep costs low.

(b) Profit margin/rate of return allowance: establish a fair profit margin and/or rate of return on invested capital

- 6.37. A number of significant challenges would have to be overcome to make this remedy work. First, as noted above in relation to the cost orientation remedy, this remedy is likely to lead to cost inflation over time. If the allowed margin is defined as a percentage of costs, this would exacerbate the problem, as a larger cost base would lead to greater allowed profits in absolute terms. The impact of this is that customers pay more – the opposite of the outcome that the CMA is seeking to achieve through this remedy.
- 6.38. Second, as with the cost orientation remedy, the remedy would be difficult to monitor, particularly in a market with a large number of players. A regulator would need to set out specific guidance on how profit should be calculated for the purpose of monitoring compliance with the permitted level of profitability. Compliance with the regulation would be difficult to monitor effectively.

(c) Safeguard cap on essential services: enforcement of a ceiling on the allowable price for the essential elements of a funeral i.e. on those services which all customers require when they purchase a funeral or cremation

- 6.39. We understand this would be a price cap on specific essential components of a funeral package. For example, collection of the deceased and storage of the body, organisation and services carried out on the day of the funeral, acting as intermediary between the customer and third parties and provision of some essential services, such as coffin, hearse and limousine, which together represent most customers' expectation of what a funeral needs to comprise. These may be considered 'essential services' by the majority of customers. However, what is considered essential, compared with what is optional, varies across individuals, such as coffin quality, use of limousines, embalming. This makes it difficult to define a set of core essential services that would reflect the needs of almost all customers. There will be groups of customers whose expectations are clearly different (for example, for some religious funerals where no coffin is used, or customers who choose arrangements that do not involve a ceremony, such as an attended cremation). We note that the underlying cost of these activities can vary by

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funeral director and customer, dependent on factors such as the location of death, its proximity to storage facilities, and the time of day/week of the cremation.

- 6.40. An industry-wide cap on essential services could lead to higher prices in some cases. For example, funeral directors that are currently able to provide the essential services at a lower cost than the cap, may see the cap as a legitimate price for that component of a funeral, leading prices to increase. For others, costs may be above this level and funeral directors may seek to recover the loss on other non-essential components of the funeral that are nonetheless likely to be purchased as part of most funerals. This could lead to cross-subsidies from customers purchasing funerals containing more 'non-essential' components, to those that purchase just the essential services.
- 6.41. The cap could also lead to funeral directors reducing quality or even exiting the market if the cap is set too low and they are not able to cross subsidise between the essential and non-essential services. It could also lead to funeral directors avoiding certain types of customer, if they anticipate that they will not be profitable to serve. Setting the cap at the right level would be difficult, given the likely variation in costs across the country and across different customers.

(d) Safeguard cap on a specific package: a price ceiling for a particular, discrete package would be established for example a 'simple' funeral package. All suppliers would have to give customers purchasing a funeral or cremation the option of choosing this package and paying at, or below, the safeguard cap level

- 6.42. Co-op and some other funeral directors already offer simple funeral packages which address this need. In our experience, we face significant price competition in this area which has resulted in, for example, the Simple funeral price drop in Scotland in September 2017. In our view, therefore, regulating the price of the simple funeral is unnecessary given the strong price competition that exists. Other remedies, designed to ensure that providers give suitable prominence to "simple funeral" options in their sales practices, and do not add hidden barriers such as requiring full payment in advance, would be a more effective solution than regulating the price.
- 6.43. The Issues Statement notes that a regulated simple funeral package might act as a constraint on other types of funeral package offered by a funeral director. We agree with this point; as stated above, we see variation in the proportion of our Simple funerals purchased across the country, and we observe that this appears to be linked to the price differential between the price of a Simple funeral and other types of funeral. This indicates that the two are substitutes for one another. However, we believe that price regulation is not necessary to achieve this outcome; Co-op is already experiencing the constraint that our Simple funerals are having on other funerals, and a remedy that ensures a well-defined simple funeral continues to be offered in future, should be sufficient.
- 6.44. Finally, in the Issues Statement, the CMA mentions that price regulation has been effectively applied in other fragmented markets, for example the Northern Irish Community Pharmacies market. However, we note that this is not a good example of how price regulation could be applied in a fragmented market such as at-need funerals:
- 6.44.1. The purpose of the 2017 Cost of Service Investigation (CoSI) for Community Pharmacy in Northern Ireland was to inform the aggregate level of funding which the Department of Health (DoH) would provide to the sector through the Health and Social

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Care Board (HSCB). This is clearly different from attempting to regulate profits in a market like at-need-funerals, which is not publicly funded.

- 6.44.2. The negotiations over the level of funding for NI community pharmacies were in the context of a several judicial reviews of the funding arrangements 2010-12. As a result, a funding methodology of some form had to be devised even if this was a far from perfect solution, and the parties agreed upon a cost of service investigation.^{11 12} Again this is very different from the present situation in at-need funerals.
- 6.44.3. The DoH and HSCB used historic data on 2011-12 costs as an input in deciding what level of funding to award community pharmacies in 2018-19 and 2019-20.¹³ Ultimately, the level of funding was the result of negotiation with industry, rather than being set purely by the CoSI report. For example, the funding package included several one-off allocations to assist community pharmacies, totalling £11.1m.¹⁴ It is not clear how an industry-wide negotiated approach such as this could be used in the case of at-need funerals.
- 6.45. As explained above, baking-on or even exacerbating cost inefficiency can be a problem with rate of return regulation. The CoSI explores value for money for the tax-payer in qualitative terms, rather than making an assessment over whether the costs are efficient or not (see CoSI section 9).¹⁵ Commentary on efficiency subsequently came from the HSCB which noted that there may be a number of reasons why the costs may be inefficiently incurred, including the over-provision of supply (i.e. too many community pharmacies).¹⁶

Crematoria remedies

- 6.46. The crematoria and funeral services market are very different. In particular, a cremation is a less differentiated product compared to a funeral arrangement. In addition, customers typically have a choice of funeral service providers within their local area, whereas this is often not the case for crematoria. The difference in the potential for competition is therefore significant and we recognise that this may drive differences in the types of remedy which may be appropriate in each market. Specifically, these characteristics of crematoria markets may affect the proportionality assessment of a price control remedy. However, many of the challenges of

¹¹ Northern Ireland Assembly (2011), 'The Pharmaceutical List and the Northern Ireland Drug Tariff', Research and Information Service Briefing Paper, 13 October, p. 3. <http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2011/health/15911.pdf>

¹² Maguire, M. (2017), 'Why legal action is not the solution to funding cuts', *The Pharmaceutical Journal*, 15 March. <https://www.pharmaceutical-journal.com/opinion/comment/why-legal-action-is-not-the-best-way-to-address-the-community-pharmacy-funding-crisis-in-england/20202386.article>

¹³ DoH (2018), 'Additional funding announced for Community Pharmacy', 16 November. <https://www.health-ni.gov.uk/news/additional-funding-announced-community-pharmacy>

¹⁴ DoH (2018), 'Additional funding announced for Community Pharmacy', 16 November. <https://www.health-ni.gov.uk/news/additional-funding-announced-community-pharmacy>

¹⁵ PWC (2017), 'Cost of Service Investigation for Community Pharmacy in Northern Ireland', May, section 9. <https://www.health-ni.gov.uk/sites/default/files/publications/health/COSI%20Final%20Report%20%282017%29.pdf>

¹⁶ HSCB (2018), 'HSCB Position Paper on the assessment of a Financial Envelope for the provision of Pharmaceutical Services', March, p.9. <https://www.health-ni.gov.uk/sites/default/files/publications/health/hscb-position-report.pdf>

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implementing price regulation which we described above at paragraphs 6.29 to 6.46 will still apply in this context.

- 6.47. Certainly, greater transparency on pricing, service and available slots are necessary as a starting point.
- 6.48. So far as quality standards are concerned, the CMA welcomes comments from the Scottish Inspector of Funeral Directors at paragraph 35 of the Issues Statement. At paragraph 45, the CMA refers to the repeal of existing legislation relating to crematoria in Scotland and the new Cremation Regulations (in force 4 April 2019). There is no reference to the Scottish Inspector of Crematoria, who the CMA may also wish to consult, in particular in relation to appropriate quality standards and their enforcement.
- 6.49. The CMA has also proposed potential market opening remedies. As noted above, we believe that some planning regulations do act as an unnecessary barrier to entry or innovation in some contexts and if that is found to be the case then it would be right to propose modifications.
- 6.50. The CMA's proposal for franchising models and/or provide for tendering of contracts would require careful consideration – in particular to assess whether there are likely to be potential franchisees or tenderers with the relevant expertise or desire to take such arrangements on and who are likely to increase rather than potentially reduce competition in the relevant markets.
- 6.51. To the extent that any remedies (such as pricing remedies) are likely to impact on the incentives of vertically-integrated crematoria in their dealings with other funeral directors, it will be important that they are not able to engage in discriminatory conduct, for example through providing only limited or unfavourable time slots for cremations. The CMA should consider whether protections in this regard will need to be built into any package of remedies.

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