

Funeral directors and crematoria services market investigation

Dignity plc response to CMA Issues Statement of 8 April 2019

1. Executive summary

1.1 Dignity plc (“**Dignity**”) welcomes the opportunity to comment on the CMA’s Issues Statement of 8 April 2019, and looks forward to cooperating with the CMA during the course of the market investigation. Dignity is committed to ensuring high quality standards, and transparency of both quality and pricing, across its funeral director and crematoria business. Dignity wishes to lead the industry in implementing best practice. This submission is structured as follows:

- (i) **Overview of Dignity (see Section 2):** in the face of changing customer needs, increased competition and an acceleration in the rate of erosion of its funeral market share over the past four years, Dignity has been changing its business model by creating greater choice for consumers through a move towards unbundled and simplified services at lower prices and by reducing its operating cost base through its transformation programme. These changes and longer term commitments to a different model are understood well by its shareholders. Underpinning all of the changes being made by Dignity is a relentless focus and commitment to high standards of care for consumers and the deceased.
- (ii) **The sector characteristics identified by the CMA (see Section 3):** Dignity agrees with the majority of the CMA’s observations on the sector’s characteristics, but notes in addition that the market is facing significant and rapid change that mitigates the effects of customer vulnerability; that customers expect and value a highly personalised service; and that competition in crematoria is affected by factors other than price. Dignity encourages the CMA to focus on how best to improve the ability of customers to exercise actively the choice that already exists in the market.
- (iii) **The theories of harm identified by the CMA (see Section 4):**
 - (a) Changes in the market are making it easier for customers to engage with the purchasing process, although there is more that can be done. The CMA’s hypothesis that funeral directors are not incentivised to cut prices and increase innovation does not match Dignity’s experience;
 - (b) The CMA’s theory of harm concerning the behaviour of funeral directors does not reflect Dignity’s own sales practices, but Dignity agrees that industry-wide improvement is required (and would support appropriate quality standards regulation to achieve this); and
 - (c) The CMA is right to identify that there are high barriers to entry for new crematoria, which are driven by regulatory barriers connected to the planning regime and the high capital costs and sunk costs associated with new developments. Were the planning barrier to be removed,

Dignity would expect more market entry than is the case today where there is sufficient demand to make this commercially viable.

- (iv) **The potential remedies identified by the CMA (see Section 5):** Dignity considers that the evidence will demonstrate a need for appropriate quality regulation, in particular to ensure that customers can assume certain minimum standards in relation to unobservable aspects of the services provided such as care of the deceased and provision of safe and dignified mortuary facilities. Dignity also welcomes the CMA's proposals to explore ways to improve transparency, encourage people to consider their options before the point of need, and make it easier for customers to assess different options and exercise choice. Any transparency measures should focus on both price and quality, as customers need to understand the value for money of the services on offer in order to make an informed choice. Dignity would also support appropriate measures to open up the market, in particular to remove the high barriers to entry that exist in the crematoria sector. However, Dignity does not consider that the evidence will support the introduction of a price or charging remedy, which is a measure of last resort, in particular given the availability of a variety of alternative measures that would more appropriately address the underlying cause of any adverse effect on competition ("**AEC**") that the CMA may find.

- 1.2 Dignity welcomes the CMA's commitment to taking regulatory developments in Scotland into account.¹ Dignity has been working with the Inspector of Funeral Directors for Scotland and awaits her recommendations on potential industry regulation. Dignity encourages the CMA to liaise closely with the Inspector to ensure that any remedies proposed by the CMA are consistent with any emerging regulation or quality standards in Scotland. Dignity is also playing a leading role in promoting cross-industry support for improving standards and consumer engagement through the independent working group of trade associations (the "**Working Group**"). Dignity welcomes the CMA's proposals to take account of this work and to observe the Working Group's meetings.²

2. Overview of Dignity

- 2.1 Dignity owns 827 funeral director businesses and 46 crematoria across the UK and the Channel Islands. It estimates that it carries out approximately 12% of all funerals and approximately 13% of all cremations in the UK. It also provides pre-arranged funeral plans. Dignity has sought to position itself as a full service provider, focused on the premium end of the market, and continues to seek to differentiate itself through its high quality offering: it is dedicated to providing the highest possible standards across all of its facilities and in the funeral services and care that it provides, and its vision is to "*lead the funeral sector in terms of quality, standards and value-for-money*".³

¹ Issues Statement, paragraph 47.

² Issues Statement, paragraphs 38 and 48.

³ Dignity plc Annual Report and Accounts 2018, inside front cover.

- 2.2 Dignity is proud that 97.7% of its customers would recommend its services.⁴ Dignity's funeral directors are not remunerated based on sales performance or commission, meaning that there are no incentives for its staff to up-sell funeral services to clients and their focus is on delivering high standards of customer care.
- 2.3 Dignity has invested extensively in its funeral director and crematoria operations in recent years. Since 2015 Dignity has experienced a material erosion in market share in funeral services, and over the past three years Dignity has been analysing its business model to respond to strong competition, reflect changing customer requirements, and rationalise and re-align its business. Dignity accordingly introduced Simplicity Cremations in November 2016, *lowered* the price of its Simple funeral package nationwide in January 2018, and in August 2018, following a six month review of its funeral operations by LEK, started a three-year transformation programme for its funerals operations. As part of this transformation programme, Dignity is offering unbundled and simplified services at lower prices to offer better value and greater flexibility for customers, as well as diversifying its product offering and increasing its use of technology.
- 2.4 Dignity noted in a statement on 19 January 2018 that over the preceding 18 months *"the Group has consistently alerted the investment community to the increasingly competitive environment in which it operates. Customers are increasingly price-conscious and in an over-supplied industry, are shopping around more. This continues to have an increasing impact on the Group's market share, with a significant reduction in the average number of funerals per location noted since 2015"*.⁵
- 2.5 Dignity is fully committed to ensuring that the service that it offers to customers is compelling and competitive, and has communicated to shareholders its plans for significant changes to its pricing structure. For example, in January 2018, Dignity announced that *"the Board is keen to address the continuing acceleration of price competition facing its funeral business. The Board is therefore taking decisive action on its funeral pricing strategy with a view to protecting market share and repositioning the Group for future growth. Consequently, the Board believes that the results for the period ending 28 December 2018 will be substantially below the market's current expectations"*.⁶ As shown in its 2018 Annual Report and Accounts, Dignity experienced a decrease in operating profit of 32% between 2017 and 2018 (a decline of £31.7 million), and its

⁴ See <https://www.dignityfunerals.co.uk/about-dignity/what-our-clients-say/>. Based on 29,884 completed at-need customer surveys received in 2018.

⁵ Pre-close trading update and market positioning, available at: <https://www.dignityfunerals.co.uk/corporate/news-media/news/press-releases/2018-01-19/1077/pre-close-trading-update-and-market-positioning/>.

⁶ Ibid. On 14 March 2018, Dignity further reported that *"The business model for the Group's funeral business is changing as the Board focuses on protecting market share by introducing new service offerings and price points. As indicated in January, the Board believes that whilst the combination of action being taken will lead to substantially lower profits in 2018, it should create a new platform to allow many years of further stable growth"* (Dignity plc preliminary results for the 52 week period ended 29 December 2017).

average revenue per funeral reduced from £3,222 to £2,973.⁷ Dignity expects its average revenue per funeral to decrease further in 2019 to approximately £2,940.⁸

3. The sector characteristics identified by the CMA in the Issues Statement

Summary

3.1 Dignity agrees with the majority of the high-level observations set out by the CMA in the Issues Statement on the sector's characteristics.⁹ However, as explained in detail below:

- (i) In respect of both funeral director and crematoria services, the market is undergoing change that may mitigate the effects of customer vulnerability, in particular a move towards greater transparency of prices and services.¹⁰ Dignity suggests that the CMA consider whether further steps could be taken to improve the quality of information available to customers and the ability of customers to shop around;
- (ii) Customers expect and value a highly personalised funeral service, and to respond to this demand while charging a fair price Dignity is moving towards an increasingly unbundled offering in funeral director services; and
- (iii) Competition in crematoria services is driven by quality factors such as slot timing and length, quality of experience, and convenience of access, not only by price. An assessment of competition in this sector will need to compare like-with-like and take into account quality and cost pressure differences between suppliers.

The market is undergoing change that mitigates the effects of customer vulnerability

3.2 Whilst many customers are emotionally vulnerable at the point of purchase of an at-need funeral service, the funeral sector is undergoing changes in how services are purchased that alleviate some of the impact. In particular, it is increasingly the case that decisions are not made in the immediate aftermath of a bereavement. Many customers (both those considering their own funeral and their families) are engaging in advance planning, whether through the arrangement of pre-need plans or through research on funeral providers in advance of a death. The Funeral Planning Authority has found that the number of undrawn pre-arranged plans in the UK more than doubled between 2010 and

⁷ Dignity plc Annual Report and Accounts 2018, pages 2, 10 and 11.

⁸ Dignity plc Annual Report and Accounts 2018, page 38.

⁹ Issues Statement, paragraph 56.

¹⁰ In this submission, Dignity uses the word 'customer' to refer generally to both customers planning their own funerals and bereaved families/friends purchasing a funeral for someone else at the point of need or in advance of need, except where a category of customer is noted specifically.

2018.¹¹ Moreover, Dignity's experience is that around [...] % of customers arranging a funeral have previously been personally involved in organising at least one funeral.¹²

- 3.3 Customer use of the internet when arranging a funeral is also increasing (see paragraph 4.6), and the sector is moving towards greater transparency of prices and services, which can help to mitigate the effect of customer vulnerability by making the purchasing process clearer and more straightforward, and by facilitating advance planning. For example, in addition to providing prices at its premises and in response to telephone enquiries, Dignity already publishes all of its crematoria prices online, as well as the prices of its Simple Service and Full Service / Tailored funeral director services on its local funeral director websites. With effect from January 2019, all of Dignity's funeral directors nationwide offer a full service funeral for a fixed maximum price.¹³ Online reviews of services have been available for all of Dignity's funeral director regions since late April 2019.¹⁴
- 3.4 Dignity recognises, however, that there is a need for greater industry-wide action in this regard, and believes that the focus of the CMA's investigation should be how best to improve the ability of customers to exercise actively the choice that already exists.

Customers expect a highly personalised offering and the range of services offered by funeral directors is increasing

- 3.5 As the CMA has recognised, there are large numbers of providers of funeral director services.¹⁵ There are around 7,000 funeral director locations in the UK¹⁶ and there was an estimated 12% rise in the number of funeral director premises on the high street in the three years to 2017.¹⁷ In the Market Study the CMA identified that no one supplier has a market share of over 16%, while Dignity has a national market share of just 11%.¹⁸ Further, there are no material barriers to entry for funeral directors; research commissioned by Dignity in 2018 concluded that *"there are no barriers to entry to*

¹¹ <https://funeralplanningauthority.co.uk/statistics/>: the number of undrawn plans has increased from 635,501 in 2010 to 1,385,900 in 2018. The number of plans sold increased year-on-year from 2006 to 2017, when 207,700 plans were sold. In 2018, the number of plans sold decreased to 177,000; however, as noted in its 2018 Annual Report and Accounts (page 21), Dignity considers that this decrease is an anomaly in the general market trend of year-on-year growth since 2006. Dignity attributes the decline in 2018 to a market reaction to heightened negative press and HM Treasury announcing its consultation into pre-paid funeral plans.

¹² Consumer research [...].

¹³ All of Dignity's funeral director locations offer a full service funeral for no more than £3,545 plus disbursements (see Dignity plc Annual Report and Accounts 2018, page 18).

¹⁴ Dignity first introduced online reviews in July 2018 and completed the roll-out across all regions by late April 2019.

¹⁵ Issues Statement, paragraph 56(e).

¹⁶ Trajectory report, *"Time to talk about quality and standards"* (provided to the CMA at the Market Study stage), page 4.

¹⁷ Trajectory report, *"Time to talk about quality and standards"*, page 4.

¹⁸ Market Study Final Report, paragraph 3.21, and Dignity plc Annual Report and Accounts 2018, page 38.

becoming a Funeral Director, no regulation, weak minimum standards and little or no enforcement mechanisms where industry “standards” are not met.¹⁹

- 3.6 Alongside the large number and diversity of funeral director providers, the range of services offered by funeral directors is growing in response to increasingly diverse customer demands.²⁰ Research shows that customers value the ability to build a bespoke funeral and see it as “essential” that “*funeral directors communicate the full range of options to arrangers – including low cost and more bespoke options*”.²¹ Price dispersion in terms of the final price paid by customers is therefore to be expected, as customers choose the service and price level that is appropriate for them. As recognised by the CMA in the Market Study, the introduction in recent years of simple and low cost options for consumers has been “*the most visible manifestation of change in the competitive dynamics*” of the sector.²²
- 3.7 Dignity has been trialling a tailored funeral with “configurator” pricing to respond to this demand: customers can select relevant services from a fully unbundled and transparent price list, rather than paying a single package price for pre-bundled services.²³ This is intended to give customers greater flexibility and improve transparency of the cost of unbundled products, in turn encouraging customers to undertake their own online research and shop around.²⁴
- 3.8 Dignity is already able to accommodate a significant degree of customisation, including customer use of third-party providers of flowers and coffins, for example. Dignity considers that it is a mischaracterisation, therefore, for the CMA to refer to funeral directors as “*gatekeepers*”;²⁵ as far as Dignity is concerned, its funeral directors act as facilitators to enable customers to select the appropriate services for their needs. Dignity does not award sales-based commissions that would incentivise a funeral director to push a customer to choose more than they need or can afford. Dignity’s sales practices are designed to support the customer: staff are fully trained and compassionate, there are no up-selling incentives and there are information mechanisms in place to ensure that the customer is fully informed of the choices they have made at all stages (including a written estimate and a cooling-off period).
- 3.9 These changes in the market could be built upon and augmented to mitigate the extent to which vulnerability of customers affects the way in which funeral director services are

¹⁹ Trajectory report, “*Time to talk about quality and standards*”, page 4. The CMA has also noted in paragraph 56(h) of the Issues Statement that entry is not subject to any registration or licensing obligations (Dignity notes that even embalming does not require certification).

²⁰ See Trajectory report, “*Time to talk about quality and standards*”, page 39: “*Alternative types of funeral – from DIY funerals to direct cremation - are gathering pace, reflecting a desire from some to do funerals differently*”.

²¹ Trajectory report, “*Time to talk about quality and standards*”, page 8.

²² Market Study Final Report, paragraph 4.68.

²³ Dignity plc Annual Report and Accounts 2018, page 24.

²⁴ Ibid, pages 24 and 38.

²⁵ Issues Statement, paragraph 56(b).

purchased. This could be done by building on enhanced transparency and empowering other intermediaries or third parties to support customers to consider their options in advance of need.

Competition in crematoria services is driven by quality factors and not only by price

3.10 There is a wide range of crematoria operators in the market, and there have been close to 50 new crematoria built in the past 10 years.²⁶ However, the CMA is right to identify that the majority (over 60%) of crematoria are owned and operated by local authorities, which deliver approximately 70% of cremations.²⁷

3.11 This landscape is characterised by:

- (i) Significant regulatory barriers to entry, in particular planning restrictions. At present, most new crematoria must be built on greenbelt land, but planning applicants in the greenbelt must be able to justify a new build as a “*very special circumstance*”.²⁸ This raises significant barriers to new developments in catchment areas where there are existing facilities. Moreover, the planning application process is run and controlled by local authorities, who are often also the owners and operators of existing crematoria facilities in the local area;²⁹
- (ii) High capital costs and sunk costs associated with new developments, which can restrict the commercial viability of new entry by private operators unless there is a clear market opportunity. Although they own the vast majority of crematoria, local authorities face different (lower) cost and tax obligations than private crematoria operators which can make it harder for a private operator to build a business case for entry.³⁰ For example, private sector operators are subject to irrecoverable VAT on new build construction, which local authority-backed projects may not incur;
- (iii) The fact that many crematoria operators, both public and private, also own adjacent cemeteries. These have high long-term maintenance costs that are typically cross-subsidised by the crematoria revenues; and
- (iv) Significant innovation in business models through the growth of direct cremation services, which offer a nationwide service, some with their own crematoria and

²⁶ Market Study Final Report, paragraph 5.69.

²⁷ Issues Statement, paragraphs 56(f) and Market Study Final Report, paragraph 2.12; Trajectory report, “*Cost, Quality, Seclusion and Time*”, page 9 (provided to the CMA during the Market Study): 182 of the 292 crematoria in the UK in 2017 were operated by local authorities.

²⁸ National Planning Policy Framework (February 2019), paragraphs 143 to 145.

²⁹ Private operators may therefore also be subject to further increased costs when undertaking a new development, if a planning application goes to an appeal.

³⁰ Some local authority-run crematoria are of a lower quality standard than privately-operated crematoria. In the consumer research commissioned by Dignity in 2018, local authority crematoria accounted for 16 of the bottom 20 crematoria that were ranked based on their ability to meet customer needs (Trajectory report, “*Cost, Quality, Seclusion and Time*”, page 5).

some which use crematoria belonging to other providers.³¹ Direct cremation has been increasing in importance in recent years and challenging the traditional model of customers holding a cremation and funeral service at the same time, as well as exerting a competitive constraint on traditional crematoria services on a nationwide basis. Direct cremation allows customers to separate the cremation (and the immediate need to dispose of the deceased's body) from a remembrance service, which families can organise in their own time with greater flexibility. Dignity offers a direct cremation product (Simplicity Unattended) as part of its Simplicity range of cremation services. The Simplicity range offers three levels of service, with content and pricing fully visible online, and with consistent pricing nationwide. It offers the lowest priced nationally available attended cremation service in the UK.³² Simplicity and similar low cost crematoria services products in the market increase choice for customers and are more easily comparable in terms of both price and service.

- 3.12 In considering competition in crematoria services, including price differentials between suppliers, the CMA will understand the need for like-for-like comparisons. Differences between suppliers in quality and cost obligations must be taken into account to make a fair and consistent comparison between them. In particular:
- (i) Pricing is influenced by the time slot at the crematorium. The availability of service slots creates constraints on crematoria capacity: for example, customers often prefer slots on certain days and at certain times of day, regardless of lower cost options being available at alternate times on the same day;³³
 - (ii) As shown by the consumer research commissioned by Dignity in 2018, time and privacy is of the utmost importance for customers.³⁴ Dignity does not charge 'over run' fees when cremation slot times are exceeded, which may be charged by other operators. Dignity offers slots of 60 minutes at the majority of its crematoria and its minimum slot length is 45 minutes.³⁵ In contrast, crematoria operators that offer shorter slots may offer lower prices given the increased number of services that they can accommodate in a day, but they do not offer the same value to customers in terms of time and privacy. The CMA noted in the

³¹ For example, Pure Cremation, which dedicated its business model exclusively to direct cremations in 2015, serves the whole of England and Wales from its base in Newbury, Berkshire. It has invested in a new-build crematorium in Andover in Hampshire, which is due to open for cremations in Q2 2019 (see <https://www.charltonparkcrematorium.uk/>).

³² Unattended, Intimate (up to 12 attendees) and Attended (unlimited attendees), starting from £1,395. The pricing for each level is displayed prominently on the Simplicity website homepage: see <https://www.simplicity.co.uk/>.

³³ At the vast majority of Dignity's crematoria (38 out of 46), a 9:30am slot is between 15-25% cheaper than the full cremation fee. For example, at the South London crematorium a 9:30am slot is 22% cheaper than the full cremation fee; while at the Surrey and Sussex crematorium it is 15% cheaper.

³⁴ Trajectory report, "*Cost, Quality, Seclusion and Time*".

³⁵ Dignity plc Annual Report and Accounts 2018, page 11.

Market Study that private providers offer, on average, longer slots and more time in the chapel than public sector providers;³⁶

- (iii) Dignity's fee is inclusive of all of the elements of a cremation, whereas local authority and some other private operators' quoted prices often do not include certain essential charges, such as abatement charges, and other common charges such as the cost of an ashes container or excess charges on chapel time;
- (iv) A material proportion of Dignity's revenues in its crematoria business derive from the sale of memorials, for which customers have wide-ranging choices both of providers and products.³⁷ Public sector providers have not innovated in these services to the same degree;³⁸ and
- (v) There is a competitive tendering process for the operation of some local authority-owned sites by private operators, in which local authority-designed contracts can exert pro-customer restraints on the winner of the tender. For example, the tender for a contract awarded by North Somerset Council to Dignity commencing on 1 April 2010 included a scoring element dedicated solely to how the provider would deliver services to meet customer needs;³⁹ while the contract between Rotherham Metropolitan Borough Council and Dignity requires that in setting fees for services, Dignity must have regard to customers' budgets.⁴⁰

4. The theories of harm identified by the CMA

TOH 1: The difficulties people have in engaging with the funerals purchasing process

- 4.1 The CMA's first theory of harm is that funeral directors have weak incentives to cut prices, raise quality, or innovate, because of the difficulties that customers have in engaging with the funerals purchasing process.⁴¹ Whilst it is clearly the case that consumers may find the purchase of a funeral to be difficult and distressing, Dignity's experience is that customers can engage with the purchasing process, and changes in the market are making this easier for customers, despite the circumstances. Moreover, it is clearly not the case that such difficulties have resulted in weak incentives on funeral directors to cut

³⁶ Market Study Final Report, paragraph 5.14.

³⁷ Sales of memorials account for over 15% of Dignity revenues in its crematoria business. As more than 80% of customers choose to take the ashes away (based on Dignity memorial sales data), Dignity faces substantial competition when seeking to sell memorials.

³⁸ For example, Dignity took over responsibility from Rotherham Metropolitan Borough Council ("**MBC**") for the operation of Rotherham crematorium. Under Rotherham MBC's ownership, it achieved revenue of £33,508 from memorials (in 2007/2008). Dignity undertook additional capital investment in memorial provision and increased revenue from memorials to £224,183 in 2009/2010 and £248,089 in 2010/2011.

³⁹ See <http://apps.n-somerset.gov.uk/cairo/docs/doc19705.pdf>.

⁴⁰ See section 3.5, <https://moderngov.rotherham.gov.uk/documents/s108404/Dignity-Rotherham%20MBC%20Contract%20Performance%20Update.pdf>.

⁴¹ Issues Statement, paragraph 70.

prices, raise quality, or innovate: in fact, the behaviour of suppliers in the market shows that the opposite is happening.

Difficulties in engaging are reducing

- 4.2 In its investigation of this hypothesis and how customers behave, it will be important for the CMA to take into account the evidence showing the increasing prevalence of pre-paid funeral plans, and the possibility that decisions on funeral arrangements can be made in advance of a death, even without purchase of a specific plan. In addition, as described further below, there is evidence that an increasing number of customers purchasing at-need are shopping around, and there is an increasing use of online search.
- 4.3 There are now in excess of 1.3 million undrawn pre-need funeral plans in place (compared to just over 500,000 in 2008),⁴² in respect of which customers shop around and choose their preferred plan from a range of suppliers, under no time pressure and at a time when they are not vulnerable (see also paragraph 3.2 above). Although the CMA has excluded the sale of pre-need funeral plans from the scope of its investigation, it would be artificial not to consider the role of pre-need suppliers in enhancing choice and competition across the sector. Customers may also make decisions on funeral arrangements (for themselves or for friends/relations) in advance of a death, without the purchase of a pre-paid funeral plan.⁴³
- 4.4 The CMA, in drawing conclusions from its consumer survey in the Market Study, appears to have underestimated the extent to which customers shop around for funeral director services.⁴⁴ In contrast, consumer research available to Dignity shows that [...] % or more of customers consider more than one funeral director,⁴⁵ and of these more than [...] ([...] %) in fact contacted two or more.
- 4.5 Information available to Dignity on its “conversion rate”, meaning the percentage of customer enquiries that result in the purchase of funeral director services, also supports the view that customers shop around for these services. From April 2018 to March 2019, Dignity’s conversion rate per month ranged from just [...] % to [...] % (see Figure 4.1 below).⁴⁶ Even at the highest conversion rate during that period, around [...] of customer enquiries to Dignity did not result in a purchase, indicating that those customers also approached (and ultimately purchased from) alternative suppliers. Dignity encourages

⁴² <https://funeralplanningauthority.co.uk/statistics/>. In 2017, 89,800 funeral plans were drawn down, representing approximately 15% of the 607,000 deaths in the UK in that year.

⁴³ In consumer research [...].

⁴⁴ One reason for the difference in interpretation appears to be that the CMA, in calculating the percentage of respondents who shopped around, has included in the denominator (but not the numerator) cases where the deceased had already chosen a funeral director (meaning the selection process did not take place at the point of need).

⁴⁵ A rolling quarterly survey conducted by Market Monitor found that around 40% of over 700 respondents in 2018 had looked at more than one funeral director at the point of arranging a funeral. A 2018 survey [...] found that [...].

⁴⁶ Dignity notes that this data is indicative only, as it may not capture situations where an initial enquiry is made by one family member, but the subsequent purchase of the funeral is made by a different family member. Dignity notes that this data also includes inquiries in relation to pre-need plans.

the CMA to gather concrete data in its investigation on the conversion rates of other suppliers.

Figure 4.1
Conversion rate of customer enquiries to Dignity
April 2018 to March 2019

[...]

- 4.6 The internet is also an increasingly important source of new business. The number of Dignity customers starting their purchasing journey online has increased from 2% in 2012 to 48% in 2018, and overall there has been a 7.2% increase from 2016/17 to 2017/18 in the use of search terms related to arranging a funeral.⁴⁷ The trend towards online as a first port of call is steadily increasing, and this increase can be expected to continue as consumer purchasing habits increasingly move online more generally.⁴⁸ Dignity witnessed approximately [...] increase in online traffic to its website in April 2019 when compared to April 2018. Dignity received [...] and [...] phone call enquiries generated from its website in January 2018 and February 2018 respectively, which increased to [...] in January 2019 and [...] in February 2019, an increase of 14-18% (see Figure 4.2).

Figure 4.2
Customer phone enquiries to Dignity generated through its website

[...]

Funeral directors' incentives are to price competitively and increase innovation

- 4.7 The hypothesis in the Issues Statement that funeral directors have weak incentives to cut prices is inconsistent with the changes in the market that have taken place over the last three years. For instance, Co-op introduced their national Simple funeral at a lower price of £1,995 in February 2016. In November 2016 Dignity introduced Simplicity Cremations and in January 2018 Dignity *lowered* the price of its Simple funeral package nationwide.⁴⁹ As the CMA has itself recognised (and deemed to be “*the most visible manifestation of change in the competitive dynamics*” of the sector),⁵⁰ large suppliers have recently introduced low cost, simple funeral options.

⁴⁷ See Dignity response to Market Study statement of scope, page 5.

⁴⁸ Indicative of this trend, over 60% of Dignity’s website traffic now comes from mobile devices (Dignity plc Annual Report and Accounts 2018, page 4).

⁴⁹ Simple funeral prices were reduced by 25% from £2,700 to £1,995 in England and Wales (or £1,695 in Scotland) (Dignity plc Annual Report and Accounts, pages 16 and 18).

⁵⁰ Market Study Final Report, paragraph 4.68.

- 4.8 Dignity disagrees with the CMA's conclusion in the Market Study Report that the majority of customers do not consider low cost funerals to be good alternatives to other, more expensive offers.⁵¹ In particular, this conclusion is not reflected in Dignity's data. For example, in respect of cremation services (a key element of the overall funeral costs for those choosing cremation instead of burial), Dignity has seen a 535% rise in online traffic to its Simplicity Cremations website in 2018 compared to 2017, and more than twice the number of people chose to buy its Simplicity Cremations services in 2018 than in 2017.⁵² This trend is continuing: in Q1 2019 Dignity has seen a 250% increase in sales of Simplicity direct cremations compared to Q1 2018. The CMA's conclusion is also not reflective of the growth in direct cremations (both attended and unattended) in the market more generally, as described at paragraph 3.11 above, which is also consistent with the overall trend to unbundle services and for customers to seek bespoke arrangements.
- 4.9 In respect of standard funeral services, there is significant variation in quality across the market, which may be reflected in the price. There is more to a funeral than arrangement of the service itself: to provide a quality service a funeral director must, *inter alia*, provide 24 hour coverage, have appropriate storage facilities and be able to accommodate long-term storage requirements, provide guidance and compassionate support to the persons arranging the funeral, and deal with unexpected issues. The clear message from customer feedback is that quality, in particular in terms of care of the deceased, is extremely important to customers.⁵³ However, certain aspects of quality (such as care of the deceased and provision of safe mortuary facilities) may not be observable by customers. Lower quality suppliers may not, therefore, be supplying customers with the service that customers think they are receiving.⁵⁴ Dignity believes that the CMA will find that there is sufficient evidence to support the introduction of minimum quality standards to address this issue, particularly in relation to unobservable factors – see further paragraphs 5.18 to 5.23 below.
- 4.10 As explained in paragraph 3.6 above, customers value choice and personalisation of services, and quality differentials are important in providing that personalisation. Dignity has sought to position itself as the market leader in terms of quality options available to the customer.⁵⁵ The importance that Dignity attaches to this is reflected in the significant time and resource that Dignity invests in measuring and monitoring quality through detailed customer satisfaction surveys that are provided to customers.⁵⁶

⁵¹ Issues Statement, paragraph 77.

⁵² Dignity plc Annual Report and Accounts 2018, page 7.

⁵³ Trajectory report, "*Time to talk about quality and standards*", page 20: amongst both funeral arrangers and funeral attendees, 95% say that care of the deceased is either very or quite important.

⁵⁴ 92% of customers expect there to be some form of regulation in the funeral director services market, but there is not (Trajectory report, "*Time to talk about quality and standards*", page 7).

⁵⁵ From its experience of acquiring third party facilities, it is clear to Dignity that the quality of services provided varies significantly across the industry in both funeral director and crematoria services.

⁵⁶ In 2018, 99.9% of respondents thought that the Dignity staff were respectful; 99.2% agreed that the Dignity staff had fully explained what would happen before and during the funeral; and 98.9% said that Dignity had met or exceeded their expectations (see <https://www.dignityfunerals.co.uk/about-dignity/what-our-clients-say/>).

4.11 Contrary to the CMA's hypothesis, market conditions have resulted in increasing innovation by suppliers. As described in paragraphs 3.6 and 3.11 above, there are a wide range of funeral types available in the market, and in particular direct cremation services have grown in importance in recent years. Dignity has been a leader in innovation; for example:

- (i) In providing additional customer services, such as by introducing a complementary online funeral notice service in July 2017 across its funeral homes nationally to respond to increasing customer preferences for communicating online,⁵⁷ and providing customers with complementary legal services to assist in dealing with the practicalities of a bereavement;⁵⁸ and
- (ii) In introducing new products and pricing structures, most notably its new tailored service, with a lower entry price, fully unbundled online pricing, and the flexibility for customers to fully customise all aspects of the funeral service.

Customers exercise choice in selecting cremation services, for example, by travelling further to a crematorium of higher quality

4.12 Dignity supports the CMA's proposal to consider the extent to which people are prepared to travel further to a better value for money crematorium,⁵⁹ and it is Dignity's experience that many customers do behave in precisely that way.

4.13 Figure 4.3 below shows the locations of the deceased that were cremated at Dignity's Randall's Park crematorium in 2017, for example, and demonstrates that many customers are willing to travel significant distances, even where there are closer crematoria facilities (for instance, for customers located near London, Guildford or Woking shown on the map below).

Figure 4.3
Randall's Park cremation volumes and distances travelled by customers (2017)

[...]

4.14 Dignity also notes that customers are willing to have the cremation service at locations separate to where the deceased is actually cremated. This allows innovative business models without the need to invest in cremator infrastructure. Dignity encourages the CMA to explore ways in which innovative new entry can be encouraged and facilitated (see paragraph 5.28 below).

⁵⁷ See <https://www.dignityfunerals.co.uk/corporate/investors/news/press-releases/2017-07-07/859/dignity-funerals-pilots-new-interactive-online-funeral-notices-service/>.

⁵⁸ See <https://www.dignityfunerals.co.uk/legal-services/>.

⁵⁹ Issues Statement, paragraph 76.

TOH 2: Firm behaviours in the supply of funeral director services

- 4.15 The CMA's second hypothesis is that consumer difficulties in engaging with the funeral purchasing process potentially result in a muted response from suppliers to competition; and that suppliers' behaviours may further reduce customer engagement. The CMA has specifically referred to the following perceived behaviours,⁶⁰ which do not reflect Dignity's own sales practices:
- (i) Suppliers' "*reluctance to publish/disclose clear prices*" and "*ineffective self-regulation in relation to online prices*": as described in paragraph 3.3 above, Dignity already publishes its prices online, which improves customers' ability to compare suppliers effectively and its Simplicity cremation services have nationally consistent, inclusive prices published online for each service level.
 - (ii) An "*ability of suppliers to largely control the decision-making process*": as described in paragraph 3.6 above, Dignity is trialling a "configurator" pricing model whereby customers can select unbundled services from a transparent price list, meaning that they are fully in control and have complete clarity on how the price of the funeral is calculated. Further, as described in paragraph 3.8, Dignity does not award sales-based commission to its funeral services employees, meaning that there is no incentive to up-sell. Dignity also has information mechanisms in place to ensure that the customers are fully informed about the cost of the funeral and options available at all stages (see paragraph 3.8); and
- 4.16 Dignity considers that the steps that it has taken towards greater transparency and unbundled offerings would, if replicated across the sector, help to address the CMA's concerns. Dignity agrees, however, that industry-wide improvement is required, and has advocated for minimum standards in terms of service quality and customer care. In particular, Dignity agrees with the submissions referred to by the CMA in paragraph 85 of the Issues Statement, that standards of quality adopted by some funeral directors are unacceptably low (see paragraph 4.9 above). In particular, there can be a wide variety in quality of unobservable "back-of-house" facilities, with not all funeral directors providing storage for the deceased in a safe and dignified mortuary, for example.
- 4.17 The CMA has also pointed to "*sales practices that limit the ability of customers to switch between suppliers, such as local agreements with healthcare institutions resulting in the body of the deceased being moved to a funeral director's premises and large charges for collection/storage if the body is subsequently moved to an alternative funeral director*".⁶¹ Dignity notes that, although not a regular occurrence, it is not unusual for a bereaved family to change funeral director even after the deceased has been brought into care, in particular where the death has taken place in circumstances where removal of the deceased needs to be organised quickly.⁶² Customers can switch funeral directors after

⁶⁰ Issues Statement, paragraphs 82 and 83.

⁶¹ Issues Statement, paragraph 86(b).

⁶² There are a variety of reasons for this, *inter alia* (i) where a funeral director receives an out-of-hours call to remove the deceased from a third party (such as a GP, care home or neighbour), before the deceased's or bereaved family's choice of funeral director is ascertained. This may be the case where a preferred funeral director is named in the deceased's

the funeral arrangements have been made (and when doing so can take the crematorium or cemetery booking with them, to retain the chosen day and time for the funeral). Dignity's practice is not to charge the customer for the associated costs of collection, storage, medical certificate fees and other costs if the deceased is subsequently moved to an alternative provider, but to approach the alternative funeral director for those costs (although it is not always successful in reclaiming those costs).⁶³ Given the level of distress involved with bereavement, Dignity would welcome an industry-wide move for this practice to become standard.

TOH 3: Market structure and barriers to entry in the supply of crematoria services

- 4.18 The CMA's third theory of harm is that the limited number of crematoria in each local area (in part driven by high barriers to entry arising from the planning regime and high fixed costs) means that each crematorium faces weak competition and has weak incentives to cut prices, or improve quality and range.⁶⁴
- 4.19 The CMA is right to identify that there are high barriers to entry for new crematoria: as described in paragraph 3.11 above, these are driven by (i) regulatory (planning) barriers; and (ii) the high sunk capital costs and sunk costs associated with new developments, meaning that new entry may not be commercially viable unless there is a clear market opportunity. There is interest among private sector operators to invest in new sites, but the challenges of the planning regime (the fact that applicants in the greenbelt must meet the threshold of a "*very special circumstance*"); conflicting incentives for local authorities with respect to planning decisions; the lack of a level playing field between private and public operators; and high sunk costs, mean that there is weak commercial incentive to invest in the majority of locations. Were the planning barrier to be removed and measures put in place to ensure that conflicting local authority incentives do not disadvantage private sector investment, Dignity expects that there would be more market entry than is the case today in areas where there is sufficient demand to make this commercially viable.
- 4.20 However, it is not necessarily the case that every crematorium faces weak competition as a result. Nor is it the case that crematoria operators have no incentives to cut prices, or improve quality or range. Indeed, Dignity has done exactly that and introduced new products to lower prices and extend its range: its new Simplicity cremation service is the lowest price service of its kind in the UK. Further, suppliers, including Dignity, typically offer lower prices for slots at times of lower demand (see footnote 33). There has also

will, but the will is not available at the moment of death. There may also be confusion as to the deceased's or family's choice of funeral director (for example, confusion over trading names); (ii) where there is a dispute about choice of funeral director between family members; (iii) where a funeral director is not able to accommodate the bereaved family's wishes in terms of delivering the funeral on a specific date or at a specific time; (iv) where a funeral becomes the responsibility of a local welfare or local authority scheme; or (v) where the funeral director is storing the deceased on behalf of the local hospital or coroner or as an agent for repatriation.

⁶³ In the reverse situation (i.e. if a customer switches to Dignity after the deceased had already been moved to a different funeral director), Dignity would not charge any additional fees for collection of the deceased from the other funeral director (as collection during working hours is already covered by Dignity's standard fees). If the other funeral director approaches Dignity to request payment of its call-out and collection fees, Dignity's practice is to pay the other funeral director and not pass those charges to the customer.

⁶⁴ Issues Statement, paragraphs 91 and 92.

been growth in alternative business models: it is possible for a provider who does not own a crematorium to provide services typically provided by crematoria such as chapel and memorial services, meaning that competition takes place in a broader universe than crematoria operators alone.

- 4.21 In terms of the competitive landscape, location is an important factor in a customer's choice, but many customers are in marginal areas served by more than one crematorium, where competition is based also on slot length, availability and other quality factors, including standard of crematoria grounds or facilities.
- 4.22 In addition, all crematoria increasingly face competition from direct cremation services (which are growing in importance), where competition is not dependent on geographic proximity. Customers of direct cremation services may not be aware of where the cremation takes place, which may be in a different region of the country. Providers of direct cremation services may use their own crematoria or can shop around on a national basis for crematoria to meet their requirements.
- 4.23 The increase in alternative funeral service options at non-crematorium locations also means that crematorium chapel slot times may become less of a constraint on crematoria capacity, as customers could choose to hold the funeral service elsewhere and use the direct (unattended) cremation option.⁶⁵

5. The potential remedies identified by the CMA

Summary

- 5.1 Dignity's comments on the categories of potential remedies identified by the CMA are set out in this Section 5. In particular, Dignity considers that the evidence will support the introduction of appropriate quality standards, in particular to ensure a level playing field that both protects consumers and allows for fair competition.
- 5.2 Dignity also welcomes the CMA's proposals to explore ways to improve transparency, encourage people to consider their options before the point of need, and make it easier for customers to shop around. Dignity notes the CMA is already aware of the work that is being done by suppliers in this area; for example, through the Working Group. Any transparency measures should focus on both price and quality, as to make an informed choice customers need to understand the value for money of the services on offer.
- 5.3 Dignity would also support appropriate measures to open up the market, in particular to remove the high regulatory barriers to entry that exist in the crematoria sector.
- 5.4 Dignity does not consider that the evidence it has seen supports the introduction of a price or charging remedy, which is a measure of last resort, in particular given the

⁶⁵ For example, Kemnal Park Cemetery and Ceremonial Park offers a chapel-only cremation service, after which the deceased is transported to a crematorium at another location for an unattended cremation: <https://kemnalpark.org/cremation/>.

availability of alternative measures that would more appropriately address the underlying cause of any AEC that the CMA may find.

Improving transparency and helping people make good choices

- 5.5 Dignity welcomes the CMA's proposal to explore ways (i) to encourage people to consider funeral arrangements before the point of need; and (ii) to make it easier for customers to exercise active choice, including exploring the role of intermediaries.⁶⁶ As outlined in paragraphs 3.3 and 3.7 above, Dignity has actively been working to increase transparency both of its own prices (through its commitment to publish all of its prices online by the end of 2019 and through its trials of unbundled and transparent "configurator" pricing) and in advocating for cross-industry improvements, including through the Working Group. Dignity considers that increased transparency will lead to increased shopping around by customers.
- 5.6 Dignity would also welcome proposals to empower intermediaries such as care homes, hospices and hospitals,⁶⁷ to support customers in making choices. For example, the CMA could require that its guidance to consumers published on 28 March 2019 is provided by intermediaries to customers at an appropriate time (for example, when making a will, or to bereaved families immediately after a death), and that intermediaries encourage customers to consider their options before the point of need, in particular in terms of comparing both price and quality factors.
- 5.7 Dignity would support appropriate measures aimed at improving market transparency to assist consumers in accessing and assessing information on the different options available to them in order to identify the most appropriate choice for them. Were the CMA to consider that there was sufficient evidence to support intervention, any measure introduced to increase transparency must apply equally to all suppliers in order to be effective. Dignity also encourages the CMA to consider the extent to which transparency measures would also need to be applied to pre-paid funeral plans, which are an important part of the market.⁶⁸
- 5.8 It is also important that any measures focus on both price and quality, and not just price alone; to make an informed choice customers need to understand the value for money of the services on offer. Funeral director and crematoria services are not homogeneous commodities, and any measures must recognise the significant variation in the quality of services in the market, as well as maintaining customers' ability to purchase tailored products should they wish to do so. Measures to improve transparency of prices alone could result in an unintended consequence of erosion of unobservable quality factors and

⁶⁶ At paragraph 122(b) of the Issues Statement, the CMA has requested views as to why recommendations from previous Office of Fair Trading reviews appear not to have been implemented or effective. While it is not in a position to comment on implementation across the industry more generally, Dignity notes that it fully complied with the recommendations in its own business.

⁶⁷ Between Q3 2017/2018 and Q3 2018/2019, 45.5% of deaths were registered at hospitals; 5.8% were registered at hospices; and 22.5% were registered at care homes (Office for National Statistics, <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/adhocs/009673rollingannualeathregistrationsbyplaceofoccurrenceenglandperiodendingquarter3octodecoffinancialyear2018to2019>).

⁶⁸ There were 1,385,900 undrawn pre-paid plans as at 2018; see footnote 11.

value for money for customers. In addition, it would be important for consumers to be fully aware of the quality of observable factors included in the cost, for example the number and type of vehicles that would be provided as hearses.

- 5.9 For that reason, Dignity considers that, if transparency measures are considered appropriate, they should be implemented alongside the introduction of minimum quality standards, particularly in relation to unobservable aspects of the services provided - see paragraph 5.23 below. In terms of the scope of its investigation, Dignity encourages the CMA to reconsider investigating the relationship between quality and price differentials (as it has rejected in paragraph 64 of the Issues Statement). It is important for the CMA to understand the interaction of price and quality (i.e. value for money) in customer decision making.

Price / charging remedies

- 5.10 The CMA's guidance notes that price controls may be appropriate "*particularly where it is not possible to identify effective ways of addressing the causes of the AEC or where competition-enhancing measures are likely to take a long time to remove the customer detriment that results from the AEC*".⁶⁹ As the CMA has recognised in the Issues Statement, a price / charging remedy would seek to restrict the customer detriment arising from an AEC, rather than addressing the underlying cause of the AEC itself.⁷⁰ Dignity notes the CMA's general policy of not using such remedies unless other, more effective, remedies are not feasible or appropriate.⁷¹
- 5.11 Dignity is of the view that the CMA should consider remedies that work with market incentives to address the underlying cause of any AEC that it finds. Dignity does not consider that the evidence it has seen supports the introduction of a price or charging remedy as being necessary and proportionate. Such remedies should only be used as a last resort where there is no alternative less restrictive measure that would address the underlying cause of any AEC.
- 5.12 The characteristics of the funerals sector can be distinguished from those in sectors in which the CMA has previously considered price regulation to be appropriate. For example, in 2016 the CMA introduced a price cap for prepayment customers following the energy market investigation, to control prices during an interim period (2017 to the end of 2020) while the other remedies arising from that investigation took full effect; and in 2014 the FCA introduced a price cap on the initial interest costs, fixed default fees and total costs that could be charged by pay-day lenders.⁷² The supply of retail energy and the provision of short term loans are homogenous services, meaning that a temporary price control could be implemented across all suppliers with limited complexity, and there

⁶⁹ Competition Commission Guidelines for market investigations: *Their role, procedures, assessment and remedies*, April 2013 ("**Market Investigation Guidance**"), Annex B: Remedial action, paragraph 88.

⁷⁰ Issues Statement, paragraph 123.

⁷¹ Market Investigation Guidance, Annex B: Remedial action, paragraph 89.

⁷² The FCA reviewed the pay-day lending price cap in 2017 and decided to leave it in place and review it again in 2020.

would not be a material risk of the suppliers seeking to circumvent the cap by reducing quality.

- 5.13 By contrast, as explained in paragraph 3.6 above, funeral director services are highly differentiated,⁷³ and customers value that differentiation and the ability to select a tailored service. As described in paragraph 4.16 above, there can also be a wide variety in quality of unobservable “back-of-house” facilities. This means that a price control remedy could be vulnerable to specification risks. The Market Investigation Guidance notes that defining appropriate parameters may be complex and impractical where the relevant services are differentiated rather than homogenous, which would increase the complexity of the price control in order to capture the diversity of suppliers’ offerings.⁷⁴
- 5.14 In funeral director services, as the CMA has recognised,⁷⁵ there would be a significant risk that a price control remedy would lead to a degradation of both observable and unobservable quality aspects of funeral director services,⁷⁶ which would be to the serious detriment of customers. Dignity considers that this would be a particular risk with the cost orientation or rate of return allowance proposals the CMA sets out at paragraph 127(a)-(b) of the Issues Statement. Further, a price control remedy could risk discouraging innovation. For example, a control that referred to a particular package (as the CMA has suggested at paragraph 127(d) of the Issues Statement) could discourage suppliers from innovating to offer bespoke services, such as the unbundled “configurator” structure that Dignity is currently trialling.⁷⁷
- 5.15 In crematoria services specifically, there is a risk that a price control remedy would deter investment in maintaining and upgrading existing facilities (which can result in high costs for crematoria operators).⁷⁸ Crematoria are relatively high fixed cost businesses that face seasonality in demand (both during a day and over the year); the cost orientation condition the CMA refers to in paragraph 127(a) of the Issues Statement could therefore be very difficult to implement, as it would be difficult to apportion costs reliably, in particular across a range of different provider types, locations at different stages of the investment cycle, and different geographic locations. Such a remedy would also be likely to raise additional barriers to new entrants, as it may well decrease the commercial viability of new site assessments. Again, this would particularly be the case with respect to the

⁷³ The CMA recognises at paragraph 56(c) of the Issues Statement that funerals are differentiated.

⁷⁴ Market Investigation Guidance, Annex B: Remedial action, paragraph 88(a)(ii).

⁷⁵ Issues Statement, paragraph 130.

⁷⁶ Market Investigation Guidance, Annex B: Remedial action, paragraph 88(c): “*The control may be vulnerable to circumvention risks. For example, a price cap may be circumvented by a firm reducing the quality of controlled products or restricting the supply of controlled products. It may be sometimes possible to add preventative provisions to reduce the risk of circumvention, though this may be at the expense of increasing the complexity of the control.*”

⁷⁷ Such a measure could also risk moving suppliers’ focus from winning customers to influencing the regulator of the price control, if a change in the regulated price would have a greater impact on profitability than changes in sales volumes. A profit margin/rate of return allowance as described by the CMA in paragraph 127(d) of the Issues Statement could also risk encouraging suppliers’ to “game” the restriction through analysis of capital usage and of costs.

⁷⁸ For crematoria, for example, high costs can be incurred on maintaining cremators, which can deteriorate through use, and on ensuring new cremators comply with air quality and emission standards.

CMA's proposals for a cost orientation condition or rate of return allowance set out at paragraph 127(a)-(b) of the Issues Statement. The complexity of any such remedy would be heightened by the need to avoid unintended consequences on the ability of cemetery owners to maintain associated cemeteries.

- 5.16 Were a price control remedy to be imposed solely on private crematoria, it would distort competition in the market still further by discouraging private sector entry whilst not applying to local authority sites which constitute the majority of the market. It would also be challenging to apply any price or charging remedy to direct cremation providers which may not carry out the cremation themselves but clearly offer substitute services.
- 5.17 Dignity therefore considers it unlikely that the evidence will support the introduction of a price or charging remedy as being necessary and proportionate. Dignity encourages the CMA to consider alternative remedies that would result in a long-term and effective solution to the potential concerns it has identified. As described above and in paragraph 5.24 onwards below, Dignity considers that transparency remedies and market opening remedies would more effectively address the CMA's concerns on competition in the supply of funeral director and cremation services.

Quality regulation

- 5.18 Dignity would strongly support the introduction of appropriate minimum quality standards in both the funeral director and crematoria spheres, to ensure that customers can assume certain minimum standards in "unobserved" services. Such a measure would also create a level playing field for suppliers and encourage fair competition.
- 5.19 In respect of funeral director services, 92% of customers believe (incorrectly) that some form of regulation exists for suppliers.⁷⁹ Dignity understands that other EU countries do regulate aspects of the provision of funeral services.⁸⁰ Further, it is clear from consumer research that quality, in particular care of the deceased, is extremely important to customers,⁸¹ but, as described at paragraph 4.9 above, in some cases customers may not receive the standard of care "behind the scenes" that they expect, such as a safe and dignified mortuary. In light of these facts, Dignity considers that there is a strong case for standalone quality regulation.
- 5.20 Dignity considers that it will be important to ensure that minimum standards are applicable equally to all suppliers, including suppliers with alternative business models such as direct cremation services or (to the extent relevant) providers of cremation services who do not own cremators themselves (i.e. "service-only" providers who transport the deceased elsewhere for cremation). In terms of scope of the services included, Dignity would welcome regulation that sets out minimum standards for core activities, such as:

⁷⁹ Trajectory report, "*Time to talk about quality and standards*", page 7.

⁸⁰ For example, Sweden, Hungary, Slovakia and Czechia have minimum education and training requirements; in Hungary funeral service providers require a permit to operate; in Slovakia there are minimum infrastructure requirements for funeral directors; and Croatia has minimum certification requirements for funeral directors.

⁸¹ See footnote 53.

- (i) For funeral directors, care of the deceased and minimum standards of facilities in “unobserved” areas, such as mortuaries; and
- (ii) For crematoria, the provision of cremation services, with a focus on operating procedures and key service elements.⁸²

5.21 Quality regulation would also be consistent with the work of the Scottish Inspector of Funeral Directors to consider a statutory code of conduct. Dignity encourages the CMA to gather evidence on the variation in quality across suppliers, including those not registered with the industry trade bodies, both to examine how it influences customer decision-making and also to assess whether there is consumer detriment as a result of poor quality standards.

5.22 Dignity therefore encourages the CMA to reconsider its proposal not to establish appropriate minimum quality standards.⁸³ Dignity considers that such an assessment is essential to the design of any measures to encourage customers to shop around, so that customers can have confidence that minimum quality standards (especially on unobservable factors) are in place. This would strike an appropriate balance between protecting consumers and encouraging competition.

5.23 Quality regulation (particularly in relation to unobservable aspects of the services provided) could be coupled with measures to increase transparency, and Dignity would welcome measures that also address transparency and comparability of pricing (see paragraphs 5.5 to 5.7 above). Regulation of standards would directly address the CMA’s concerns that customers have difficulties engaging with the funerals purchasing process, and the perceived outcomes that the CMA has identified as a result. Provided that they are set at an appropriate level, Dignity does not consider that setting minimum quality and transparency standards would raise barriers to entry, or impose a disproportionate cost burden on suppliers. They could work in a similar way to compliance with minimum standards in the hospitality or healthcare sectors.⁸⁴

Market opening remedies

5.24 In respect of funeral directors, Dignity agrees that allowing customers to purchase unbundled services will be to their benefit, and it is currently trialling an unbundled, fully transparent “configurator” pricing structure to allow customers to do just that, as described in paragraph 3.6 above. Dignity considers that such a structure should be designed to encourage customers to purchase only those services that they need, and should be accompanied by transparent pricing for all unbundled services. As described in paragraph 3.8, Dignity does not link staff remuneration to sales targets, so there is no

⁸² Dignity notes that the FBCA (Federation of Burial and Cremation Authorities) is in the process of introducing an inspection scheme for crematoria to assess compliance with its Code of Cremation Practice, covering both observable and unobservable quality factors.

⁸³ Issues Statement, paragraph 130.

⁸⁴ For example, as suggested in Dignity’s response to the Market Study statement of scope, measures could include a scorecard or star rating system similar to that used to measure food hygiene standards in the hospitality sector, with a legal requirement for a supplier’s rating to be displayed prominently online and in branches.

incentive for its staff to up-sell funeral services when guiding a customer through Dignity's unbundled offering.

- 5.25 The CMA has also proposed investigating whether contractual arrangements (for example, with care homes) for care of the deceased immediately after death restrict customers' choice of providers.⁸⁵ Dignity also encourages the CMA to investigate whether care homes and/or their staff are incentivised to direct funerals to a particular supplier.
- 5.26 As described in paragraph 4.17, Dignity's practice is not to charge the customer for the costs of subsequently moving the deceased to an alternative provider, but to approach the alternative funeral director for those costs. Dignity would welcome an industry-wide move to this practice.
- 5.27 In respect of crematoria services, Dignity would support modifications to the planning regime, which is acting as a high barrier to entry for new suppliers. Dignity considers that were these barriers to be removed or reduced, there would be substantially more entry than is the case today in areas where there is sufficient demand to make it commercially viable. For example, the CMA could recommend regulation to ensure that local authority planning departments must carry out assessments of planning applications for new crematoria objectively and on a basis that facilitates the development of competing crematoria in the same area.
- 5.28 The CMA could also encourage alternative business models; for example, entry of alternative suppliers offering funeral service-only venues, with the deceased taken elsewhere for an unattended direct cremation.⁸⁶ An assessment of these alternative business models should also consider how the planning regime could affect both direct cremation-only services (i.e. the construction of a cremator without a chapel) and service-only providers (i.e. the construction of a chapel without a cremator).⁸⁷ Both types of providers exercise a direct competitive constraint on traditional crematoria service providers, and yet may be subject to different barriers to entry in terms of planning regulations.
- 5.29 Dignity would also support regulation requiring tendering of contracts to manage local authority crematoria, which it considers could facilitate new entry by allowing operators access to the market without the high fixed costs of building new premises. However, Dignity would have concerns about the introduction of a franchising model, as the CMA has suggested in paragraph 143(b) of the Issues Statement, as such a model may risk stifling innovation and not include scope to offer clients a differentiated quality offering.

⁸⁵ Issues Statement, paragraph 142.

⁸⁶ Dignity already permits its customers to use Dignity crematoria chapels for a service only, with burial or cremation of the deceased taking place at an alternative venue.

⁸⁷ It is important to recognise as part of such assessment that direct cremation providers may serve customers nationally, transporting the deceased over long distances for cremation, but are nonetheless required to demonstrate a local need to meet the "*very special circumstances*" test in the planning regime if building on greenbelt land.

5.30 Dignity also considers that funeral directors could be required to ensure that customers are educated about the different crematoria options (and are offered a visit to the different crematoria options in advance of making a choice),⁸⁸ and considers that this could boost competition in terms of both price and also observable quality factors.

⁸⁸ Dignity is currently trialling on its website a more detailed view of tailored costs, which would provide customers a summary of closest crematoria prices and facilities under the third party costs section (see: <https://www.dignityfunerals.co.uk/funeral-directors/pricing/tailored-funeral/00192/>).