

**Funeral Partners' response to the 'issues statement'**

**The structure of Funeral Partners' response to the 'issues statement', is below:**

- 1. Executive summary**
- 2. Overview of the market**
- 3. Scope for market-wide improvement**
- 4. Proposed remedies**
- 5. Investigation methodology**
- 6. Conclusion**

## 1. Executive summary

Funeral Partners appreciates the opportunity to comment on the CMA's statement of issues dated 8 April 2019 (**IS**). We appreciated the opportunity to input into the Market Study process, and we look forward to continuing to co-operate closely with the CMA as the Market Investigation progresses, in the interests of securing the best outcomes for consumers.

### a) Prices and profitability are market-driven

The IS rightly proposes to assess the provision of funeral directors and crematoria services in the UK compared to what would be expected from a "*well-functioning market*".

One of the main focus areas identified in the IS is as regards pricing and profitability, in particular to establish "*whether profits have exceeded a competitive level over a sustained period, for a substantial part of the market*" (IS para.61) and "*whether price differentials, and any resulting variation in profitability, are of a scale and duration that are consistent with a well-functioning market*" (IS para.63(b)).

Funeral Partners believes that the CMA's Market Study report (**MSR**) was misplaced in stating that prices for funeral director services are "*well above what could be expected in a well-functioning market*" (MSR, para.19), in particular in identifying "*the largest firms of funeral directors*" (including Funeral Partners, with a market share of only c2.5%) as having "*implemented consistently large annual price increases without reference to underlying operating cost pressures*" (MSR, para.8).

Rather, Funeral Partners' believes that the CMA will ultimately conclude that pricing and profitability as regards the supply of funeral director services are consistent with a well-functioning (i.e. competitive) market. The MSR, in particular, failed to give proper weight to recent market developments, which show every sign of intensifying, which are indicative of a highly competitive market. Funeral Partners notes in particular:

- Competitive price pressure for essential elements of a funeral is becoming an ever-greater factor with a reduction in both the number and scale of price increases being applied within Funeral Partners, over time, and particularly for 2017/18.
- Categorising the industry as having sustained price increases year-on-year paints an inaccurate and incomplete picture. In more recent times, for example, Funeral Partners has reduced prices offered to consumers for the essential elements of a funeral in some areas of its business, as a result of the developing competitive pricing pressures.
- In recent years, the focus of consumers seems to have shifted more emphatically towards prices and, as a consequence, prices have needed to stay lower.
- In addition, price increases which Funeral Partners may put in place following an acquisition (to align the newly-acquired funeral home(s) with Funeral Partners' standard/quality requirements) are now typically much lower in level than has historically been the case, as competitive pressures have resulted in consumers becoming more price sensitive over time.
- Notwithstanding the immense pressures placed on the industry in relation to price, Funeral Partners continues to invest in quality in order to differentiate ourselves in the market and deliver value to our customers.

Funeral Partners believes it is undeniably the case that the market offers a range of different options at different price points, and that Funeral Partners and its rivals compete on both price and quality. Funeral Partners does not believe that there is a sound basis (in particular taking into account market developments over the past 18 months, which are showing every sign of intensifying) of deciding that the price and profitability levels in the market are the result of any adverse effect on competition (**AEC**).

In any event (i.e. even were the CMA to find an AEC on account of price and profit levels in the sector), it is submitted that price regulation (IS Paragraphs 123 – 129) would not be "*reasonable and practicable*" (s.138(2) EA02) given the great practical difficulties that would be faced in framing any such remedy, the likely significant negative outcomes in the industry, and the very high likelihood of a range of unintended consequences, which we detail below.

Rather, it is submitted that information/transparency remedies (IS Paragraphs 115 – 121) would constitute a proportionate, reasonable and practicable solution – and Funeral Partners in general would support any sensible steps that would enhance customers’ ability to make informed choices between the undoubted wide range of solutions and price points available in the funeral services market.

#### **b) Quality/service levels and transparency**

The IS also proposes to focus on “*how [customers] assess quality when dealing with funeral directors*” (IS Para.8(a)) and “*how any quality differentials between funeral directors...are taken into account by customers in their choice of funeral directors*” (IS Para.8(b)). As part of this, the CMA is proposing to consider whether the vulnerability of customers at the point of need, and/or their different circumstances, impacts on their ability to engage and make informed choices (IS, Para.8(c)(d)).

Funeral Partners’ overall ethos and business model is based on the acquisition of independent funeral director businesses of good-standing and, in turn, further investing in quality in order to improve standards and the overall customer experience, to seek to secure further repeat business.

When Funeral Partners talks about quality, it is important to note that we include both ‘observed’ quality and ‘unobserved’ quality in our definition. When it comes to ‘unobserved quality’, we believe that this can be further characterised into ‘back-of-house’ standards and overall ‘legislative compliance’. Whilst ‘unobserved’ quality may not be routinely cited as important to consumers, we believe that consumers nevertheless expect certain minimum standards in relation to ‘unobserved’ quality, and that consumers are, generally speaking, under the mistaken view that all funeral providers adhere to certain minimum quality standards.

Instead, there are significant variances in relation to quality of provision which we detail below. As a result of a lack of an industry-wide set of standards, Funeral Partners competes with other providers who can charge lower prices, sometimes by avoiding the costs inherent in achieving what Funeral Partners would regard as minimum levels of quality (including as regards ‘unobserved’ aspects of the service).

The CMA notes in its MSR that consumers do not expect significant differences in quality between funeral directors, and they often assume that all funeral directors must meet certain minimum standards or are regulated (see MSR para.4.19). To the extent customers (or some category of customers) are not well-positioned to identify funeral directors’ quality levels (in particular ‘unobserved’ quality parameters), and given the absence of any industry-wide standards mandating minimum service/quality levels, Funeral Partners believes that this could distort the market for funeral directors’ services both by giving a cost advantage to low quality providers (to the detriment of quality suppliers) and by tarnishing the reputation of the overall sector (including tarnishing those service providers, such as Funeral Partners, that do maintain high standards of quality and high service levels).

As such, in the interests of broader consumer awareness, and in the interests of driving up standards across the industry as a whole, Funeral Partners is supportive of an industry-wide inspectorate regime or licensing framework, which will also serve to set a level playing field for providers, particularly when it comes to ‘unobserved’ quality. This will lead to better consumer outcomes to the extent that this would deliver the minimum standards which consumers already expect funeral directors to adhere to.

An inspectorate/licensing regime would, in turn, allow providers to better differentiate their offering, for example, by going ‘above and beyond’ minimum standards.

#### **c) Funeral Partners is not a ‘large funeral director’ and does not have market power**

Funeral Partners’ share of the UK funerals market is only around 2.5%. As such, any suggestion that Funeral Partners’ market position confers any element of market power above that enjoyed by any other funeral director (including regional chains and independents) has no basis. The fact that a market player with such a small share could be characterised as ‘large’ is simply reflective of the highly fragmented and competitive nature of the market. Funeral Partners’ business model is to consistently invest in the quality of its offering, enabling it to maintain its hard-won reputation in local markets as a quality/premium provider.

It is simply not meaningful to include Funeral Partners as the third of a group of supposed 'large funeral directors' and as such, it is submitted that there is no basis on which Funeral Partners should be subjected to any remedy which is not applied to the market as a whole.

## 2. Overview of the market

In this section, we define our thoughts on the market as a whole into the following areas:

- a) Ever-increasing competition
- b) Customer sensitivities/vulnerabilities
- c) Impact of quality
- d) Plurality of business models and consumer choice
- e) Funeral Partners' place in the market

We now take each area above and comment in order to help better characterise the issues the CMA has identified in the IS.

### a) Ever-increasing competition

We believe that the MSR misrepresents the funerals market as one where providers have historically and continue to achieve supra-competitive profits, unconstrained by competition. By contrast, Funeral Partners' experience is quite different. We have never more so than now faced such intense competition in our local markets and across the country, as evidenced by the following external competitive threats:

- Key competitors are reducing funeral prices and introducing price-led advertising campaigns, including window displays on the high street.
- An increasing number of providers such as Dignity, Co-op Funeralcare, Pure Cremation and Memoria are launching nationally available low-cost direct cremation services, supported by national TV, radio and media campaigns.
- There are an increasing number of competitors in the market. This reflects the fact that there are very few barriers to entry when it comes to establishing a funeral director business.
- There are an increasing range of products and services and general funeral choices and touchpoints available to consumers when it comes to both price and quality. These include:
  - Increasing options around 'unbundled' services – where unbundling means an increasing number of specific features of a funeral being able to be selected individually.
  - An increase also in the different types of 'packages' on offer to consumers e.g. 'fully inclusive' options (such as those 'including disbursements') and additional options around environmentally sustainable funerals, for example, along with the emergence of new propositions, such as 'direct cremation', and the emergence and growth of price comparison sites.

All these factors are indicative of a highly competitive market and Funeral Partners continues to respond to this ever-changing competitive dynamic. Further details can be found in Section 2 e).

We anticipate the future landscape in the industry to only intensify in terms of innovation, disruption and sustained price pressure.

### b) Customer sensitivities/vulnerabilities

In line with the work undertaken by the CMA, Funeral Partners recognises that, at the point of bereavement, some consumers may be in a vulnerable state of mind. In line with the CMA's own research (and from analysis of Funeral Partners' consumer feedback responses), it can nevertheless also be noted that the choice of funeral director in many instances will have been made *prior* to the death occurring and when consumers are arguably much less emotionally vulnerable.

In characterizing this issue, we would encourage the CMA to understand the extent to which, despite being emotionally distressed, consumers are still able to make informed decisions about their choice of funeral director.

We maintain that perceptions of quality, and in turn the choice of a funeral director, are often formed before the point of arranging the funeral. Consumers become more ‘funeral aware’ in later life and will discern quality from direct or indirect experience, before they themselves are bereaved. Whilst we accept that research suggests that, at the point of need, some consumers may not be explicitly and consciously comparing funeral directors, this still allows for the fact that prior to the point of need, consumers are making comparisons and judging quality dispassionately for themselves.

In order to help understand this issue in more detail, we are supportive of the CMA researching the extent to which consumers have pre-determined views on their choice of funeral director when they are less vulnerable (prior to the point of need), and the extent to which these views are based on dispassionate quality criteria. We would be happy to support the CMA in this regard and comment on any proposed research methodology.

We would also argue that, with the increase in TV advertising for both funeral plans and over 50s plans, consumers are becoming more and more aware of the need to think about funeral arrangements (which may or may not lead to the purchase of a plan). We believe that this is highly likely to have resulted in consumers considering their choice of funeral director ahead of the time of need and, more generally, increased levels of awareness that there are a range of options (both as to quality/service levels and as regards price) available. This is likely to be a significant factor in the increasing intensity of competition and the increasing pressure on profits which funeral directors (not least Funeral Partners) have been experiencing, in particular since 2017/18.

### **c) Impact of quality**

Paragraph 64 IS states: *“We do not expect that it will be possible to establish a clear relationship between quality differentials and price differentials, as there are many dimensions of quality, some of which appear to be difficult to measure reliably (e.g. helpfulness of staff, empathy etc), and others which are unobservable to consumers, but would welcome additional evidence from suppliers that would assist us in carrying out such an assessment. We shall seek to address this issue primarily through our analysis of profitability.”*

In this section, we divide our thoughts on the importance of quality, as a driver of competition in the market, into the following headings:

- i. ‘Observed’ quality**
- ii. ‘Unobserved’ quality**
- iii. Concluding remarks**

#### **i. ‘Observed’ quality**

In Funeral Partners’ experience, consumers are generally (i.e. aside from the relatively rare cases where a ‘back-of-house’ quality issue comes to light) only aware of ‘observed’ quality when it comes to choosing a funeral director and, as a consequence, consumers reward those funeral directors who demonstrate high levels of ‘observed’ quality (either directly observed by the customer or via a third party recommendation to that effect).

From analysis of our ‘Reflective Comments’ cards, we observe that many consumers have already experienced the quality of our funerals directly, or through a trusted contact, and this drives their choice of funeral director and product/package selection when they come to be tasked with organising a funeral.

As a result, reputation is of paramount importance in the funeral industry and successful funeral directors recognise how quality is determinative of future custom.

Funeral Partners principally defines ‘observed’ quality in relation to three components:

- **People**
- **Premises**
- **Vehicles**

We now take each of the above three areas of 'observed' quality for comment, in order to best characterize this issue.

## People

While it may well be the case that some dimensions of quality may be "*difficult to measure reliably (e.g. helpfulness of staff, empathy etc)*" (Paragraph 64 IS), nevertheless, in our experience, areas such as 'helpfulness of staff' and 'empathy' are significant quality factors, and we believe that they are observed and valued in the eyes of consumers. We believe that the customer is likely to remember the experience of individual members of the funeral home team (and in particular, the Funeral Arranger) when reflecting upon their experiences of interacting with a funeral director after the funeral.

We would expect the CMA's analysis to demonstrate that making the considerable sustained investments required to establish a widespread reputation for high levels of quality (including with regards to difficult to measure aspects of the service) does enable a funeral director to position its offering as different and premium. This is precisely the business model of Funeral Partners.

For Funeral Partners, the quality of our people is an area where we continue to invest time and cost in order to continually improve quality, and it is something we believe allows us to earn the trust of our consumers, to provide a high-quality service, and to continue to differentiate ourselves from the competition.

We believe that investment in our people delivers the best customer experience. We train our teams to ensure that they take time with consumers in order to understand the customer need first, and in order to elicit the desired funeral required by the family. We recognise that this is an extremely sensitive and careful process – that of ensuring choice is offered (so that consumers are not left in the position of 'missing out' on products and services which may be of significant interest to them), but also in no way leaving consumers feeling 'pressured' to purchase. In addition to training our teams to sensitively handle the arrangement process, we train our teams to perform against high standards on the day of the funeral, and throughout the customer journey with Funeral Partners.

Investment in people is a conscious choice for Funeral Partners, and a choice which incurs significant time, cost and resource. We maintain that this focus allows us to differentiate from the competition and provide a better quality service. As such, people-related factors must form part of the way in which this issue is characterized by the CMA.

## Premises

Funeral Partners has been pursuing a strong policy of investment not just in relation to people, but also when it comes to building new facilities (such as adding mortuaries), updating and refurbishing customer areas within branches (such as comfortable arrangement rooms and dedicated chapels of rest). During FY2017 and FY2018, we invested £2.5 million on property improvements across our branch network.

## Vehicles

During FY2017 and FY2018, Funeral Partners invested a total of £4.6 million in renewing our fleet. This investment meant that around 43% of our fleet was upgraded over the two-year period.

### ii. 'Unobserved' quality

In relation to 'unobserved' services, there are two critical areas which must form part of the characterization of this issue:

- 'Back-of-house' standards (including care of the deceased).
- Broader legislative compliance.

When it comes to 'back-of-house' standards, Funeral Partners incurs cost which include, but are not limited to, the following:

- Refrigeration facilities for the deceased, including sufficient refrigerated storage capacity for the deceased.
- Identification procedures for the deceased.
- Policies and procedures for handling and storing ashes.
- General care of the deceased when it comes to products e.g. lining all coffins (out of respect and also for hygiene purposes), even when the body is not to be viewed by a family.
- Provision of appropriate vehicles and equipment for transfer of the deceased.
- For those consumers who choose embalming, provision of appropriate embalming facilities which also allow for a safe working environment, including, for example, appropriate drainage and ventilation.

In line with our response to the interim report during the Market Study, Funeral Partners re-states that we fundamentally believe consumers already expect, and would want, high standards implemented in relation to 'back-of-house', which extend to care of the deceased. We would not wish the industry to see certain aspects of quality in relation to care of the deceased as merely 'optional', nor to make certain unacceptable compromises in the level of care – and increased transparency on this issue would be likely to drive the right behaviours (as the vast majority of consumers would, we believe, not be willing to use funeral directors falling below minimum 'back-of-house' standards, were this visible to them).

While the market size of Funeral Partners' business is relatively modest (only c2.5% national market share), nevertheless, Funeral Partners operates multiple funeral homes and a high-profile failure to achieve minimum 'back-of-house' standards at any Funeral Partners funeral home could very seriously damage the reputation of the entire business. Therefore, Funeral Partners invests a significant amount in order to ensure our entire business achieves the standards we have set in relation to 'unobserved' quality. A rigorous audit regime is in place in order to continually monitor standards and to manage any non-compliance.

When it comes to broader legislative compliance, we believe that this is an issue missed by the CMA's MSR in relation to 'unobserved' quality. Again, Funeral Partners incurs costs when it comes to investing in broader legislative compliance which include, but are not limited to, the following:

- Compliance with pension requirements.
- Paying minimum wage, holiday pay and adhering to the working time directive.
- Property health and safety including asbestos, fire safety, electrical safety.
- Handling pre-paid plans in accordance with legislation.
- Data protection.
- Anti-corruption.
- Appropriate handling of clinical and commercial waste.
- Adherence with fleet management obligations.

In line with our response to the interim report during the Market Study, we would re-state that, to the extent that different providers choose to adopt the above practices to differing degrees, this results in differing cost bases and therefore price differentials between providers. In addition, regulatory compliance, while it comes with an associated cost, is clearly a necessity and we note that businesses should not use non-compliance as a way to reduce overall costs and therefore potentially undercut competitors who seek to adhere to their regulatory obligations. To do so would place the safeguarding of consumers and workers in the business at risk.

### **iii. Concluding remarks**

Generally speaking, and notwithstanding our support of greater consumer awareness around funeral options and processes, we believe that the majority of UK consumers currently retain a preference for 'traditional' funerals, driven by demand for high quality in both 'observed' and 'unobserved' characteristics. Funeral Partners' current value proposition reflects those consumer preferences, and delivers repeat custom as a result.

We believe very strongly that value is placed by consumers on people, premises and vehicles, coupled with assumptions (correct, in Funeral Partners' case) as to very high 'back-of-house' standards and overall legislative compliance.

Funeral Partners recognises that value propositions are changing, as consumer preferences change (e.g. the potential for further digital engagement in the process and the move towards a 'celebration of life') and Funeral Partners' product offerings will continue to evolve accordingly. However, Funeral Partners would not desire its 'unobserved' quality components to be compromised in order to seek innovation. We recognise consumers expect and value high standards in relation to 'unobserved' quality.

Given the absence of any minimum standards in the industry, some of Funeral Partners' competitors currently choose to compromise in certain areas of quality, meaning Funeral Partners is at all times competing with certain independents (in particular) with a lower cost base, due to lower standards and less strict adherence to broader legislative compliance.

We would reiterate that 'back-of-house' standards (including care of the deceased) remain a key element of 'quality' along with broader legislative compliance, and that these must form part of the characterisation of the issues that the CMA seeks to address as part of its investigation. In particular, these elements must form part of the characterisation of issues (b), (f) and (g) in the IS.

#### **d) Plurality of business models and consumer choice**

The MSR focused on the supposed 'large players' (even though one of them, Funeral Partners, accounts for a very small share of around 2.5%), who are in actual fact the minority of the industry when it comes to the overall marketplace. By the CMA's own calculations, the 'large players' represent only 29% of the market (MSR paragraph 2.31).

We do not believe that the CMA's MSR analysis has sufficiently taken into consideration the huge range of existing differences in the market when it comes to price and quality combinations, and instead confined certain analysis to the three supposedly 'large players', thereby potentially not giving sufficient consideration to the other 71% of the market.

In addition, whilst the CMA may have defined Funeral Partners to be a 'large player' nationally, we have a national market share of around only 2.5%. As such, any suggestion that Funeral Partners' market position confers any element of market power above that enjoyed by any other funeral director (including independents) has no basis. Funeral Partners' business model is to consistently invest in the quality of its offering, enabling it to maintain its hard-won reputation as a quality provider in the local markets in which it operates – this is not a market consequence flowing from the size of its business nor from any market power linked to size, so it is simply not meaningful to include Funeral Partners as the third of a group of supposed 'large funeral directors'. Indeed, the fact that a market player with such a small share could be characterised as 'large' is simply reflective of the highly fragmented and competitive nature of the market.

By the same token, in certain local markets, consideration should be given to providers who may be large 'regional players'. In terms of competition in the local market (which is how the funerals market principally operates), these players command much stronger positions than has been given consideration by the CMA to date.

Even amongst the three 'larger players' as defined by the CMA, the business model is entirely different by provider with a co-operative model, a PLC model and a 'buy-and-build' private equity model. For Funeral Partners, the 'buy-and-build' model is allowing for external investment to come into the industry and to further drive up standards for both 'observed' and 'unobserved' quality as part of Funeral Partners' approach to each acquisition's integration, whilst at the same time delivering economies of scale (e.g. through procurement and better use of vehicles) to drive growth and make a return.

The 'buy-and-build' model also allows for independent businesses to be able to sell their business, and allows for a hard-earned local reputation and local brand to persist, with supporting consumer benefits – that of being able to continue a high street presence, and that of offering families and local communities continuity of service, which may have significance for them for historic reasons.

## e) Funeral Partners' place in the market

In relation to Funeral Partners' place in the market and the key market drivers from Funeral Partners' experience, we would focus on the following areas:

- **Increasing pressures on prices and profitability**
- **Marketing and product innovation**
- **Changing approach to pricing assumptions around acquisitions and 'cold starts'**
- **Continued investment in quality innovation**
- **'Buy-and-build' strategy**

We now take each of the above areas and elaborate further.

### **Increasing pressures on prices and profitability**

- We are increasingly analysing our competitors' prices, and how these impact locally, with price benchmarking taking place for all our funeral homes and nearby competitors.
- As a result of the increasingly competitive price environment, reflected particularly in more recent times, there are fewer and lower level price increases being applied by Funeral Partners to cover costs and ongoing investment. There are also cases where Funeral Partners has been required to reduce prices in some of the areas it operates, owing to the competitive price environment.
- In order to cover costs and ongoing investments, during 2017/18, around half of Funeral Partners' branches were subject to a price increase for Basic funerals, with around two thirds being subject to an increase in respect of overall funeral director services – in other words, a very material proportion of our branches did not increase prices due to competitive pressure. This is a reflection of the impact of the competitive pricing environment being experienced overall and in local markets.

### **Marketing and product innovation**

- As a result of ever-increasing competition locally and the need to differentiate, we have significantly increased marketing spend and marketing activity, in order to better promote ourselves against the competition.
- As a result of evolving consumer demand and competitor offerings, we have defined a 'direct cremation' product specification for those consumers for whom this product is most suitable. We have trialled re-branding funeral homes in order to promote 'direct cremation' (in order to secure a greater share of this segment).
- Funeral Partners is also in the process of trialing making more of its services 'unbundled' in order to give consumers more choice when it comes to individual elements of the funeral process. Funeral Partners is also in the process of revisiting the specifications of its 'inclusive funeral options' / 'packages'.

### **Changing approach to pricing assumptions around acquisitions and 'cold starts'**

- For potential acquisitions, the competitive landscape is a key determining factor in the decision-making process relating to whether or not to acquire. The competitive landscape is at times deemed so competitive, in terms of number of local competitors, that Funeral Partners has determined it simply could not invest in certain acquisitions.
- We have scaled back our 'cold start' (new branch openings) ambitions due to the sheer challenges we face when it comes to opening up new branches in an already competitive landscape.
- The increasingly competitive price environment is also an evident factor in terms of funeral services pricing in respect of acquisitions. The impact of this is being seen in reducing levels of price increases being applied following acquisitions of new businesses by Funeral Partners (associated with the costs of implementing increased quality and service levels, consistent with Funeral Partners' model). In many acquisitions, the pricing environment is reducing what is assessed as being feasible and appropriate in terms of price increases relative to investments in improved quality. More recently, instances are also being experienced where the extent of price

increases which are achieved are lower than those expected and factored into acquisitions' financial evaluations. With financial investment usually being made into new acquisitions in terms of their operating models, this is placing pressure upon margin performance.

#### **Continued investment in quality innovation**

- Funeral Partners continues to invest in quality and driving up standards in the business. Recent innovations surround investment in 'soft skills' training for enquiry handling, to better improve the customer experience, along with investment in a dedicated enquiry handling system to log and report on all enquiries.
- During 2018 and 2019, Funeral Partners has invested significant time and resource in enhancing its 'out of hours' provision and in upskilling relevant team members in a new way of working, supported by provision of technology equipment.
- We continue to invest in a dedicated training function.
- We continue to prefer to recruit from within the industry and we place a value on experience.
- We have invested in a competency framework for Funeral Arrangers and Funeral Directors, which enables us to reward the best quality individuals within our business, and which also allows for members of the team who do not meet our people quality standards to be exited from the business.
- We have introduced rigorous screening of job applicants from a criminal records perspective as well as a behavioural and conduct perspective.

#### **'Buy-and-build' strategy**

- When it comes to Funeral Partners' 'buy-and-build' strategy, it should be noted that a large part of the purchase price of any funeral home acquisition is the goodwill of the name of the funeral home being bought. Whilst goodwill is not held on the balance sheet as a tangible item or operating asset (it is instead treated as intangible on the balance sheet), it is nevertheless a significant part of the quality of the business and something in which Funeral Partners further invests post-acquisition. This is therefore a key component of the asset and the cost base for the overall business (and we believe it is important that the CMA should recognise this).
- For Funeral Partners, following acquisition of a funeral home, any debt incurred in purchasing a funeral home needs to be serviced. These costs may not be borne by the independent operation prior to purchase, since, for example, assets may already be owned outright and handed down from generation to generation.
- In addition, it is usual for Funeral Partners to incur additional costs post acquisition when the former owner takes a step back from the day-to-day running of the funeral home and no longer works the long hours, for example, which they may have been used to prior to purchase. This may extend to the former owner relinquishing their responsibility for handling all telephone enquiries 'out of hours', for example. Changes to the way in which the former owner interacts with the business post-acquisition often require Funeral Partners to incur additional cost in order to maintain sufficient service levels in the business.

### **3. Scope for market-wide improvement**

We believe that the industry is already on a journey when it comes to the following two elements:

- a) **Improving customer engagement and transparency in the funerals process**
- b) **Greater transparency and consistency in relation to 'back-of-house' quality standards**

We now discuss these trends and the further scope for improvements.

#### **a) Improving customer engagement and transparency in the funerals process**

When it comes to customer engagement, Funeral Partners is investing more and more in the process around ensuring consumers are aware of funeral options and prices prior to the point of purchase.

Recent efforts have included introducing training courses for frontline teams on how to better handle enquires prior to purchase.

In addition, a complete review of the provision of information to consumers 'out of hours' has recently taken place. We have provided our teams with templates to handle price enquiries, including the ability to email price lists and personalised quotes to families, avoiding the need for families to have to come into the funeral home.

In relation to prices online, Funeral Partners recognises the value of this to the consumer and the industry. However, we are keen to ensure that the industry as a whole operates to a minimum set of quality standards, particularly as regards 'unobserved' quality. Without this, we strongly believe that there may be a 'race to the bottom' when it comes to 'unobserved' quality and that this is not in the interests of consumers.

Generally speaking, we are seeing trends towards publication of pricing information (through price comparison websites, for example, which attempt to demonstrate like-for-like comparisons). Price comparison sites continue to gain traction, offering resources not only to find funeral directors, but on all matters relating to death, bereavement and planning ahead for a funeral. Being of a commercial nature, these sites are likely to gain further traction over time and become an ever-increasing source of information, particularly if the joint Code of Practice (agreed between the two trade associations) is adopted by the Inspector of Funeral Directors in Scotland, since the joint Code addresses the confusion around whether participation by funeral directors in price comparison sites is, or is not, permitted. However, we maintain that such commercial sites are currently unable to effectively balance price considerations with objective quality criteria for both 'observed' and 'unobserved' quality.

We support the fact that both trade associations have launched revised member listing sites online which are under continuous development to provide not just a listing of members, but also objective quality information for both 'observed' and 'unobserved' quality, along with improved price transparency. We believe the trade associations are likely to recommend to members in the near future to list prices online, which we support given the fact such sites will, in broad terms, allow for like-for-like comparison considering both 'observed' and 'unobserved' quality.

#### **b) Greater transparency and consistency in relation to 'back-of-house' quality standards**

As submitted as part of the Market Study, Funeral Partners has observed a variety of standards across the sector from excellent to very poor including, but not restricted to, poor 'unobserved' quality standards and legislative compliance. We perceive low and inadequate quality in relation to 'unobserved' quality and, in particular, care of the deceased to include, without limitation, the following aspects:

- Lack of any refrigeration facilities for the deceased.
- Insufficient refrigerated storage capacity for the deceased leading to 'topping and tailing' of more than one corpse on single trays in busier times.
- Lack of any mortuary facilities, with the deceased instead left on the floor until the client is ready to view.
- Lack of any identification procedure for the deceased, increasing the risk of incorrect identification of the deceased.
- Lack of any documented processes around the procedure for handling and storing ashes, increasing the risk of incorrect identification of ashes.
- Compromises on the quality of care shown for the deceased not apparent to the consumer e.g. no lining in the coffin when the body is not to be viewed by a family.
- Lack of appropriate vehicles and equipment for transfer of the deceased.
- Lack of appropriate embalming facilities including, for example, appropriate drainage and ventilation.

We maintain that consumers are not always well-placed to assess 'unobserved' quality levels given the lack of visibility, particularly regarding 'back-of-house' and broader legislative compliance. While Funeral Partners does not believe these features support an AEC finding (as there are a range of solutions available at competitive prices to consumers throughout the UK), in parallel with the market investigation, the industry is already focusing on these areas.

This is being partly informed by work being undertaken by the Inspector of Funeral Directors in Scotland. A joint Code of Practice has been agreed between the two trade associations and, subject to the ongoing work being undertaken by the Inspector, is likely to be applied to all members of the associations.

In addition, the Funeral Service Consumer Standards Review (FSCSR) is being established following recommendations that a truly independent review takes place to include consumer groups and trading standards. This group aims to produce:

- A robust and comprehensive Code of Practice for the whole profession.
- An inspection regime.
- A defined product specification for a funeral in order to allow for like-for-like comparisons.

The group will be joined by the Inspector of Funeral Directors in Scotland in order to ensure consistency and make recommendations to government. Even in the absence of government intervention, we expect that recommendations will be adopted in any event by the existing two trade associations and their members, which include Funeral Partners.

#### **4. Proposed remedies**

Given the evidence we have provided to date both as part of the Market Study and ongoing as part of the Market Investigation, Funeral Partners is of the opinion that there is not a solid evidentiary basis for any AEC finding. Nevertheless, we now comment specifically on remedies:

- a) **General observations**
- b) **Information/transparency remedies**
- c) **Pricing/charging remedies**
- d) **Quality regulation**
- e) **Market opening remedies**

##### **a) General observations**

The implications of any potential remedy will clearly depend upon the specific detail put forward. We would state the need for more information on any potential remedy in order to comment fully.

In relation to any potential remedy, we are also of the strong view that any remedy must be applied industry-wide. To isolate remedies to certain providers and/or sub-sections of the market will be hugely distortive of competition given that the funerals market is characterised by local markets, and to apply remedies only to certain providers would mean large areas of the country remain untouched and unaffected. As a result, certain consumers would not benefit. In any event, for the reasons outlined above, there are no grounds for subjecting Funeral Partners to any remedies which are not also applicable to all other funeral directors.

In addition, as already articulated, we believe that addressing inconsistencies in relation to 'unobserved quality' should be a key issue that the investigation needs to address. Applying remedies only to certain providers in this regard would miss an important area where consistency and industry-wide oversight is, we believe, very important.

##### **b) Information/transparency remedies**

Funeral Partners is prepared to engage constructively with the CMA on how customer engagement levels can be enhanced, irrespective of whether any AEC is found. We discuss areas of potential customer engagement raised by the CMA in its IS below:

##### Government advice

We are supportive of further consumer guidance from official government sources in relation to what to do when someone dies, and also for any generic advice from official government sources about

considerations for consumers in relation to choosing a funeral director. We recognise that providing this information prior to the point of need is most appropriate.

In addition, in our view, any official government advice offered must be provided in a consistent way throughout the country, and be seen to be independent. We would envisage any consumer awareness campaign in this regard to be paid for by government, and not the industry. However, input into the advice could be provided from, for example, trade associations or any inspector/regulator.

As the CMA is aware, formal and informal arrangements exist between funeral directors and intermediaries (e.g. GPs, solicitors), along with formal and informal arrangements between funeral directors and other relevant organisations (e.g. care homes). In relation to this remedy, there would need to be an understanding of the extent to which these formal and informal arrangements could persist, if it were expected that those intermediaries were at the same time required to be independent.

#### Price transparency

We note that both major trade associations require members to have price lists available to consumers to take away, and to give written estimates, meaning that consumers should always know the price for different options and how much the funeral will cost, including any additional services and options that the customer may request. As members of the NAFD, Funeral Partners adheres to the requirements stipulated.

In relation to price online, as above, we support making prices available online and having funeral firms set out their price lists according to a standardised format and/or distinguishing clearly between prices for each agreed element of a consistently defined 'essential' funeral. However, we firmly consider that the optimal way to ensure that the customer has the ability to make a like-for-like comparison in relation to prices is to ensure that there is a level playing field regarding 'unobserved' quality (particularly in relation to quality of care of the deceased, and also adherence to broader legislative compliance).

Any steps towards encouraging price transparency must be accompanied at the same time by a levelling of the playing field when it comes to 'unobserved' quality, which must include 'back-of-house' standards and broader legislative compliance (or, at the very least, by an effective means whereby customers can judge the extent to which different suppliers do adhere to minimum standards). We believe consumers value compliance and high standards in these areas, and that more transparency in these areas will allow for more informed choice and improved decision-making when it comes to choosing a funeral director.

#### Like-for-like comparison

We believe that there are three components which must co-exist in order to allow for effective like-for-like comparisons between providers:

- 1) Ability to compare products and prices on a like-for-like basis
- 2) Ability to review the extent to which providers adhere to 'unobserved' quality standards
- 3) Ability to analyse data concerning 'observed' quality e.g. through independent reviews

In relation to Point 1), we would note that it is important that any comparison tools are clear that, what may comprise an 'essential' funeral as part of a comparison, is not necessarily the funeral that the customer has in mind, and that additional products and services can of course be added to personalise the funeral, and which come at a cost. We also note that there are cultural and faith-related considerations to be taken into account when it comes to determining any 'essential' product specification. In relation to Point 2), we would welcome a licensing framework for which a minimum set of 'unobserved' quality standards could apply for all providers. In relation to Point 3), we would support, for example, independent reviews being part of consumers' analyses when it comes to comparison between providers.

### Comparison tools

In principle, price comparison websites and aggregators may help highlight that there is a range of prices charged for funeral services in a given area, and put consumers in the position to make an informed choice regarding price. In this regard, Funeral Partners supports the concept of price comparison tools. However, Funeral Partners believes that such sites are effective only when there is like-for-like comparison, as articulated in our definition above.

Some of the price comparison websites that are currently in operation have no inspection regime for the funeral homes they list, and for those that do, the review process is not fully transparent. These sites lack a standardised way to compare both 'observed' and 'unobserved' quality across providers, and therefore provide only a partial picture, which neglects the key determinant of customer choice, which is quality of service.

Funeral Partners is also not aware of any one website listing all funeral directors. There is therefore a risk that consumers could be misled into thinking they had reviewed the whole market, whereas some firms may not have been listed on that particular site. In particular, it may be that lower quality new entrants may be more aggressively pursuing new business, and may be the most likely to be present on such websites.

In this regard, Funeral Partners would support a trade association, or an inspector/regulator, taking on more of an active role in price comparison tools. These tools could provide industry-wide data to consumers and provide information on price at the same time as independently assessed quality criteria, which may extend to independent customer reviews.

Both the NAFD & SAIF have developed funeral director listings that not only list their members but also are starting to measure quality and allow for improved price transparency.

We would expect the costs of any price comparison tool operated by a trade association to be borne by membership subscription to that trade association, and for government to fund any tools associated with a regulatory framework for 'unobserved' quality.

We would not be supportive of mandating that funeral directors be present on commercially-driven price comparison tools. We believe that an unintended consequence of the growth of commercially-driven price comparison tools in the funeral sector would in fact be to raise, rather than lower, the price of funerals – due to the likelihood of a fee being charged for referral, which would also be likely to rise over time.

### Transparency of ownership

It is a natural progression that some independent funeral homes will want to sell their business. It is also key in this respect that the goodwill in the name above the door can be retained, both in terms of the value of the business being acquired and for those consumers who value continuity of the name for historic reasons, even if ultimate ownership changes. In addition, Funeral Partners' model in relation to former owners is to encourage the former owner (along with any of their relatives) to be retained in the funeral home in order to continue the family-run tradition. Provided that there is clarity regarding ultimate ownership, we consider it is of great benefit to all concerned to retain the existing goodwill associated with the name of the acquired businesses. Retaining trading names (regardless of ultimate ownership) is an established business model across almost every sector of business (including professional service businesses). We believe that the current practice of displaying ownership both externally, internally and on printed materials and contracts, is more than adequate in terms of transparency.

### **c) Pricing/charging remedies**

We are not supportive of pricing/charging remedies.

Firstly, and as explained above, we do not believe that the available evidence supports a finding that pricing and profitability levels in the market are indicative of a market that is not well-functioning. In any event, were the CMA to decide that pricing and profitability levels are reflective of an AEC, it is obliged to confine any remedy to what is “*reasonable and practicable*” (s.138(2) EA02).

We recognise that Ofgem/the FCA have imposed/proposed price caps in retail energy, overdrafts and other banking charges, and payday loans, for example. However, these have applied to markedly different sectors and more ‘commoditised’ markets. We believe that it will be even harder to apply pricing/charging remedies in the funerals market, which is characterised by a much greater degree of differentiation. We believe that applying such remedies creates a big burden on providers and the regulator, and that there is a high chance of error when it comes to introducing and maintaining such remedies. In addition, regulation would impose costs on the industry for compliance, which will need to be paid for, potentially through higher prices to consumers, which may be an unintended consequence.

We consider any pricing or charging remedy to be wholly disproportionate and an overly interventionist response. Such a remedy would be fundamentally unsuitable given the flexibility needed in order for funeral services to respond to a wide range of personal preferences as well as a multitude of differing customer requirements. Any pricing or charging remedy is likely to be unsuitable to the industry and have a number of unintended consequences, which we explore below.

#### Cost orientation condition

Funeral Partners believes a cost-orientation condition remedy would come with a number of unintended consequences and issues for the sector. We identify four key concerns below:

#### **1. Significant complexity in defining ‘cost’**

- The industry offers a very wide range of products and services, many of which use shared resources when it comes to provision of the service. It is by no means a simple task to identify costs of the provision of any one particular service. Separating accounts and deciding how to allocate common costs across regulated and non-regulated services would be a significant exercise.
- The burden to firms of systematically recording costs for regulatory purposes is likely to be an expensive exercise, and would depend on what was implemented. Any regulator would most likely wish there to be standard reporting so as to enable it to undertake compliance monitoring.

#### **2. Reduced innovation**

- We believe that this would significantly hamper innovation in the sector. Providers would spend a significant amount of effort either focussing solely on products and services selected for cost orientation (at the expense of innovation elsewhere) or, conversely, providers may choose to focus their efforts exclusively on other products and services (without a cost orientation obligation) and focus marketing and quality on these ‘other’ products and services. In both instances, this could lead to perverse outcomes for consumers.

#### **3. Reduced quality / poor consumer outcomes**

- This could lead to poorer quality for consumers with products and services subject to cost orientation being more ‘tightly controlled’ in relation to service provision, for example, additional complexity when it comes to terms and conditions, preclusions and exclusions.

#### **4. Loss of focus on efficiency**

- Cost orientation does not reward improvements in efficiency and as such may deter new entrants which may otherwise have entered the market with the intention to drive down costs.

- Cost orientation may also reduce the incentives of existing providers to reduce the cost base and potentially hamper focus on efficiency. The nature of the funerals industry includes a significant amount of 'sunk' cost in order to provide a minimum level of service. Innovation to reduce overheads should be a constant focus for the industry and not a secondary concern, which may be an unintended consequence of cost orientation obligations.

#### Profit margin / Rate of return allowance

We see a number of downsides associated with profit margin remedies and rate of return allowance. We identify five principle areas of concern below:

##### **1. Failure to recognise differing investment models**

- The industry is characterised by a number of different investment models. For example, Funeral Partners has tended to grow by acquisition, buying businesses with an inherited brand and reputation, and then investing in quality and efficiency to grow that reputation through improvements in customer service. A rate of return allowance may not be able to fully take into account the investments being made and the financing options available to businesses. This extends to providers such as Funeral Partners (who have private equity backing) but would include the plethora of different types of funeral director businesses, funded in different ways.

##### **2. Reduced innovation**

- We believe a rate of return allowance could damage the risk of innovation in the market. Innovative firms may be put off entering the market if they were unable to gain market share and achieve a reasonable rate of return for investors. If the rate of return is fixed then it may be too low to incentivise investors to support riskier innovation.

##### **3. Ongoing regulatory burden**

- Any regulator would need to work out an appropriate rate of return, which would introduce some regulatory burden.

##### **4. Margin manipulation**

- If a profit margin remedy were to be imposed, businesses may be incentivised to manage costs such that they reduce overall margin e.g. when allocating costs of central overheads.

##### **5. Employment status**

- As a result of any potential margin remedy, businesses may be encouraged to move to a more flexible cost model (e.g. zero-hours contracts) in order to manage margins.

#### Safeguard cap on essential services / Safeguard cap on a specific package

Funeral Partners would not support any cap of essential services/a safeguard cap on a specific package. We identify our rationale for this below and outline four key issues with such a remedy:

##### **1. Reduced quality / poorer consumers outcomes on quality**

- 'Unobserved' quality: Unless any cap on essential services and/or specific packages was also accompanied by a licensing framework (which set out minimum quality standards, particularly in relation to 'unobserved' quality), then such capping would inevitably lead to a 'race to the bottom' when it comes to 'unobserved' quality elements such as 'back-of-house' standards and broader legislative compliance.
- 'Observed quality': 'Observed' quality may also reduce for those products subject to a cap. Capped products would inevitably be more 'tightly controlled' in relation to customer service provision and would necessitate additional complexity when it comes to terms and conditions, preclusions and exclusions.

- Consumers may be less well served under a price cap if it gives them even less incentives to shop around and compare prices between funeral directors for essential services and/or specific packages subject to a cap. They may mistakenly miss out on better deals and/or more relevant products and services for their needs, and competition in the market for controlled products/services may be even further restricted.

## **2. Complexity of definition**

- It would be significantly complex to define an 'essential' service and/or specific package for which a price cap would apply across the industry. Specific products and services may not be suitable for all faith groups, as elements such as providing facilities for family members to wash a deceased will have to be included for some faiths, but are irrelevant for others.
- We also believe that the market will continue to evolve as the competitive landscape continues to evolve. To fix a cap on a specific package may soon become out of date and/or irrelevant.
- In addition, there will be common costs that the firm incurs in providing both any capped and uncapped services – there is significant complexity in apportioning costs and setting prices in this way.

## **3. Reduced innovation**

- Providers could spend a significant amount of effort either focussing solely on those products and services selected for price capping (at the expense of innovation elsewhere) or, conversely, providers may choose to focus their efforts exclusively on other products and services (without a price cap). In the latter instance, providers may focus their marketing and quality efforts on 'non-capped' products and services which might be either a) entirely different to those elements which are capped or b) products and services which are 'just different enough' in order to not be subject to a cap. In all instances, this would lead to perverse outcomes for consumers.

## **4. Increased barriers to entry**

- Those firms who offer more of the products which are subject to a cap may 'lose out' as opposed to those firms who specialise in a broader range of products and services. This may lead to an unintended consequence of deterring market entry in relation to capped products/services and, in turn, undermine potential benefits to consumers.
- If a cap is set too low, then there would be few opportunities for new entrants to offer improved terms, limiting consumer choice. Funeral Partners believes that the market for low-cost simple funerals (including 'direct cremation') is already becoming well-developed and aggressive in the industry.
- Some firms may not currently be providing all elements of the capped product/service. If all firms were made to provide the product/service in a standardised way this could result in market exit. On the other hand, if there were no requirement for all firms to provide the product/service, then there could be a situation where no firms provide it and thus none would be subject to price regulation.

### **d) Quality regulation**

Arguably, some of the OFT's 2001 recommendations have been a challenge to implement in the entire supply of funeral director services because of the lack of a single trade association which has industry-wide coverage. In addition, in the absence of an industry-wide set of quality criteria and, particularly when it comes to 'unobserved quality' and 'back-of-house' standards, like-for-like comparison between funeral directors remains a challenge.

The CMA have rightly recognised that the 'definition' of a funeral itself as an issue, and the different interpretations on this point have led to transparency issues and acted as a barrier when it comes to like-for-like comparison.

We therefore support the introduction of a statutory code of practice for the industry and/or some kind of mandatory licensing or regulatory regime. We believe that this would drive up standards across the industry and deliver a more level playing field required to enable fairer comparisons between funeral directors.

It is important that any recommendations can be applied industry-wide and, given the current self-regulated nature of the industry, and the fact that the industry bodies do not have nationwide coverage, along with the absence of a mandatory licensing regime, such a licensing framework seems the most appropriate approach.

#### **e) Market opening remedies**

As far as 'unbundling' is concerned and for the purposes of the investigation, Funeral Partners would define 'unbundling' as having the following characteristics:

- a) The ability for the consumer to choose a supplier of a product/service from someone other than direct through the funeral director.
- b) More and more products and services able to be selected à la carte' i.e. 'unbundled'.

We recognise the importance of 'unbundling' certain elements of the funeral process and of the consumer being able to make product and service selections which are right for them.

In practice, and in relation to point a) above, consumers can and already do choose to source certain elements of the funeral for themselves e.g. friends or family members officiating the service instead of a third party, or families sourcing flowers or orders of service through their own channels (as opposed to going through the funeral director).

Care would need to be taken if certain products, such as coffins, were mandated to be 'unbundled'. For example, in order to avoid customer distress and/or liability issues, coffins must meet certain safety and environmental standards, and there are specific regulations around coffin acceptance at individual crematoria. Any mandatory 'unbundling' in this area would need to ensure products sourced from third parties comply with agreed standards.

To a certain extent, and in relation to point b) above, Funeral Partners already offers a partly 'unbundled' service, as well as 'packages', and it recognises that some of its competitors go further e.g. they charge for 'dressing the deceased', 'collection out of hours' and a 'handling fee' for the customer supplying their own coffin.

Funeral Partners is engaging in further 'unbundling' trials itself in order to understand what further products may be of value to consumers to 'unbundle'. We consider that 'unbundling' is already a feature of the market and that the industry does not require 'unbundling' to be mandated through any remedy.

Funeral Partners also believes that there would be unintended negative consequences if the industry were forced to 'unbundle' as part of specific remedies imposed by external parties. We believe this could make the conversation with the consumer even more challenging and potentially distressing. Depending upon the extent of the unbundling and any stipulations around the sales process, more and more products may need to be put in front of the customer for a decision on whether to proceed. Layering charges for individual products and services in this way could, at worst, align the industry with the perceived negative practices of low-cost airlines – where the advertised headline price for 'a seat' bears little resemblance to the final price paid once other elements are added such as 'seating' and 'baggage'.

Were certain products or services to be 'unbundled' in order to better understand and reflect the cost of service provision, there could be perverse consequences and awkward conversations which arise with the customer. For example, the difference of five minutes between 8.55am and 9.00am may incur an 'out of hours' removal fee, whereas after 9.00am, 'in-hours' fees would apply.

There is a high risk that externally imposed 'unbundling' leads to pricing and process becoming more complex for consumers to engage with at an already difficult time.

### **Vertically integrated providers – a wider unintended consequence**

Were any pricing/charging remedy to be applied to the industry, we believe that this could result in discriminatory behaviour by those businesses which operate both crematoria and a funeral director business.

In order to overcome the constraints posed by pricing/charging remedies, these businesses could seek to gain growth by taking advantage of their position in the market through offering preferential rates at crematoria to customers of their own funeral homes, giving them an unfair advantage and to the detriment of consumers.

## **5. Investigation methodology**

In relation to the methodology being adopted as part of the investigation, we would comment on a number of areas:

- a) Engagement with the independent sector**
- b) SunLife's 'Cost of Dying Report 2018'**
- c) Characterisation of Funeral Partners as a 'large player'**

We now discuss these three elements in turn:

### **a) Engagement with the independent sector**

In terms of overall approach to the investigation, Funeral Partners remains concerned that the engagement with the independent sector during the Market Study was relatively arms-length, and from what has been made public, seems to have been based on voluntary submissions made as part of the process, and a limited number of telephone engagement calls/focus groups. We recognise that the CMA is encouraging more dialogue with the independent sector as part of the investigation.

Given that independents, including the small chains referenced in the Market Study, make up c70% of the market, we feel that the market investigation needs to engage fully with this section of the market, including issuing RFIs under S174 requests in order to elicit meaningful responses from a cross-section of operators. RFI requests should cover all areas of 'unobserved' quality, as characterised by Funeral Partners above.

Both the NAFD and SAIF are publicly campaigning for such engagement so that if any interventions are made following the market investigation, the CMA will have taken account of the whole market, and so that any outcomes are proportionate and relevant, and do not adversely affect competition in either the independent or 'larger' firms.

### **b) SunLife's 'Cost of Dying Report 2018'**

We recognise that the CMA have used SunLife's 'Cost of Dying Report 2018' as a basis for some of its findings. We would note the following in terms of methodology:

- The research relies on 100 funeral directors providing charges over the telephone, and that the funeral directors chosen over the years for SunLife's ongoing analysis have not remained the same. We believe a sample size of 100 funeral directors remains a very small proportion of the whole market.

- The research includes both independents and 'larger chains', and therefore assumptions around price increases must apply to the whole sector, not just the 'large chains' which, as per our comments above, were a focus of the MSR.
- The funeral pricing criteria used in the research focusses on 'traditional' funeral pricing, and does not take into consideration the availability of lower-cost funerals, and low-price new entrants to the market.

We would also note that, in addition to observing funeral costs rising in certain regions in the country, the SunLife report also observed regions where funeral costs decreased versus 2017. The 'London' region fell by 1.2% versus 2017 and the 'South East and East Region' fell by 4% (see Page 16 of the 2018 report).

### **c) Characterisation of Funeral Partners as a 'large player'**

The CMA has defined Funeral Partners as being a 'large player' in the market, yet we only have a market share of around 2.5%. As such, we challenge the notion that we are a 'large' player in the market – we believe that we are more closely associated with, and more easily compared to, what the CMA have defined as 'small chains'. It is important that 'large player' considerations are not extended to Funeral Partners without due consideration of Funeral Partners' particular position.

We would also challenge whether any such definitions are relevant, given the fact that the funeral business (with the potential exception of the direct cremation market) operates on a very local basis.

Such definitions would become particularly important if the CMA were to consider interventions based upon them.

## **6. Conclusion**

We believe that there is no basis to conclude that there is an AEC in the Funeral Director market resulting in detrimental effects in the form of either (i) higher profits/prices, (ii) reduced quality/choice (iii) less innovation – or a combination of these. Rather, we believe that the market is functioning well and delivering consumers a range of price/quality options reflective of a highly competitive environment.

As per our response to the interim MSR, we would also re-state that an issue in the market relating to the cost of funerals (which remains out of scope for the CMA's investigation) is that of the lack of increases to the government subsidy for funerals for low-income families. The industry itself is already attempting to address such concerns through the introduction of newer offerings like direct cremation, but the wider point around government-funding remains a problem which we believe requires attention.

As such, given its current scope, Funeral Partners believes that any remedies put forward by the CMA will not be justified by an AEC. However, irrespective of the absence of any AEC, Funeral Partners believes that some of the remedies discussed in the CMA's IS will nevertheless help support consumer awareness of funerals, and/or encourage higher standards to be implemented throughout the industry.

For these particular remedies, and as outlined above, we remain supportive and we would welcome ongoing engagement with the CMA in order to shape these remedies in the interests of consumers and the industry as a whole.

Generally speaking, we believe that the most appropriate way forward is to recommend an industry-wide licensing framework, so that minimum standards can be set and applied to all providers, and in turn enable more meaningful comparisons by consumers between providers.