

Response to CMA's Issues Statement dated 8th April 2019
Memoria Ltd

1. *Executive Summary*

- Memoria Ltd (**Memoria**) welcomes the CMA's market investigation reference (**MIR**) into the funerals sector. Memoria recognises that organising a funeral can be a very difficult and emotional time for families and it is important that customers can easily find the right service at the right price for them.
- Memoria has been working hard to improve both quality and consumer choice by investing in its infrastructure over the past eight years to meet a variety of changing customer preferences, including by:
 - Building ten state-of-the-art crematoria able to provide bespoke services;
 - Launching 'Low Cost Funerals' to provide affordable funerals and cremations; and by
 - Building partnerships with independent crematoria to support that lower cost offering.
- Memoria recognises that there is still room for improvement in the range, quality and choice of services available to customers, and is keen to work with the CMA to ensure that interventions are appropriate and support rather than undermine both existing competition and further investments in the sector.
- Memoria is comforted by the CMA's recognition that, while there are some overlaps, there are fundamental differences between the markets for funeral director services and for crematoria services.
- Memoria will therefore limit its comments to the relevant market in which it operates i.e. crematoria services, with a particular focus on the following issues:
 - Fundamental structural changes in the last decade: increased demand requires increased investment;
 - Understanding price increases: the role of private operators and local authorities;
 - The role of funeral directors: 'gate-keepers' to crematoria services;
 - The risks of price regulation in the crematoria industry: a disproportionate response that may have unintended consequences
 - Potential solutions: the need for price and quality transparency

2. *Fundamental structural changes in the cremation market: increased demand requires increased investment*

Memoria has already provided the CMA with a snap shot of the key changes in the cremation market since 2008 and does not intend to repeat those changes in this submission.¹ However, it is important for the CMA to recognise the specific characteristics of a market that has adapted and evolved very significantly. The cremation rate in the UK has been increasing

¹ See Memoria response to the CMA's funerals market study report (the **Final Report**)

steadily with the national average rate rising from 34.70% in 1960 to 77.05% in 2017,² with an increase of 10.66% over the last decade.³ This increased demand has been met through a significant number of crematoria being built over the last ten years, the fastest rate since the 1960s.⁴ As the Final Report acknowledges, the vast majority of the increase has come from investments by private providers. The number of cremations carried out by local authorities between 2007 and 2017 has remained relatively constant.

Memoria has played a significant part in undertaking the investments required to improve capacity, consumer choice and quality of service provision in the market for crematoria services. As already explained to the CMA, Memoria has invested £40 million in the last eight years to build ten new state-of-the-art crematoria. However, undertaking these investments is both risky and expensive for the following reasons:

- **Land acquisition and planning consent:** A sufficiently sized plot of land in an appropriate location needs to be acquired and planning permission sought and obtained. For land purchase, Memoria will pay around £[<] per acre plus 2.5% royalty on all site income.⁵ It costs in the region of £100,000 to £500,000 to go through a crematorium planning application, and this cost is not recoverable if planning consent is not secured. In Memoria's experience, planning applications are both challenging and lengthy, with each one taking between 3 to 5 years. This is mainly a result of significant local and commercial opposition (the latter due to competitors following Memoria into an area) and the judicial review process that may follow. The length of time is predominantly as a result of commercial competition rather than the planning system. If the planning application is ultimately successful and a crematorium is built, the overall value of the land will be reduced, as it cannot be readily used for another purpose once the crematorium has been built. It is the operation of a successful crematorium that drives value rather than anything associated with the land value post development. The presence of cremated remains would also prevent other development (such as housing or industrial), making resale of the land for anything other than a crematorium very difficult.
- **Rising costs of development:** The cost of developing a new state-of-the-art crematorium has increased by over 100% in the last ten years and now costs in the region of £5 million to £6 million. This is due to the increased costs of land, construction, building materials and cremators, in addition to environmental and planning requirements, such as mercury abatement and improved car parking facilities.
- **Changing customer preferences including pre-arrangements:** The preferences of customers have changed significantly over the last decade. Increasingly customers

² National Cremation Statistics 1960-2017, The Cremation Society of Great Britain, available from <https://www.urnsforashes.co.uk/cremation-statistics/>.

³ Based on cremations going up from 422,853 in 2008 to 467,748 in 2017, see cremation.org.uk/statistics.

⁴ See Figure 1 from the CMA's Report.

⁵ The amount Memoria needs to pay in each case will depend on the extent of alternative use for land, and the balance between up-front payment (where Memoria has paid up to £121k per acre) and royalty payments (where Memoria pays between 0-5%). Memoria purchases several acres for each crematorium, and in some cases may need to purchase more land at a later date.

require longer time slots and want the cremations to take place in the middle of the day during the week. This significantly reduces the number of available slots and means a Memoria crematorium can typically hold only [X] cremations per annum (compared to over [X] cremations, if morning, afternoon and weekend slots are used). In order to meet customer preferences, a crematorium therefore needs to ensure it can offer sufficient differentiation and service quality in order to recover sufficient fixed costs and overhead from the smaller number of services. It may also use the spare capacity to offer services such as a simple cremation without the family being present which can present a much lower-cost option. There has also been a significant uptake in the number of pre-arranged funerals, with an increase of over 280% over the last 16 years,⁶ as people are choosing to take control of their funeral planning before their death. This is particularly relevant for the ‘baby-boomer’ generation (i.e. those born between 1946 and 1964), who often want a more personalised funeral that reflects individual preferences. This may mean a two-hour celebration of life, or a low cost direct unattended cremation. A one-size-fits all approach is therefore entirely inappropriate to ensure the requisite levels of consumer choice, as customers are willing to pay to get the quality and service that is right for them.

Although Memoria agree with the CMA that the time and costs associated with the planning process for crematoria is an important factor in the analysis, Memoria does not believe the planning process is the main reason impeding the development of new crematoria. In Memoria’s view, it is the rising costs of development and the changing consumer preferences which are a far more significant factor. There are two options for meeting the costs associated with a £5 million to £6 million investment in order to obtain a viable return on the capital invested. Either the number of cremations needs to be increased, or the price of an individual cremation needs to be increased. Given, as explained above, the trend for longer and more bespoke cremations, simply increasing the number of cremations is not a viable option.

Memoria’s significant investment in crematoria over the last few years means that Memoria has a large amount of capital invested in the UK crematoria market which – as set out above – cannot be readily recovered or turned to another use if conditions in the UK crematoria market were to fundamentally change. Memoria’s crematoria business carries significant risks – e.g. of incurring cost on planning applications that cannot be recovered if unsuccessful, and purchasing land that cannot be resold at equivalent value if the crematorium is unsuccessful once built. In order to provide the quality of service that the market requires, Memoria’s crematoria undertake relatively few cremations per annum (around 1,000) and face significant staff costs in order to ensure that customers are properly cared for.

In order to ensure the best quality of service and consumer choice, Memoria also has higher costs per cremation (in particular staff costs) than many of its competitors. Memoria believes that its significant investment in staff, and its corresponding ability to provide a superior service, is one of the main factors that differentiates it from other operators in the market.

⁶ From 46,340 plans sold in 2002 to 177,000 plans sold in 2018. Figures taken from plan sales for Funeral Planning Authority (FPA) registered plan providers, available from: <https://funeralplanningauthority.co.uk/statistics/>

Memoria has found that there is demand for cremations at prices that justify the risks and investments involved and the overheads associated with a relatively low volume high quality business model (in particular, due to offering longer slots). However, in order to maximise the use of its facilities, and to ensure that customers are offered the widest range of services and prices, Memoria also offers Low Cost Funerals (including both unattended Direct Cremations early and late in the day, and low cost attended services). In meeting the increased demand for cremations and going further to provide greater competition, quality and consumer choice for cremation services, even more capital will need to be invested in the UK crematoria market. Therefore, in considering potential interventions into the market the CMA will need to be careful to ensure that such interventions do not risk undermining the very investments in the market that the CMA is seeking to encourage.

3. Understanding price increases: the role of private operators and local authorities

Memoria understands that given the significant increases in prices in recent years the CMA will be keen to understand what has driven these price increases, and whether the resulting service offerings provide value for money. Memoria cannot speak for the wider industry but is confident that its customers do obtain excellent service and good value for money (which is reflected in Memoria's excellent TrustPilot scores).

In Memoria's view there will be several key elements to the CMA building an understanding of pricing, and in particular:

- **The increased proportion of private operators in total service provision.** The need for increased crematoria capacity has been met almost entirely by the private sector. These private operators (including Memoria) have generally sought to win customers from long-established incumbents by offering an improved level of service and by bringing crematoria services into the 21st Century. This includes longer slots, better facilities, shorter waiting times, and adapting to modern standards for coffin size and mercury abatement. This has required substantial investment requirements (as noted above, Memoria alone has invested over £[X]m over the last eight years).
- **Increased prices by local authority crematoria.** Local authorities have increased prices over recent years to only a slightly lesser extent than private operators.⁷ Although the local authorities themselves will be able to provide greater insight on why exactly this has taken place, in Memoria's understanding this reflects two key factors:
 - The common need to invest in new facilities to meet modern requirements in terms of mercury abatement, wider coffins, etc. (which will generally be even more expensive to retrofit than to incorporate into a new facility) and the increased allocation of shared costs associated with increasing slot times, as set out for private operators above; but also

⁷ See Figure 7 from Final Report.

- Increasingly tight local authority budgets, resulting in local authorities focusing on ensuring that they fully cover the costs of running their crematoria (and even making a profit to cross-subsidise other associated discretionary services) – similar to the situation described in the Final Report in relation to local authority burial sites.

The extent of competition between local authority and private providers, especially at a local level, is significantly understated in both the CMA’s Final Report and the Issues Statement. It is not appropriate to conclude that because incumbent operators did not *cut* prices in response to entry, they did not face a competitive constraint. Given the increasing costs and budgetary pressures set out above, and the fact that (due to planning restrictions) entry is likely to take place in areas with particularly high demand pressure (i.e. where price increases would have been atypically high absent entry), it should not be particularly surprising to see that incumbents (often local authority-run) did not on average cut prices when entry occurred.⁸ Similarly, it is not appropriate to conclude that because (generally private) entrants typically had higher prices than (typically local authority) incumbents, there is no competition between the two, especially at local level, or that reducing entry barriers would have no impact on prices.⁹ As set out in Memoria’s previous submissions, there is typically a significant quality differential between new entrants and incumbents, which is reflected in prices offered.

To the extent that price responses by local authority crematoria are subdued, this may well also reflect regulatory and other considerations (e.g. local councillors’ concerns over public perceptions of fee increases or changing budgetary pressures over time) that ‘dull’ any apparent price response of local authority crematoria to competition from new entrants. However, this does not mean that there is a lack of competitive constraint in the other direction (i.e. a constraint on the prices offered by private crematoria from the prices charged by local authority rivals), as competition can to an extent be asymmetric. Memoria can provide a clear example of this type of competition.

In late 2018, Memoria informed the funeral director community and general public of proposed price increases at its Cardiff and Glamorgan facility from 1 January 2019. The price of a cremation between 11am – 4pm increased from £790 to £850 and the additional cost of a double service (i.e. increasing the slot time from one hour to two hours) increased from £150 to £200. However, following the price increase, a number of funeral directors contacted

⁸ CMA Funerals Market Study – Final Report – Appendix C, paragraph 1.21 states “Although existing crematoria tend to lose volumes following entry, existing crematoria do not respond by cutting prices. In particular, the two existing crematoria that are within 10 minutes of an entrant did not cut their prices, suggesting that to the extent price competition exists between nearby crematoria, it is weak. We also compared the average fee changes at existing crematoria that faced entry and the average fee changes among all crematoria. We found that crematoria that had experienced entry increased their fees by an average of 13% between the year prior to entry and the year after entry. The average fee change for all crematoria is 13%. This evidence suggests that existing crematoria are not changing their pricing strategy in response to entry. We have been told that, if anything, existing crematoria may respond to entry by increasing prices, to cover the lost volumes that they may experience as a result of entry.”

⁹ CMA Funerals Market Study – Final Report – Appendix C, paragraph 1.21 states “We found that at the time of entry, entrants tend to be more expensive than existing crematoria who are within 30 minutes of the entrant. This suggests that new entrants do not provide a competitive constraint in terms of pricing, and, as such, even if regulatory entry barriers were removed or reduced it is unlikely that cremation fees would fall.”

Memoria to explain that an increase of £60 was simply too high when compared to the price of the local authority run Thornhill crematorium in Cardiff. This was despite the fact that Memoria's Cardiff and Glamorgan facility provided a far superior service to Thornhill. Given the significant resistance to the price increases, Memoria made the decision to reinstate the previous 2018 prices on 19th January 2019. Despite the limited period that the price increases were in place, the effect was still clearly apparent. The total number of cremations in January 2019 went down to 16 compared to 24 in December 2018. The response to this attempt to increase prices relative to the local authority alternative clearly demonstrates how competition from local authority crematoria can place a significant constraint on private operators, even where there are significant differences already in the absolute *level* of prices, and regardless of whether the local authority rival responded to private entry by changing its own prices.¹⁰

Memoria is confident that the CMA's MIR will show that the crematorium sector is in reality characterised by new investments, increased choice and effective competition between private and local authority crematoria – and that this competition and consumer choice is developing and extending into new areas, as an increasing number of private crematoria are being built to meet demand. However, the investments that underpin competition are both expensive and risky, and it is critical that the CMA's interventions into the market act in a way that encourages continued investment into the sector, rather than undermining it.

4. The role of funeral directors as 'gate-keepers' to crematoria services

The CMA's Issues Statement and Final Report both emphasise the lack of transparency in the provision of funeral services, in particular regarding the price of the various elements of a funeral. As set out above, Memoria does not intend to provide substantive comments on the market for funeral director services or speculate as the reasons for the increased package price of a funeral. However, it is important for the CMA to recognise the significant role of funeral directors as 'gate-keepers' to crematoria services, and how this may affect the overall cost of a funeral.

with most cremations only costing £400 - £900 or 9 - 21% of the cost of the funeral.¹² The CMA recognised in its Final Report that there is a great disparity in the costs of funerals, which cannot be explained by differences in factors such as service quality, branding or operating costs.¹³ The Final Report also indicated that direct cremations still account for a small proportion of funerals, even as their popularity has grown.¹⁴

In 2016, Memoria launched its service 'Low Cost Funerals', a service offering affordable funerals and cremations at much lower costs than traditional funeral directors. This includes not only direct Unattended Cremations (**UCs**) but also Low Cost Cremations (**LCCs**). UCs are distinct from LCCs as they can take place at 'super off-peak' times, such as late at night or early in the morning, therefore using any additional spare capacity. There are no formal restrictions on when crematoria can operate, and given that it is better for cremators to run

¹⁰ Standard fees at Thornhill for 2019 are £640 for the cremation (<https://cardiffbereavement.co.uk/our-fees/>) and £150 for an additional 45 minutes.

¹¹ <https://www.funeralzone.co.uk/help-resources/arranging-a-funeral/the-cost-of-a-funeral>

¹² <https://www.cremation.org.uk/content/files/2017%20Cremation%20Fee%20League%20Table.pdf>

¹³ CMA Final Report, paragraph 6.74.

¹⁴ CMA Final Report, paragraph 4.81.

without stopping, it would be feasible for cremators to run 24/7 provided they are serviced regularly. (Memoria services every cremator after 400 cremations.) Cortege speed is also not a relevant consideration for UCs, meaning the catchment area becomes much wider.

LCCs can still be attended by the family and may include a funeral service (competing with the traditional service offered by funeral directors at much lower cost). However, these LCCs will often take place at ‘off-peak’ times and for a shorter time slot.

Since Low Cost Funerals was launched there has been a significant year on year growth in business, as set out in the table below, demonstrating the gap in the market for a lower cost option that maintains the requisite level of service and care. The most notable increase has been in pre-arranged sales, which can be attributed to a focused marketing drive in 2019.

Table 1: Low Cost Funeral sales 2017 – 2019 (first 4 months of each year)

Sales Jan 1 st to April 30 th	Pre-Arrangement		At need	
	No of sales	% increase	Total cremations	% increase
2017	25	N/A	118	N/A
2018	54	116.00%	208	76.27%
2019	240	344.44%	636	205.77%

Memoria also works with others across the country to provide, in effect, a national service for UCs and LCCs at a price between £899 to £1,999 (there will be variances in some geographic areas, and depending on when the delivery of the cremated remains is required.) In order to do this, Memoria has built partnerships with five selected independent crematoria to provide LCCs where Memoria does not have the network coverage, [3].

Memoria therefore offers a variety of services including both UCs and LCCs. For UCs, with no funeral service or ceremony, this is normally combined with a memorial service or other ceremony elsewhere. There is consequently a role for funeral directors to facilitate competition at this point of the process, as customers could have the choice of selecting a lower priced UC before holding the memorial or funeral service elsewhere. Memoria maintains very good relationships with funeral directors across the country, and will invest significant time and resources in building these relationships. However, for funeral directors the most important consideration remains price, as indicated by the Cardiff and Glamorgan price shock analysis. Memoria therefore believes that funeral directors would welcome significantly more transparency in the prices for UCs and LCCs across the country, as this would enable them to provide a wider variety of choice at a lower price point to their customers.

5. Price regulation of the crematoria industry is disproportionate and may have unintended consequences

Memoria are strongly of the view that remedies based on price re-alignment and price regulation would be both disproportionate and potentially harmful to the crematoria market, with a significant risk of unintended consequences in a sector where competition is working reasonably (and increasingly) well as a result of new (and ongoing) investment. Memoria has identified its particular concerns below.

- **The cost of price regulation:** The UK cremation market is worth circa £350 million per annum. Price regulation is very expensive to put in place and then administer. With this in mind, Memoria believe that price regulation is a disproportionate response to the issues identified and unjustified for the size of the market.
- **The unique market circumstances:** Cremation is not a utility commodity like gas, electricity or water. It is a service with different product elements, prices, and supplied in places of differing quality and time slot lengths. In this way, the crematoria services industry has similar characteristics with the hotel industry and new investments are further developing the differentiation of offer available from different crematoria. A one-size-fits-all price regulation approach is therefore inappropriate for the market, and would need to be unduly complex to properly account for the differences in quality of provision.
- **The risk to private investment:** There would be serious risk to the funding of private investment (both existing and future) and lending covenants if price regulation were to be introduced into the market. This could drive-out investment in facilities and staff, as it would indicate that the quality of service and facilities were not important. This could cause all facilities to start a race to the bottom in terms of quality and consumer choice at a time when more investment is needed. Memoria feel very strongly that this would not be in the best interests of the consumer and would have a highly detrimental effect on the experience of bereaved families.

6. Potential solutions: the need for price and quality transparency

Rather than price regulation, Memoria believes the solution is for the CMA to require an increased level of pricing and quality transparency in the market. Specifically, crematoria should be required to publish their prices for UCs and LCCs online, along with the key aspects of the service offered (including importantly time slot), and provide indicative prices for all add-ons (for example catering, flowers etc). This would have the effect of constraining some of the more extreme business models, and increasing consumer choice overall. Many of the necessary tools to encourage transparency are already present in the market, especially with the growth in online sales and price comparison websites (PCWs) such as Funeralzone, Funeral Plan Market, Local Funeral Director and Beyond. By requiring crematoria to publish prices on their websites, the PCWs will be able to scrape the pricing information and collate everything together in one place.

As explained above, there are increasing numbers of people opting for pre-arranged funerals via a funeral plan, which means they will have both the incentive and ability to shop-around. This also significantly reduces the risk of consumer vulnerability, as the deceased's family will not have to make any choices – they will simply need to action the

pre-arranged wishes of their loved one. Memoria believes that increased transparency in the market will enable peace of mind for both customers who wish to pre-arrange their funeral and their families, and will enable point of need customers to have a far better understanding of the options available to them. This will provide the balance between the need for quality and consumer choice, and ensuring any interventions are appropriate and support rather than undermine existing competition and investments in the sector.