

**RESPONSE BY PLYMOUTH CITY COUNCIL TO THE COMPETITION AND
MARKETS AUTHORITY’S “FUNERAL DIRECTORS AND CREMATORIA SERVICES
MARKET INVESTIGATION, STATEMENT OF ISSUES”**

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1. Introduction: Structure of this document

This Response is made by Plymouth City Council (the “**Council**”). It contains information from the Council in its capacity as a bereavement services provider, in particular, as a public sector operator of crematoria.

The Council’s focus at this stage is principally upon issues identified by the Competition and Markets Authority (the “**CMA**”) which are within the Council’s area of knowledge and expertise.

Section 4 is designed to supply comment and evidence in relation to issues affecting the Council relevant to the investigation.

Supporting documents are attached as Appendices.

The Council would expect to supply further detail in its formal response to the CMA’s Annex A.

2. Comments on summary of Issues and excluded issues

The primary focus of the investigation is the services supplied by funeral directors. Given the nature of the Council's role in relation to bereavement services – as explained below – the majority of the issues identified are not ones upon which it is appropriate for the Council to express a view.

The principal focus of this response therefore is the issues relating to operation of crematoria.

3. Exclusion of pre-paid funeral plans

The Council understands why the pre-paid funeral plan element of the funeral directors' business is excluded from this investigation. Nevertheless, given the issues identified (in particular issue 8(c)), the Council considers that the CMA should obtain some information relating to pre-paid funeral plans.

There are a number of pertinent points:

- Following a death, vulnerable customers will seek out (or be introduced as below) to a funeral director. Once the immediate problem of the funeral has been resolved, the customer has a relationship with the funeral director. That fact might provide an opportunity for the marketing of pre-paid funeral plans for the customer at a vulnerable time.
- Where pre-pay plans are bought, the funeral director receives the payment over time but self-evidently does not make a booking for the Council's services or pre-pay any amounts to the Council. The issue of transparency of charging (referred to in paragraph 5 below) should perhaps extend to pre-paid plans too.

4. Consideration of specific issues with supporting documents

4.1 Summary of the Council's offer and range of associated responsibilities

The Council operates crematoria and is required to undertake a wide range of associated responsibilities such as burials, cemetery and green space maintenance as set out in more detail under paragraph 4.3 below.

The Council does not act as a funeral director. The Council is rarely if ever the first point of contact for the bereaved. The Council's principal 'customer' is the funeral director to whom the Council is in effect a sub-contractor.

The Council is a public 'not for profit' provider of crematoria and related bereavement services. Its prices are set by its Councillors and are not shareholder profit driven. Typically, the cost of cremation is not a significant element in the total funeral price charged by the funeral director to the ultimate customer/consumer.

The Council has a legal obligation (of public health origin and not shared by the private sector) to provide for the disposal of deceased remains. However, the Council is by its nature service driven. It has adapted and enhanced the bereavement services offered to the public over recent years to respond to changing consumer demand. Details are set out in paragraph 4.2 below.

4.2 Customer needs and demands (Issues 8(a), (b), (c), (d))

The bereavement services which the Council provides are intended to offer the City's populace and the wider community in the South West services to meet their needs. Whilst the Council has no obligation to operate crematoria (as distinct from the provision of a burials service), it has done so for the benefit of its people for many decades. (See Appendix 1 (*Bereavement Infrastructure, Briefing Paper (Part 1)*), where the history of the Council's service provision is set out in the Introduction at para.1, p.1).

The customer pathway is an important matter for the City's Councillors and those who work within the Council to deliver the services.

Significantly, and of particular relevance to this investigation, the Council has experienced a changing marketplace over recent years. In particular, over the past decade there has been a changing face to families' needs/requirements for funeral services, moving to a much more personal service and tribute to a person's life and more a celebration of a life. In summary:

- Cremation price is not a significant factor and is not necessarily visible to families as they do not deal directly with the crematorium operator.
- Generally, the cost of the cremation is not a significant element within the overall cost of a funeral package with a funeral director.
- The Council's two Edwardian cemeteries, central and west of city, each of which include crematoria, play a role as a community facility serving the defined population of Plymouth and also its urban fringes. Each contain part of the heritage assets of the city including garden walls built from blitz damaged municipal buildings in the city.
- The Council is and always has been concerned to supply a quality experience through the human service provided by staff in partnership with funeral directors.
- The Council provides free burial and cremation to hospitals for pre-natal losses. Free cremations and internment are also offered for children under 18.
- In order to provide the best quality and provision for the needs of the bereaved, the Council has invested in enhancements to its services in a number of ways:
 - Longer service times: The previous 30 minute service times needed to be lengthened in order for families and officiants to have the time to create the personal service they need so 45 minute service times were introduced in April 2017.
 - A "No service" funeral time has been introduced following customer and service user requests. This was introduced specifically to provide service times for those choosing not to have a funeral and merely wishing their relative to be brought to the crematorium for direct cremation.
 - New media services giving families the opportunity to choose:
 - Visual tributes – photographs of the deceased, video musical accompaniments that can include family members playing an instrument or singing.
 - Webcasting – opening up the service to family members abroad or hospitalised or for whatever reason cannot attend the funeral.
 - CD and DVD recordings of a service.
 - Music services that can provide any chosen track of music commercially recorded within 24 hrs.

In 2018, conscious of the need to improve and enhance the provision of its bereavement services in the context of a wider Green Estate and Public Health agenda, the Council prepared an analysis of the possibilities for the future of the services. (See Appendix 1 (*Bereavement Infrastructure, Briefing Paper (Part 1)*))

At the heart of the vision for the future is a new, high quality modern facility designed for greater privacy for the bereaved and to ameliorate any 'conveyor belt' feel reported by families in relation to the existing (outdated) facilities. In addition, the Council recognised that at the existing sites, the number of parking spaces required to meet the increase in the average number of vehicles at each funeral was inadequate. Coaches cannot be accommodated within the grounds either. The planned provision of a new fit for purpose chapel facility will meet the future needs for the citizens of Plymouth and its surrounding area and address many of the issues/constraints of delivering this essential service from old Edwardian sites.

In the meanwhile, the Council has enhanced its service provision through better information provision to the bereaved. Collaborative working between the registration and coronial and bereavement services teams has improved the nature and quality of information that is given to families at the point of death registration. This helps them to make informed choices and be better informed about services available from the local authority prior to discussions with their chosen funeral director. Customer needs are to the forefront so that also when there is face to face contact with families they are encouraged not to rush and to consider all options available when making difficult decisions. This includes vital information on the wide range of choices the Council provides and can give advice regarding final disposal of cremated remains. The Council recognises that bereaved families need help, support and guidance when, on many occasions, they have no experience of arranging a funeral. This is of particular importance when dealing with those that have lost babies and infants.

The Council also holds an annual meeting with local funeral directors to discuss bereavement services, development plans and any relevant issues. Examples include a training session by a Local Authority Environmental Health Officer about the process for crematoria and the impacts of inappropriate coffin content on the environment (and as such our environmental permit). The Council also supplies without charge to all local funeral directors support booklets for families who have lost someone from suicide. (<https://www.nhs.uk/Livewell/Suicide/Documents/Help%20is%20at%20Hand.pdf>)

The Council currently favours a co-operative approach to service provision. It is examining how co-operative principles can be woven into the future bereavement services provision so that the customer pathway is at the heart of the bereavement service.

4.3 Compare and contrast private v local authority operators (Issue 8(h))

There is a fundamental difference between the operation of crematoria by local authorities compared to the private sector. The Council, like all local authorities, has a duty to undertake public funerals, whether cremation or burial.

Unlike a private operator, who can choose what obligations to undertake, the Council has a wide range of burdensome legal responsibilities associated with funerals, cremation and burials. These include the management and maintenance of closed churchyards, and of cemeteries. For example, this Council maintains in total 40 hectares of green space surrounding 40,000 graves. In addition, the Council's associated public health responsibilities mean that the Council works collaboratively with other agencies in relation to suicide and suicide prevention. This work is focussed on ensuring bereavement support and signposting for those impacted by suicide both in terms of the community

and of voluntary sector providers of suicide prevention assistance. All of the Council's crematorium and cemetery staff are trained to have conversations about bereavement and to signpost to relevant services.

These matters are identified in more detail in Appendix 1 (*Bereavement Infrastructure, Briefing Paper (Part 1)*).

Additionally, residents tend to expect that many of the green spaces owned and/or maintained by the Council should contain an element of memorialisation for the bereaved whether formal gardens, arboretum or informal. These costs are not within the bereavement service budget as direct costs but are associated with the provision of bereavement services.

Fees and charges are set by councillors and not for the benefit of private shareholders (as is the case for private sector operators). Councillors are incentivised by the nature of their political appointment to resist any unnecessary increase in the rates being charged to local people to support service provision.

4.4 Impediments to development of crematoria including planning process and project viability (Issue 8(i))

There is a very considerable disincentive to embark upon a capital programme of the construction of new crematoria facilities. The challenges are significant and variously include:

- Considerable upfront sunk costs in identifying and undertaking feasibility study and pre planning investigations in order to enter the market. The Council has expended c. £[<] in pursuing its plans for the new crematorium up to the grant of planning permission.
- Major financial investment required involving construction costs of many millions of pounds.
- Significant planning constraints including required minimum distances from residential premises, (otherwise written consent must be obtained from any households within 200 yards) and proximity to a public highway which is not permitted to be less than 50 yards away.
- Most new developments take place in a green space and environmental requirements for planning have additional cost implication for any development.
- Lack of conveniently located available land.
- Specifically in the case of the Council, public consultation requirements at yet further cost: Under section 3 Local Government Act 1999 there is a general duty for Best Value Authorities (such as the Council) to consult the local, business and voluntary community before it makes a decision about the future of service provision where that service provision is likely to change. The duty requires the Council to consult with council tax payers; non domestic rate payers; local voluntary and community organisations; small businesses; and those who use or are likely to use services provided.
- De-commissioning of the old crematoria and their retention and continued chapel operation (likely due to public pressure).

The Council prepared a Statement of Public Involvement in relation to the Council's planning application for the new crematorium referred to above. By its nature, it contains relevant information which highlights the planning issues which arose. It also shows the extent of the public consultation obligations at work in practice AND the significant care which has been taken to construct a thorough and extensive consultation designed to ensure that the new facilities will be ones which respond to customer needs and to the marketplace for those services. This document will be supplied as part of the Council's response to Annex A.

In addition, the Council also engaged with local funeral directors at an early stage on the plans to invest in a new crematorium and from their perspective smaller investments needed in the existing sites that would improve the customer experience.

4.5 Profitability of local authority and private crematoria (Issue 8(j))

As stated above, the range of responsibilities of the Council as a provider of bereavement and associated services is vastly greater than those of a private sector operator of crematoria.

The focus of the Council is upon providing high quality services to meet need rather than on profit.

In the South West region, cremation Fees (as distinct from the charge for the full extent of funeral services) range from £729 - £999. There is no obvious evidence of any difference of approach being taken in relation to fee levels between private and local authority operators. Further details will be supplied in the Council's Annex A response.

5. Comments on potential remedies in case of any Adverse Effect on Competition

Four possible remedies have been mooted. These are:

- (a) Information/transparency remedies.
- (b) Price/charging remedies.
- (c) Remedies to regulate quality of service.
- (d) Market opening remedies.

As to (a): the lack of transparent pricing by funeral directors is patently not good practice. The Council publishes its crematoria fees. Its view is that funeral directors should be encouraged, possibly required by formal undertaking, to do the same. Each funeral director should have a full price list available both in electronic and hard copy form for the benefit of customers and to enable them to make comparisons from the comfort of their own surroundings. Such pricing should clearly distinguish between disbursement style costs e.g. the crematoria fees, other third party fees and the funeral director's own costs. Where there is a price differential for example because of the choice of a particular crematorium, then the customer should be made aware of that fact.

It seems likely that, if the market agrees to such a pricing strategy, this would result in funeral directors feeling consistently compelled to be more transparent to the customer about what is being offered and its relative benefits in order to differentiate from the next provider – which should benefit the customer.

The Council has also become aware of an alleged practice alluded to in the CMA investigation: where a relative dies in a care home, it appears that it is convenient for the care home to select an available local funeral director – or to have an arrangement with a local funeral director – enabling the care home to remove the deceased promptly. In this event the bereaved consumer has in effect no choice over the selection of the funeral director who by the time of their introduction has custody of the deceased. As a result of its focus on customer service, having become aware of the suggested practice, the Council has investigated the feasibility of it providing a collection and storage service for the bereaved. There are also opportunities for the Council – whose social care team are already involved

in the creation and funding of care packages – to offer such a service as part of that care home package. The Council would be happy to discuss this issue further in due course with the CMA.

Standing arrangements between funeral directors and social or healthcare organisations should also be publicised by both institutions for consistency and transparency to facilitate better customer awareness and hence offer genuine choice.

The Council would be content to submit to a requirement for published prices. This seems a basic measure of entitlement on the part of the customer.

The Council also considers that local authority providers have a role to play in helping to disseminate such information once available. As indicated above the Council has significantly improved the supply of information to the bereaved in recent years.

Barriers to entry clearly exist in relation to crematoria. However, where a local authority enters that marketplace, unlike the private sector, there is no lack of incentive to provide a high quality service. Politically the pressure is for high quality and improvement. The Council's recent behaviours set out above are strong evidence of that fact.

As to (b) and (c): The Council considers that an "(a) style" remedy might well begin to resolve the identified issue rendering further action unnecessary. The Council consider that there would be barriers to success in the case of quality regulation, e.g. as to care of the deceased, as this is likely to be extremely hard to police in practice. Note in this context that there are legally binding rules governing the disposal of remains (once again of public health origin and specific to burial authorities rather than funeral directors). These are contained in the Cremation (England & Wales) Regulations 2008 (as amended). For members of the Federation of British Cremation and Burial Authorities (of which the Council is one) guidance is supplied in the form of a Code of Practice.

As to (d): Market opening remedies:

Funeral directors: note the content of the Council's response to (a) above is relevant here.

Crematoria: the Council does not consider that the planning regime as such is the barrier.

Neither does it consider that a franchising model is likely to assist.

The suggested tendering 'remedy' is one already open to the local authority but is unlikely to be of assistance: (i) the Council might lose control of the services in a meaningful sense to the detriment of quality; and (ii) the services would have to be provided by an external private – likely for profit – third party. In turn, this would create the same issues already identified whilst adding to the cost.

The Council will provide more detailed views about the remedies issues as part of its detailed response to Annex A.

Plymouth City Council
19 May 2019

Appendix 1

Bereavement Infrastructure, Briefing Paper (Part 1) (attached)