

## CPJ Field responses to specific questions raised in working papers published 30 January 2020

### Funerals market investigation

#### 1. *Funeral director sales practices and transparency*

- *What are the factors that determine who you engage or recommend as the celebrant/minister?*

Express request of the consumer for an individual known to them by previous experience or recommended to them by a third party.

Knowledge of the individual and wherever possible a current DRB check.

Suitability to the needs as expressed by the consumer.

Quality of service delivery. Observed by colleagues and on the basis of customer feedback.

Value for money.

Depth and duration of relationship with client.

Reflection of the Company's values and approach to funeral service.

Availability to suit the consumer's desired timings for the funeral when expressed as the principle "must-have" in a funeral arrangement.

- *When a customer wants to use a specific (or specific type of) celebrant do you accommodate their preferences? If not, why not?*

Yes.

- *What information, if any, do you think consumers should be given about the choices of celebrant/minister available?*

Anything that they would like to know. If desired a meeting with those suggested prior to settling on the right person is sensible. For Church of England funerals in particular choice is limited by the rules imposed by the Church on who should lead an Anglican funeral. Other religions have similar challenges.

For secular funeral celebrants this is less of an issue and consumer choice is greater.

Sample funeral service layouts and even recordings of services provided (mocked up or recorded with express consent) so that delivery style and content can be experienced before engaging a celebrant/minister to lead a service.

Reviews and testimonials from former clients could be made available online and in other formats.

Detail of what they will receive for their fee. Number and duration of face to face planning meetings. Hours spent in preparation. Duration of ceremony in service location. Additional travel costs. Follow up after the day of the funeral ceremony. What if any mementos or keepsakes they provide after the funeral (printed copy of the service as set out etc) and the fee itself.

- *The CMA would like to hear further on this issue, particularly evidence pursuant to whether consumers are harmed by funeral directors offering (directly or via a partner) legal services.*

We do not have sufficient experience of this to make a comment.

- *Given the evidence above, the CMA would like to hear further from funeral directors. Particularly on what information about a funeral director's coffins (prices, options and policy on using third-party suppliers) consumers should be given and when.*

Every business should be able to choose what products to offer and whether or not to accept products supplied by 3<sup>rd</sup> parties. The policy should be included in the pricing information published (in hard copy or online) and any handling charge applied set out clearly and properly explained.

All products should be offered with a price where possible. Given the range of products available this is not always possible. For any product requested for an at-need funeral the price must be confirmed before ordering and in sufficient time for the consumer to change their mind without fear that change will cause delay to planned funeral arrangements.

## **2. Information and transparency remedies**

*(a) How can we best facilitate shopping around and increase customer awareness of total funeral costs and local price differentials?*

We remain of the view that this is an issue of public awareness and consumer behaviour. Before death occurs (and even after terminal diagnosis in many cases) consumers do not research funerals or funeral costs and show very little interest.

The CMA's research gives evidence that consumers do not behave in this way. There is not significant evidence to show that consumers think this is a particular issue. It seems that the CMA have decided that is because consumers do not know enough to realise this is an issue and therefore something must be done. It is possible that for the majority of consumers they perceive there are more important factors at play when someone dies.

There has been significant work by insurance companies on the cost of dying and plenty of media attention given to their findings. Advertising for funeral plans also includes plenty of information about the cost of a funeral and the historic rate of increase which are targeted to be seen by an audience for whom information about funerals is relevant. Consequently (if anecdotally) a significant proportion of our customers have a figure in mind that they believe the funeral will cost when they come to arrange a funeral.

*(b) How can we enable better comparison of funeral directors' prices and quality of services?*

Commonality of presentation of costs will help. Clear understanding of what is included and what is not in a quoted price or set out on a price list. When a consumer asks the funeral director how much they can provide a funeral for the figure they are given must include everything required for a funeral (ie the coffin shouldn't be in addition to the figure given) to enable a like for like comparison. If this is to include the crematorium, cemetery, doctor's fees etc then it should be explained that these will be common across all funeral directors.

*(c) How can we better prepare the customer for the arrangement meeting and make them aware of all the options offered by the funeral director, including low-cost options?*

Even with a complete understanding of the consumer decision making pathway this is extremely difficult. There is no consistency as to when consumers will make contact with a funeral director. Dependent on where someone dies, when someone dies and how someone dies the funeral director could be called before anyone else, bereavement offices hospitals, the Police, hospice staff, nursing home staff can all be contacted first but not in every case or on every occasion no matter how similar.

The majority of Registrar's offices, hospital bereavement offices and so on all provide information which includes advice on shopping around for costs.

Whilst 6% of consumers (from the CMA's commissioned research) searched online for information on funerals this is still a very low figure. Basing a remedy designed to address this perceived issue for the majority of people seems optimistic.

*(d) How can we give customers a clearer idea of the final cost (early on in the process of choosing a funeral director and before the arrangement meeting)?*

There is no one solution that would address this problem. As long as the majority of consumers continue to take the recommendation of a friend or family member when choosing a funeral director or simply use one they have used before it is hard to see how a clearer idea of the final cost earlier in the process can be achieved.

Until the issue of consumers unwillingness to shop around is addressed it will remain very hard to achieve this.

Make it a requirement that price lists are available in digital form for email and on-line as well as in hardcopy to be taken away from funeral homes or sent in the post.

*(e) How can we make the platform most useful for customers how can we ensure that it is used by as many customers as possible?*

There would need to be a register of funeral directors. Registration with which would have to be mandatory. Without a register of funeral directors there would be no way of knowing whether or not the platform was a complete resource.

It would be necessary to establish what constitutes a funeral director to ensure that all businesses offering funeral services were included on the platform.

It would need to be mandatory for consumers to only use funeral businesses listed on the platform should they wish to use a funeral director to help with their funeral arrangements.

There would need to be a mechanism for resolving complaints about one business raised by another business.

By ensuring maximum visibility for the platform (using print, local & national media, television advertising, radio advertising, internet marketing, social media etc) at ever possible point where consumers may begin the process of arranging a funeral.

Make it mandatory to inform consumers of the existence of the platform on every initial contact with a point of influence (registrar, funeral director, coroner's officer, hospital bereavement office, nursing & care home, GP practice, cemetery, crematorium, religious leaders, celebrants etc) no matter how that initial contact is made.

Police all of these avenues to ensure that this is happening on every occasion. A method for recourse by the public to complain when they discover they weren't given the information on initial contact and details of sanctions available on each for non-compliance.

Anything less than 100% will leave consumers more vulnerable than they are now. Once some people are more informed there is a responsibility to ensure everyone is better informed or they are experiencing detriment that must be redressed.

If it is accepted that a platform is the way forward then it is essential that the platform is totally independent of any funeral business or related subsidiary. It would need to have clear terms of reference which make it clear that it is not a commercial entity. There should be no revenue generation functionality (from enhanced listings etc) and it should not compete for digital search ratings to the cost of funeral businesses.

*(f) Should funeral directors and crematoria operators be required to adopt a standardised methodology for presenting pricing and service data as an alternative to the platform?*

Yes. This is likely to be the most effective way to help consumers compare prices.

*(g) Should crematoria availability be incorporated into the platform?*

If you accept that the platform is a useful tool in this context then all funeral related services should be included here. Not just crematoria availability but costs too. Available local cemeteries should also be included here also.

Transparency can't have limits. If these services are to be included in the overall cost of a funeral as attributed to the funeral director as elsewhere in the CMA's analysis then they must be included here.

*(h) What will be the likely costs of this remedy?*

Extremely high. The resources to ensure that the information is accurate and that there are no gaps through some consumers could pass would be significant.

To change consumer behaviour and market this resource sufficiently to achieve that end will be very expensive.

There cost of ensuring that every business was listed / registered and the information contained on the platform is current that would be considerable.

There would need to be considerable resources to ensure that the information provided was reflected by that found in the funeral homes, cemeteries and crematoria at the same levels as advertised also that in practice the services delivered matched the information provided to the platform.

*(i) Will this remedy give rise to any potential unintended consequences?*

We have tried to identify the most significant unintended consequences.

The most significant seems to be impact on those who these efforts do not reach who experience detriment as a result. If consumers consider they do not need to take as much responsibility for understanding the consequences of their own actions as a result of the intervention of government (in whatever form) then government needs to do more to protect those consumers from harm than if no intervention was made. Once responsibility is taken to alert some people to the potential for harm there is a greater liability for harm that happens to others not alerted.

Compulsory registration requires a definition of who has to register. This encourage some to look for ways to sit outside the registration requirement and hence not appear on the platform.

With no statutory role or need for consumers to use funeral directors the breadth of definition of what is a funeral director and therefore who should register and provide information for the platform is very wide. From traditional funeral directors as most consumers would recognise them through to religious burial clubs, coffin clubs and so on.

Where would a business that acts as an agent for funeral services sit in this? A business that does not provide any funeral services or directly employ people working in funeral service but who will liaise with a funeral director to make funeral arrangements on behalf of a consumer.

It is not possible to identify an educational qualification or professional training standard that qualifies an individual or a business to provide funeral services within the terms of the register as a member of the public is perfectly at liberty to organise their own funeral. Would an individual or business charging a fee for advice on how to do this qualify for the register / need to put their prices on the platform?

The significant costs implications need to be met from somewhere. Other than from general taxation this has to either be reliant on industry funding. A levy or registration fee will be passed on to consumers unless significant price regulation prevents it.

Should a private business be engaged to provide the platform a mandatory gateway such as this through which all consumers have to pass would be a considerable power of the market. To ensure the potential for consumer detriment is kept to a minimum it would have to be provided, controlled and monitored by an independent body with absolutely no commercial interest in the sector. A regulator would seem the only solution which returns the issue to being how to fund the significant resources that would be needed to ensure it is effective.

### **3. Quality regulation remedies**

#### **Remedy selection**

*108. Do you agree with our proposal to focus quality regulation on the services provided by funeral directors or do you think we should also regulate the quality of services provided by crematoria operators? Please explain your answer.*

If regulation is considered necessary and appropriate, then the quality of services provided by both burial and cremation authorities should be included.

There is significant variation in the quality of services provided by crematoria and cemeteries.

*109. Do you agree with our proposal to focus quality regulation on back of house standards? Please explain your answer.*

Yes. It should be the focus and is the area where consumers have the least visibility. This should not be to the exclusion of some aspects of the front of house facilities such as visiting chapels, decorative order, online facilities (memorial website pages, client payment portals etc) WIFI availability etc

*110. What are your views on the likely effectiveness and proportionality of the remedies outlined in this working paper in addressing our initial concerns?*

Without more detail it is not possible to get more indication of the likely effectiveness of the remedies presented. In so far as it is possibly to tell from the information provided the remedies outlined seem proportionate.

*111. Are there any other potential remedies that we have not considered in this working paper that may address our initial concerns (as set out in our working paper on the quality of back of house funeral director services)? Please explain what those remedies are and why they would be more effective than, or suitable in addition to, our proposed remedies.*

None that we can think of.

## **Remedy design**

*112. Would a predominantly outcomes-based or a rules-based regulatory model (see paragraphs 39 to 40) be more appropriate for monitoring and upholding the back of house standards of funeral directors? Please explain your answer.*

A predominantly outcome-based model of regulation would be most appropriate.

*113. Which of the services provided by funeral directors should be included under the scope of any quality regulatory regime, including statutory minimum standards, and why? We are particularly interested in your views on the regulatory standards set out in Table 1*

Table 1 appears to cover the principle services provided by funeral director and the regulatory standards set out seen proportionate and reasonable

*and the following specific issues:*

*(a) Is refrigeration necessary for the appropriate care of the deceased?*

Yes, in most cases refrigeration or temperature controlled storage is necessary for the appropriate care of deceased people.

*(b) Is the ratio of one refrigeration space for every 50 deceased persons taken into the care of the funeral director on average per year (as proposed in the draft Code of Practice for Funeral Directors in Scotland) an appropriate ratio? If not, what is?*

This is a completely arbitrary figure. Aside from that it is also not clear what is meant by “one refrigeration space”.

The annual variation and seasonality of the death rate makes it very challenging to make an assessment based on deceased persons cared for in a year. Other variables such as whether other types and styles of temperature-controlled storage is available, whether embalming is offered and so on would influence this.

On the basis that the identification of a number of refrigeration spaces for deceased persons is an ineffective measure then there is not an alternative ratio that would be more appropriate.

This is not a valuable metric for back of house standards.

*(c) Is it appropriate to require that each deceased must be stored individually in separate compartments within the unit (as proposed in the draft Code of Practice for Funeral Directors in Scotland)?*

This assumes that every funeral director uses compartmentalised refrigeration. There are many types of and styles of refrigerated and temperature-controlled storage. The important point here is that the dignity of every deceased person in the mortuary must be maintained.

This point about number of refrigerated spaces for deceased persons and compartmentalisation looks on paper like an easy win while in practice it is likely to become an area riven with objective argument and complication.

On the basis of an outcome-based model it shouldn't be necessary to prescribe the precise amount or type of storage for deceased persons only that it should be fit for purpose and sufficient for the demands of the business at every stage of the year.

*(d) Should training and/or education be mandatory? Please explain your answer.*

Yes, training and education should be mandatory. It should be maintained and refreshed annually too.

Ensuring that deceased people are appropriately cared for requires skills and knowledge and the public need to be confident that the people charged to care with their own deceased relative or friend will do so with an assured minimum standard of skill and ability.

The safety of those working with deceased people should also be assured. Skills and knowledge in safe working practices as well as what can and cannot be done for deceased persons in different circumstances is essential for their wellbeing and health.

Only those who have received and continue to receive appropriate training should be permitted to provide embalming deceased people, removing cardiac implants, etc

There should be consequences for failing to achieve sufficient training or learning hours in a year such as a suspension of a licence or registration until it is resolved.

*In the event that training and/or education was made mandatory, please comment on:*

*(i) Which members of staff require formal education and to what level (ie A Levels (or equivalent) or a degree or professional qualification) and to what extent can formal education be substituted by experience or other forms of training?*

The members of staff requiring formal education includes anyone involved in providing or supporting any of the services in Table 1. in the document. There are no standard job titles used universally across the profession so any narrowing of the requirement to specific job titles rather than areas of work could lead to oversights or gaps.

As to what level of training we do not have sufficient knowledge of currently available formal education options (A Levels (or equivalent) or a degree) that might be suitable.

Suitable professional qualifications are available for embalmers (offered by the British Institute of Embalmers) funeral directors (offered by the NAFD). Both of these qualifications require an amount of supervised practical experience before candidates can enrol and study for them.

*(ii) Is it necessary to create a nationally accredited professional education programme or allow funeral directors to choose from the currently available qualifications?*

There should be a system for training providers to benchmark their professional education programmes against the requirement of the regulator so that funeral professionals can be confident that they are achieving the levels of training provided.

Existing qualifications (with small improvements) such as the NAFD's Diplomas should be sufficient for those with funeral arranging and funeral conducting responsibilities. NAFD could be given time to develop their nascent courses aimed at staff working in back of house roles specifically.

Some thought should be given to creating a table of skills so that those coming from outside can see where they have transferable skills and where there are gaps in the knowledge so that can be addressed promptly.

*(iii) Should there be a number of specified hours of training, and any other form of CPD, that staff should be required to complete each year, or should staff or their employers self-assess their professional development needs?*

There should be a specified number of hours of training per person per role.

*(iv) Are there any other requirements that should be imposed on staff, owners and controllers of funeral directors to ensure their technical and professional competence (eg age, conduct or experience restrictions)?*



There should be a requirement to complete checks (ie enhanced DBS checks) on anyone working with deceased people or required to meet with the public (in their own home or at another location).

There should be a fit and proper persons check for business owners and controllers of funeral directors.

There should be a code of ethics and conduct for people working in funeral service.

*(e) Is there a need to establish an independent ADR scheme and/or complaints adjudicator in addition to the funeral directors' own complaint handling and customer redress?*

The NAFD's Resolve scheme has improved their offering in this area and brought it into line with current thinking on good practice for ADR schemes. They appear to be willing to make Resolve available (via FSCSR) to non-member funeral directors.

Some thought should be given to the best mechanism for resolving disputes between businesses. There are occasions where consumers find themselves in the middle of a dispute between 2 funeral directors.

It should be mandatory for a funeral service company to provide access to an ADR scheme for their customers to achieve redress should it be required.

*114. Who is best placed to monitor and enforce compliance with quality regulation?*

*(a) Is a single UK-wide body or a different body in each part of the UK more appropriate, and how should either arrangement take account of the emerging regulatory regime in Scotland? Please explain your answer.*

A single UK wide body would be most appropriate. Whilst there are cultural and practical differences in the delivery of funeral service the fundamental principles remain the same.

Significant work has gone into thinking about the regulatory regime in Scotland should look like. It would seem wasteful to not take account of what is emerging in Scotland. There is more contemporary legislation in Scotland on funeral related issues which may allow a level of regulation that wouldn't be possible elsewhere in the UK.

It is our view that there were aspects of the proposals in Scotland that were tokenism designed to achieve quick wins without offering significant value or protection to consumers.

There are significant merits to many aspects of the proposals put forward by the FSCSR to create a nationwide arms-length regulator.

The most cost-effective solution has to be the best solution to avoid adverse effects on funeral costs caused by levies or registrations. At the same time it is essential that the regulator is properly resourced to achieve its aims and goals.

*(b) What role, if any, should the existing trade associations (ie NAFD and SAIF) and other relevant organisations, such as the Good Funeral Guide, play in relation to the quality regulatory regime? Please explain your answer.*

An industry led solution with input from consumer groups would have the greatest chance of being relevant and effective. If NAFD and SAIF both support the proposals of the FSCSR and play a part in its creation they can bring their experience of inspecting funeral directors and setting standards.

The trade associations have existing education offerings that will continue to ensure that their members have the knowledge and skills required to be compliant with the needs of the regulator.

Neither of these associations are positioned as providing competitive advantage to members through membership of one or other. They do not endeavour to create classifications of funeral directors. They have member firms and they are inspected to a set standard regardless of whether they regard themselves as “traditional”, “alternative”, “progressive” etc.

There is a requirement to ensure that the consumer perspective is given a loud voice in this area.

Organisations such as the British Institute of Embalmers have a role to play too as should the representative bodies for burial and cremation authorities.

There are different levels of role to which organisations should contribute. In addition to meeting with consumer and bereavement groups regularly it would be good practice for the regulator to hold regular stakeholder group meetings at which the other many and various relevant organisations would have the chance to highlight particular causes that are of interest to them or their members.

*115. Should a licensing and inspection regime (see paragraphs 52 to 73) apply to individuals or businesses or both, and why? If both, what should be the respective obligations of individuals and businesses?*

They should apply to businesses and to certain individuals.

It is important that businesses must be held accountable and responsible for the actions and behaviours of their employees.

Equally individuals have to be responsible and accountable for their actions and those of their colleagues.

*116. What considerations should be taken into account when designing any quality regulatory regime to enable providers of all sizes to comply with that regime, and without deterring innovation, entry and expansion?*

Ensuring that the scheme is proportionate and reasonable is essential to this end. Keeping the areas of inspection and compliance to the critical points of risk and not absolutely every area of activity together with the outcome-based approach seems critical to achieving this.

Accessibility and ease of understanding of the requirements too.

*(a) What would be the likely costs of quality regulation to funeral directors? This includes the costs of implementing any changes necessary to comply with the regulation and the costs of demonstrating ongoing compliance with the regime.*

The NAFD's response provides an insight into this. We do not have sufficient knowledge of this to be able to comment.

*(b) What would be the likely costs of implementing and running the regime and how should this be funded?*

We have no insight to offer on this to offer save that the costs are likely to be significant.

It would be nice to think that there would be a combination of government and industry funding. Primarily to ensure that the burden on industry is not too onerous and also that the cost of delivery is not passed straight on to the consumer.

*117. Are there any elements of quality that require immediate attention prior to the establishment of a quality regulatory regime?*

Not that we are aware of.

*118. Do you think we should tailor any aspects of quality regulation to reflect any differences in funeral service provision (and the current statutory regimes) across England, Wales, Northern Ireland and Scotland?*

Please see the response to 114 above.

*119. What information on the quality of services provided by funeral directors should be collected and disseminated to customers to enable them to assess and compare funeral directors?*

Most recent inspection date and outcome.

The standard to which they are provided (compliance with HSE guidance, cleanliness etc)

Qualifications held and training received by team.

What if any third-party relationships for the provision of mortuary services are in place.

Availability of facilities and guidance on ritual washing.

Whether Service Level Agreements are in place with third-party providers.

The location of the mortuary to which the deceased person will be taken.

Average timescales for collecting deceased persons from hospital, public or coroner's mortuaries after instruction.

Whether third-party provided coffins will be accepted.

Facilities for visiting families on site at each location (visitation rooms, waiting rooms etc).

Facility for care of the deceased person in the funeral home (mortuary, temperature controlled storage, visitation rooms etc).

Whether employed or contract embalmers carry out the washing and preparation of the deceased person.

Use of casual or agency staff in collecting, caring and preparing deceased people.

Trade association memberships / ADR providers.