



Response from the Good Funeral Guide CIC to the CMA Quality Regulation Remedies Working Paper

27th February 2020

Remedy selection

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.

Yes

Although connected, the requirements of funeral directors and crematoria operators are very different. It makes sense to separate the two, as has been done in Scotland with the appointment of HM Inspector of Crematoria and the creation of a post as Inspector of Funerals.

This is not to say that crematoria do not need quality regulation of services, but that the focus of the CMA under this investigation should be on the providers of funeral services.

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

Yes

We consider the back of house standards to be of similar importance to the front of house standards, however the public are far less likely to request access to the back of house, nor is the average client likely to have previous experience in assessing quality of standards of the services, facilities or staff involved in caring for the dead.

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

Statutory minimum standards, a statutory licensing and inspections scheme, an appropriate body to monitor and enforce standards and the collection and dissemination to customers on the quality of services provided by funeral directors would, in our opinion, be extremely effective in addressing the identified concerns.

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.

We consider the proposed remedies to be adequate and do not have any additional suggestions.

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.

An outcomes-based regulatory model would be more appropriate for the funeral sector.

The funeral sector is so varied in the type and size of providers and implementing an outcomes-based regulatory model would enable flexibility in assessing compliance.

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 and the following specific issues:

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

Yes, unquestionably.

(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?

No.

As we advised Scottish Government in our response to the consultation on the draft Code of Practice, this ratio (of one refrigerated space for every 50 people who have died who are cared for by a funeral director on average per year) makes no sense for small providers who may carry out 50 funerals or less a year and who would not therefore be required to provide refrigerated space.

Instead we would suggest as a minimum, every funeral director should be required to offer or have access to sufficient refrigerated space to ensure that every person brought into their care can be kept in refrigerated conditions.

As an example, we visited one of our recommended funeral directors this week as part of their compliance with ongoing accreditation. This company carries out around 400 funerals a year. Under the proposed ratio of 1 refrigerated space for every 50 people who have died on average per year, this would require them to have 8 spaces.

In a recent week this company carried out 16 funerals, all of those people having been in their care for a period of at least one week, alongside those whose funerals took place the preceding and following weeks. Clearly the proposed ratio would have been wholly inadequate to cope with these circumstances. Fortunately, as an exemplary business with the highest standards, this company has 11 spaces within 3 refrigerators, racking space for 8 further people and a cold room with capacity for at least 15+ further people on trays or in coffins, along with three cooled chapels of rest giving them plenty of capacity to care for around 40 people at once if required.

(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)?

Yes. Not just appropriate, essential.

(d) Should training and/or education be mandatory? Please explain your answer. In the event that training and/or education was made mandatory, please comment on:

No.

Imposing mandatory training makes no sense where people have been operating a successful funeral business using their experience, common sense and people skills without formal qualifications.

In addition, mandatory training for people caring for the dead would instantly make it impossible for families to look after people without employing a funeral director.

We also believe that the current training provision is outdated and fails to keep step with the changing needs of clients.

The introduction of a licensing system that assesses the fitness of an individual to provide funeral services would be far more useful than imposing mandatory education / training.

(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?

If formal education were to be made a requirement in order to operate a funeral business, then we would suggest education to A level standard to be more than adequate, however we would emphasise that we do not believe formal education to be sufficient to enable an individual to be a good funeral director.

Formal education can very well be substituted by experience or training from a practitioner operating an existing funeral business.

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

If qualifications were to be made a requirement in order to operate or work in a funeral business, we would strongly suggest a new nationally accredited professional education programme be developed and operated independently from the existing trade association provision, taking input from all areas of the sector rather than just the current providers.

A separate stand-alone qualification to cover administrative and legislative aspects of the work would need to be supplemented with work experience and on-the-job training.

(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?

It would be appropriate for a sector that likes to describe itself as a profession to require all who work within it to undertake ongoing CPD. If any form of licensing were to be introduced, then we would assume ongoing structured CPD would be a requirement in order to retain a licence.

If an element of qualification or education to be required as part of regulation of the sector, we would expect to see a requirement for ongoing CPD to be included. We would expect any nationally accredited professional education programme to offer this as part of the new structure.

(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)?

We would expect all involved with caring for people who have died and working with bereaved people in return for pay to be required to be of good character and a standard DBS check as a minimum should be required in each instance.

If it were deemed necessary, it could be mandatory for people working in the funeral sector to undergo an enhanced DBS check as is required for those working in health or personal care.

(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?

Yes

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

A newly created post of Inspector of Funerals (with assistant inspectors)

(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.

Given that the devolution of powers to the individual nations encompasses funeral, burial and cremation matters it would seem sensible for there to be individual Inspector of Funerals and Inspector of Crematoria roles for each of the nations of the UK. In combination these roles could make up the UK Inspectorate of Funerals and Crematoria, and administrative support could be shared.

Note would need to be take of the emerging regulatory regime in Scotland and consideration given to how requirements of the remaining nations may differ.

(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.

None. We strongly reject the idea that the existing trade associations should be involved with any quality regulation regime.

Nor do we feel that the Funeral Service Consumer Standards Review should be involved. The FSCSR is collective of the large funeral providers and the trade associations, instigated by Dignity in the first instance and only including independent funeral directors at the last minute prior to the first meeting when the chairman noted none had been invited.

We believe that the FSCSR has emerged as a direct result of the CMA Market Investigation to try and mitigate any requirements that may be imposed at the end of the investigation. If the funeral industry were genuine in wishing to address issues in the sector, then we believe this would have been done many years ago after previous OFT investigations in 1998 and 2001.

The trade associations have failed to ensure that the funeral market is operating adequately and failed to require quality standards of their members. This is unsurprising, as trade associations exist to represent their members and not the general public. In our opinion, this makes the trade associations suitable only as consultees in any future regulatory regime, and they should not be given a power of veto nor any active role in regulation.

Instead, we believe that alongside an Inspectorate of Funerals, the independent Ombudsman role should be reinstated. Together these would ensure total impartiality in formulating regulation and a balanced and fair approach to complaints.

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?

We feel that individuals should be licensed rather than businesses.

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?

We feel that the use of appropriate implementation, monitoring and enforcement mechanisms, such as the provision of a reasonable transition period for funeral directors to meet regulatory requirements or a degree of flexibility in how funeral directors achieve and comply with the required standards would be adequate safeguards against deterring innovation, entry or expansion.

There should be no excuse for large or small providers for failing to comply with a fair and reasonable quality regulatory regime, and there should be no exemptions on the grounds of size.

Entry into the market with compliance with a fair quality regulatory regime would be possible through establishing Service Level Agreements for mortuary provision and other aspects with existing providers.

(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.

For most funeral directors the likely costs of compliance with quality regulation would not be significant, particularly if a reasonable period of transition and a degree of flexibility is exercised in assessing achievement of compliance with standards.

We are unable to put a specific figure on the likely costs to individual businesses, but we would anticipate almost all currently in operation would find the cost of compliance with quality regulation well within their means.

The costs of demonstrating ongoing compliance once standards have been achieved would be minimal. As an example, the funeral directors recommended by the Good Funeral Guide are required to pay £550 plus travel expenses for a visit to a single branch every three years. In the intervening years any changes within the business are indicated by self-assessment and the responsible person is required to advise us of any material changes to the business. This averages as an annual payment of less than £300 a year.

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

The likely costs will depend entirely on the model chosen, so it is difficult to estimate given the many variable options.

This being said, applying a charge per branch of a business of say £500 p.a. to each of the estimated 5,000 funeral director branches in the UK would generate £2,500,000 – a sum which one would presume would be sufficient to pay the salaries of the required Inspectors (and assistant inspectors), and fund the administrative costs involved with the proposed regulatory scheme.

We would consider a requirement of £500 per branch to be a reasonable amount, and one that would not require raising of prices to clients given that it equates to an amount similar to that charged by many funeral directors for the hire of a hearse for one funeral.

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

Requiring all businesses offering funeral directing services (including direct cremation companies) to have access to adequate refrigeration.

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?

That would seem sensible.

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?

As in Table 1 of the working paper.