

## **FUNERAL DIRECTORS AND CREMATORIA SERVICES MARKET INVESTIGATION: RESPONSES TO THE CMA'S WORKING PAPERS PUBLISHED ON 30 JANUARY 2020**

The Midcounties Co-operative Limited ("**Midcounties**") welcomes the opportunity to respond to the CMA's working papers published on 30 January 2020 (the "**Working Papers**").

The following responses to the Working Papers are without prejudice to Midcounties' engagement with (i) any subsequent working papers published by the CMA; and/or (ii) the final outcome of the CMA's assessment on whether there are any AECs in relation to the services provided by funeral directors and crematoria operators, and any detrimental effects on customers resulting from those AECs.

### **1 EXECUTIVE SUMMARY**

1.1 As considered further below, amongst other aspects, we support:

(a) **transparency:** greater customer transparency in relation to costs and disbursements, with funeral directors providing in a set format on their websites a full disaggregated breakdown of:

- (i) the various costs of certain funeral offerings at a branch level; and
- (ii) the estimated costs of the disbursements associated with these funeral offerings at a branch level,

so as to provide customers a better understanding of the likely overall costs associated with these funeral offerings, and enable comparisons to be made at a local level;

(b) **quality standards:** UK-wide quality regulation, including in relation to those aspects identified within Table 1 of the Working Paper "Quality Regulation Remedies", on the basis that:

- (i) there would be an appropriate period of transition; and
- (ii) any such quality regulation would follow a predominantly outcomes-based model, and so would be adaptable to the different business models of different funeral directors without discrimination; and

(c) **formal regulatory oversight:** the establishment of a UK-wide regulator to ensure compliance with UK-wide quality standards, with efficiencies potentially being achieved by using those aspects of the current voluntary frameworks and standards promoted by the existing trade associations which already lead to positive outcomes for customers.



## **2 WORKING PAPER: INFLUENCE OF INCOME ON FUNERAL CHOICES**

### **Average Revenue per Funeral ("ARF")**

- 2.1 While the CMA has provided information on the correlation of ARF in relation to available income, we note that there does not appear to be any consideration of the impact that the costs of third-party services have upon the overall total of the funeral invoice.
- 2.2 With the removal of disbursements from the equation, and with such a wide variation in fees nationwide, we consider that there is the distinct possibility that some funeral choices are affected by the cost of mandatory elements (e.g. burial or cremation). We have seen a significant rise in some areas, particularly where land is at a premium in urban areas, meaning that more optional choices could be suppressed, especially where cultural or religious requirements remove the option of an alternative solution.
- 2.3 It would be helpful for the CMA to confirm whether it has reviewed the average cost of the total funeral invoice (i.e. including the costs of third-party services) in relation to available income, given that this could provide a clearer indicator of trends and correlations.

## **3 WORKING PAPER: FUNERAL DIRECTOR SALES PRACTICES AND TRANSPARENCY**

### **Midcounties' commitment to an appropriately balanced engagement with customers to promote informed choices**

- 3.1 As a general observation, we understand that there is a need for the sector to strike a balance when engaging with bereaved persons, which not only protects an individual from potential mis-selling, but also does not bombard that individual with information which they either do not wish to receive, or cannot understand, given their emotional state.
- 3.2 However, we believe that a customer's needs are appropriately met where they are not only offered information regarding the different types of funeral service currently available (along with all of the respective elements of the chosen funeral service relevant to their needs or expressed wishes), but where an itemised, written estimate is provided to them at the point of funeral arrangement (with this estimate detailing these aspects).
- 3.3 We are therefore concerned that the CMA has identified that only 48% of survey respondents had received either an estimate or quote in writing, and that 15% of survey respondents had not received any kind of quote or estimate.
- 3.4 Irrespective of the outcomes of the current market investigation, we are committed to reviewing our practices and processes to seek to identify any steps that we can take to enable our customers to feel more informed and in control when they engage us to provide funeral services.

- 3.5 **Paragraph 14(a): There is evidence that some funeral directors restrict customers' ability to purchase coffins from third-parties. We consider that, in principle, such restrictions could enable funeral directors to earn higher margins on these products but note that few customers seem to consider buying from third-parties. We would like to hear further on this issue, particularly on what information should be available to consumers (and when) on coffin prices, options and policies on using third-party suppliers.**
- 3.6 We offer customers a range of packaged services and, in relation to certain packages, elements can be tailored by customers to match the personalities of their loved ones. We also provide a fully bespoke option which truly enables customers to build all of the elements of a funeral as they wish.
- 3.7 We are acutely aware that choosing a coffin for a loved one can be a very emotional, and sometimes extremely distressing, experience. As well as offering our own extensive range of coffins, we support our customers' choices to purchase coffins from alternative suppliers.
- 3.8 In this regard, so as to ensure that all coffins we use (including any purchased by customers from alternative suppliers) satisfy appropriate standards for health and safety, as well as functionality, we require that certain objective criteria are satisfied, including:
- (a) the quality of the coffin must be such that it satisfies the applicable standards of the Funeral Furnishing Manufacturer's Association, as well as the requirements of the relevant crematorium, and is also fit-for-purpose;
  - (b) the coffin must be of the correct size;
  - (c) the delivery timeline for the coffin must enable the funeral to proceed upon its arranged date; and
  - (d) the coffin must be transported using reputable transit companies, so as to avoid damage in transit affecting the coffin's appearance and/or functionality.
- 3.9 While we support customers' choices to purchase coffins from alternative suppliers, in our experience it is only very rarely that a customer will choose to purchase a coffin separately from the overall funeral package.
- 3.10 In terms of information to be made available to customers, all funeral directors should be able to provide literature to the customer on their standard range of products and services, including prices of coffins, at the first point of contact.
- 3.11 All funeral directors should also be able to discuss coffins and options at an arrangement meeting. We explain our policy on the use of coffins purchased from alternative suppliers at the arrangement meeting, if the customer indicated that they wanted to do this, or expressed an interest in at least considering this as an option. In these circumstances, we ensure that the customer is able to discuss this option, and ask any questions they may have, so as to receive the information they need to be able to make an informed choice.

- 3.12 **Paragraph 14(b): Concerns have been raised over various funeral director practices that restrict customers' choice of celebrant. In light of these concerns, the CMA would like to hear further from funeral directors particularly with respect to the following issues:**
- 3.13 **What are the factors that determine who you engage or recommend as the celebrant/minister?**
- 3.14 We consider the suggestion that a funeral director would restrict or prevent customers from engaging their chosen type of celebrant to be extremely troubling.
- 3.15 We believe that our role is to assist customers in making arrangements for their loved ones by providing choice, and by presenting relevant options to enable customers to make an informed decision.
- 3.16 At the outset, we clarify whether the customer or their loved one wished to have a celebrant of a particular religion, or if they would prefer a non-religious celebrant. Based upon the response received, we would then offer local choices relevant to that preference, although in our experience the customer will often already have an idea of what they expect (for example, based on personal view, or previous experience, or word of mouth).
- 3.17 The main factor driving the choice of religious celebrant is the relevant religious organisations' own preferences as regards the distances to be travelled by celebrants from their existing religious communities. Secular celebrants are offered based upon availability and local knowledge.
- 3.18 In addition, the reputation of a given celebrant (whether religious or secular) could be affected by previous feedback from families (both positive and negative), as well as how well known they are to local individuals, including both with our colleagues and with the families themselves.
- 3.19 **When a customer wants to use a specific (or specific type of) celebrant do you accommodate their preferences? If not, why not?**
- 3.20 Insofar as reasonably possible (e.g. depending upon availability of the celebrant), we would always accommodate a customer's preference to use a specific (or specific type of) celebrant.
- 3.21 **What information, if any, do you think that consumers should be given about the choices of celebrant/minister available?**
- 3.22 We believe that customers should always be given the information they feel they need to make an informed choice about a celebrant or minister. In this context, we find that discussing options with customers helps them to think through various alternatives, and to reach a decision which feels right for both their loved one, as well as the bereaved family. For example, it is not uncommon for a customer to approach us with one idea in mind (e.g. arranging a secular funeral with a celebrant) and, during the course of considering options in the arrangement meeting, decide that their loved one would actually have preferred a different service (e.g. a religious ceremony with a minister). Without this discussion, and in particular the opportunity to talk through options, the

customer would have proceeded to arrange a funeral that they could later look back upon with some regret. This is clearly an outcome that we are extremely keen to avoid.

- 3.23 **Paragraph 14(c): Internal documents suggest that some funeral directors will offer legal services during the arrangement meeting (or seek permission for other sales representatives to make approaches afterwards). We consider that this could mean that customers do not consider third-party suppliers and/or that the funeral director could use its position to gain knowledge of the value of the deceased's estate and assess their ability/willingness to pay for the funeral. 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.**
- 3.24 Although we offer legal services during our arrangement meeting, this in no way enables us to gain knowledge of the value of the deceased's estate, nor to assess their ability/willingness to pay for the funeral.
- 3.25 Further, we do not seek such information, and we have never been offered such information by a third-party service provider. If we ever were to be offered such information, we would report such an approach to the Information Commissioner's Office (the "ICO"), and/or the Solicitors Regulatory Authority (the "SRA").
- 3.26 In terms of the services we offer, we include the option of free advice on a range of legal and practical matters (including probate, wills, notification to key subscriptions and services), so as to help customers identify at least some of the many tasks associated with addressing the affairs of the person who has passed away.
- 3.27 In our arrangement meeting, we offer customers the option of this service. If they wish to explore this option, we ask them to provide consent for us to share their information to our nominated third-party service provider, in accordance with applicable data protection laws.
- 3.28 Should a customer decide to proceed with this option, their relationship is then formed directly with the service provider, and the customer's subsequent discussions are with the service provider.
- 3.29 During those discussions, if it is evident that the customer may benefit from probate services, we understand that the service provider would offer them the option of meeting with an appropriately qualified individual. In this context, we understand that the relationship between (i) the customer, and (ii) the relevant provider of legal services, would be regulated by the SRA.
- 3.30 As such, putting to one side issues arising in the context of applicable data protection laws (and the jurisdiction of the ICO), we understand that if the relevant provider of legal services was to disclose to us without the customer's consent any information pertaining to the customer's affairs, this would constitute a serious breach of the SRA's Code of Conduct.
- 3.31 By way of background, we decided to offer these services to customers because we believed (and still believe) that these are a real benefit to individuals. It was precisely

because solicitors were the main provider of estate services that we wished to provide an alternate, dedicated choice for customers. This alternative is in addition to the solicitors' services that were (and still are) available. Our providers are specialists in administering estates, and focus upon resolving probate issues at competitive prices (particularly when compared to solicitors' firms providing estate services as part of a broader offering of legal services).

- 3.32 In the absence of this offering, we anticipate that the majority of customers would simply approach their nearest firm of high street solicitors for advice, and would generally not consider any alternative providers of legal services. Our offering therefore provides customers with an accessible alternative, and gives them clear options and choices in relation to providers of legal services, if they wish to consider these.
- 3.33 We therefore do not believe that our offering of legal services harms customers. Instead, our offering provides customers with the additional choice of a competitively priced, specialist provider of legal services.

#### **4 WORKING PAPER: QUALITY REGULATION REMEDIES**

##### **Remedy selection**

- 4.1 **Paragraph 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.**
- 4.2 We believe that quality regulation should be focussed upon the services provided by funeral directors, as well as by crematoria operators.
- 4.3 In relation to crematoria operators, focus upon quality regulation should be in addition to (rather than as an alternative to) crematoria-specific remedies to address aspects such as price transparency; vertical integration; and in-house exclusivity (with vertical integration considered in part in the context of Remedy 7 in the Working Paper "Information and Transparency Remedies").
- 4.4 **Paragraph 109: Do you agree with our proposal to focus quality regulation on back of house standards? Please explain your answer.**
- 4.5 We agree with the proposal to focus quality regulation upon back of house standards, specifically:
- (a) collection and transport of the deceased; and
  - (b) care, storage, and preparation of the deceased
- (together, the "**Back of House Services**").
- 4.6 While the Back of House Services are important to customers, it is difficult for customers to actually know the level of the standards to which a given funeral director is operating.

- 4.7 Although customers may assume that all funeral directors will have a high level of standards for the Back of House Services (and this assumption would be correct for many funeral directors), there are still a number of funeral directors providing these services at standards that we do not consider to be fit-for-purpose.
- 4.8 We therefore consider that quality regulation of the Back of House Services would ensure that set minimum quality standards would be met by all funeral directors. This would assist in safeguarding consumers' trust and confidence in funeral directors to respect and care for their loved ones.
- 4.9 In addition, minimum quality standards would be likely to enable customers to make better and more meaningful comparisons of funeral directors' services and prices. For example, customers would be confident that the Back of House Services for each funeral director would at least meet the minimum quality standards, meaning that lower priced funeral directors could emphasise the overall value of their offerings.
- 4.10 Minimum quality standards may also encourage certain funeral directors to go above and beyond these minimum levels, so as to seek to create a quality point of differentiation for their services.
- 4.11 For completeness, we do not consider that front of house standards need to be subject to quality regulation. We believe that the physical appearance of our business (e.g. as regards the presentation of premises, welcoming façade, décor and overall cleanliness and tidiness) can have a positive impact upon customers and prospective customers.
- 4.12 Further, assuming that certain information and transparency remedies are successfully introduced by the CMA (as considered further below), we would expect the increased competition between funeral directors (e.g. driven by customer reviews and comparisons, including online) to result in a greater emphasis upon high levels of front of house standards, as funeral directors seek to create further points of differentiation for their services.
- 4.13 However, if front of house standards were subject to quality regulation (e.g. to align with an emerging position in Scotland), this would not be a cause for concern provided that it remained possible for funeral directors to exceed these standards, so as to differentiate themselves within the sector.
- 4.14 **Paragraph 110: What are your views on the likely effectiveness and proportionality of the remedies outlined in this working paper in addressing our initial concerns?**
- 4.15 Amongst other aspects, we consider that the likely effectiveness of quality regulation focussed upon the Back of House Services will depend upon:
- (a) the fairness and transparency of the behaviours and principles promoted by the regulatory model;
  - (b) the frequency, consistency, fairness, and transparency of inspections; and
  - (c) the extent of the sanctions imposed for failing to comply with the relevant minimum quality standards.

4.16 If a licensing regime for businesses was to be introduced (which we would support, as outlined further below), we consider that an effective quality regulation regime would mean that businesses which repeatedly failed to comply with the relevant minimum standards would ultimately lose their licences until such time as these failures were remedied.

4.17 In addition, provided that:

(a) there is an appropriate period of transition to a regime of quality regulation focussed upon the Back of House Services; and

(b) any such quality regulation predominantly follows an outcomes-based model, and so is adaptable to the different business models of different funeral directors,

we do not consider it to be disproportionate for funeral directors to comply with minimum quality standards for Back of House Services, particularly as a significant number of funeral directors with a range of different business models already adhere to high levels of standards for these services (e.g. pursuant to the Codes of Practice of the existing trade associations).

### **Remedy design**

4.18 **Paragraph 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.**

4.19 Given the range and variety of funeral director businesses, we consider that a predominantly outcomes-based regulatory model would be the most appropriate, provided that this is sufficiently flexible to apply to all existing funeral director businesses fairly and without discrimination.

4.20 However, we believe that certain aspects would require a more prescriptive focus, especially in relation to equipment. For example, temperature controlled storage units must be fit-for-purpose, and should not be intended for any other types of use.

4.21 **Paragraph 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 and the following specific issues:**

4.22 In relation to the regulatory standards set out in Table 1, we consider these to be necessary and appropriate. We also welcome the fact that these regulatory standards are based upon the current standards of the two existing trade associations, the National Association of Funeral Directors ("**NAFD**"), and the National Society of Allied and Independent Funeral Directors ("**SAIF**").

4.23 Further, as a general observation, where aspects of the existing voluntary frameworks and standards promoted by each of NAFD and SAIF already lead to positive outcomes for customers, we consider that remedies should at least be based upon this existing



architecture (i.e. rather than seeking to introduce completely new frameworks and standards).

4.24 **Paragraph 113(a): Is refrigeration necessary for the appropriate care of the deceased?**

4.25 A funeral director must either own, or have access to, a suitable volume of temperature controlled units to care appropriately for the deceased.

4.26 **Paragraph 113(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?**

4.27 We consider it appropriate that the requirement for temperature controlled units is tempered by the physical and financial constraints faced by funeral directors, especially given the range in organisational sizes. With this in mind, we consider that the "1:50" ratio included in the draft Code of Practice for Funeral Directors in Scotland currently represents an appropriate standard for all funeral directors.

4.28 **Paragraph 113(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)?**

4.29 In the short to medium term, we believe that priority should be given to fit-for-purpose temperature controlled units over none at all, as per the "1:50" ratio included in the draft Code of Practice for Funeral Directors in Scotland.

4.30 However, we consider that the ultimate, long term goal would be for all funeral directors to store each deceased individually in separate compartments within the temperature controlled unit (although we note that some will be restricted by the layout of, or access to, their premises).

4.31 **Paragraph 113(d)(i): Which members of staff require formal education and to what level (i.e. 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?**

4.32 While training is vital to the correct and proper running of a funeral director business, the complexity of the qualification should be appropriate to the role in question.

4.33 We believe that there should be a person identified as responsible for the day-to-day running of the business, who has passed a recognised qualification relevant to funeral services. This is particularly relevant as the qualification should cover not only the practical elements of funerals, but also the theoretical and legislative elements that also are required on a day-to-day basis.

4.34 All other roles should undertake a relevant level of documented practical training, so as to ensure that professional standards are maintained, although this could be of a more

vocational or apprentice-style, and should accommodate existing colleagues with experience but not necessarily qualifications.

- 4.35 Currently available qualifications and courses need to be considered for content and quality, and if suitable for an outcomes-based regulatory model, these should be sufficient to ensure a recommended and acceptable way of working.
- 4.36 **Paragraph 113(d)(ii): Is it necessary to create a nationally accredited professional education programme or allow funeral directors to choose from the currently available qualifications?**
- 4.37 We do not consider it is necessary to create a nationally accredited professional education programme. Under an outcomes-based regulatory model, funeral directors should be able to choose from currently available qualifications.
- 4.38 **Paragraph 113(d)(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?**
- 4.39 CPD is an essential part of maintaining knowledge and keeping abreast of developments within the sector, however emphasis should not be placed on time spent, as this could be ineffectual. We consider a better example would be the inclusion of updated materials in the respective areas where developments have been made, and the existing trade associations could assist in highlighting these key areas.
- 4.40 **Paragraph 113(d)(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 (e.g. age, conduct, or experience restrictions)?**
- 4.41 If the route of the responsible person being required to be suitably qualified is taken, the relevant qualification should include an element of experience sufficient to account for technical and professional competence. In addition, all staff would undertake continuing CPD. On this basis, it should not be necessary to impose other requirements upon staff, owners, and controllers of funeral directors to ensure their technical and professional competence.
- 4.42 **Paragraph 113(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?**
- 4.43 In line with NAFD membership, we fully support the requirement for all funeral directors to be signed up to an independent ADR scheme. Whilst the provision of a suitable and comprehensive complaints process is essential, an appropriate route for resolution outside of this process will ensure that customers have a guaranteed way of being heard in the event of actual or alleged poor practice.

- 4.44 **Paragraph 114(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.**
- 4.45 We believe that a single UK-wide body would be most appropriate, with a predominantly outcomes-based regulatory model applied across the UK.
- 4.46 In our view, having a different body in each part of the UK (potentially applying a different regulatory model) would give rise to the risk of customer confusion, particularly if:
- (a) different models require funeral directors to achieve notably different outcomes depending upon which side of the border they are located; and
  - (b) different bodies take different approaches to the interpretation, monitoring, and enforcement of a predominantly outcomes-based regulatory model.
- 4.47 With regard to the emerging regulatory regime in Scotland, we do not have specific concerns if aspects of this emerging regime were to be incorporated within a predominantly outcomes-based regulatory model that was applicable across the UK.
- 4.48 In this context, as noted above, where aspects of the existing voluntary frameworks and standards promoted by each of NAFD and SAIF already lead to positive outcomes for customers, we consider that remedies should at least be based upon this existing architecture.
- 4.49 With this in mind, if a single UK-wide body was to be established, we suggest that there could be time and cost savings if inspectors currently engaged by NAFD and SAIF were to be engaged by this single body, given the existing knowledge and experience of these inspectors.
- 4.50 In this regard, we suggest that there could be possible further efficiencies if other existing hubs of knowledge and experience within NAFD and SAIF could be transferred into, or engaged by, a single UK-wide body.
- 4.51 **Paragraph 114(b): What role, if any, should the existing trade associations (i.e. 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.**
- 4.52 Around 75% of current UK funeral directors already fall within the purview of NAFD and SAIF.
- 4.53 Therefore, in addition to the efficiencies outlined above arising from the possible use of existing hubs of knowledge and experience within NAFD and SAIF by a single UK-wide body, we anticipate that NAFD and SAIF (and other relevant organisations) would assist funeral directors in sharing best practice and training to understand and attain the relevant minimum quality standards, including in the context of CPD (see above).
- 4.54 We consider that NAFD and SAIF in particular would be in a position to fulfil this role if a predominantly outcomes-based regulatory model was based upon aspects of their current frameworks and standards.

- 4.55 **Paragraph 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?**
- 4.56 The licensing and inspection regime should apply to businesses, with a requirement that the business is responsible for evidencing that the necessary qualification or training has been provided for the individual employees, as appropriate.
- 4.57 Again, we refer back to the outcomes-based reason for the addition of requirements, being that the individuals need to be suitably trained to ensure the correct care and service is provided. The licensing of individuals would not be necessary if a qualified individual has been identified by the licensed business as being responsible for the day-to-day operation of that business.
- 4.58 **Paragraph 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?**
- 4.59 As outlined above, given the range and variety of funeral director businesses, we consider that a predominantly outcomes-based regulatory model would be the most appropriate, provided that this is sufficiently flexible to apply to all funeral director businesses fairly and without discrimination.
- 4.60 In this context, while a predominantly outcomes-based regulatory model would establish certain behaviours and principles to which funeral directors would be required to adhere, we consider that this model would still provide clear incentives for funeral directors to innovate, enter, and expand.
- 4.61 For example, while minimum quality standards for Back of House Services would obviously and directly benefit customers, it would still be possible for funeral directors to decide to go above and beyond these minimum quality standards, so as to differentiate their offerings within the sector on the basis of quality.
- 4.62 **Paragraph 116(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.**
- 4.63 To the extent that a predominantly outcomes-based regulatory model would be based upon aspects of the current Codes of Practice of the existing trade associations, we consider that the likely costs for many funeral directors would be limited.
- 4.64 Further, an appropriate period of transition to this regulatory model should enable those funeral directors that are not currently aligned with existing trade associations' Codes of Practice to plan and manage their additional costs. For example, good quality equipment can be acquired on a pre-owned basis, and so while there would likely be some need for investment, this could be controlled.

4.65 **Paragraph 116(b): What would be the likely costs of implementing and running the regime and how should this be funded?**

4.66 The costs of implementing and running the regime would in part depend upon whether an existing organisation was chosen, or whether a new one was created. Time and expense would be saved if existing experience and structures were used as a base from which to develop a predominantly outcomes-based regulatory model.

4.67 In terms of funding, we anticipate that funeral directors would be required to pay a licensing fee, but we would expect this fee to be fair, reasonable, and non-discriminatory, so as to ensure that funeral directors of all sizes and structures were able to access the sector.

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

4.69 We consider that establishing a quality regulatory regime should be the priority, and that individual elements of quality can be addressed within this overarching framework.

4.70 However, we consider that aspects of a predominantly outcomes-based regulatory model could possibly be introduced in phases, with an initial phase addressing elements that can be implemented with minimal cost to business, but which would provide significantly better outcomes for customers.

4.71 For example, the initial phase of the quality regulatory regime could be that each funeral director is required to implement and adhere to a process for:

- (a) identifying the individual to be collected by the funeral director (e.g. using a specific minimum number of accepted forms of identification), and continuing this process at every stage while that individual is in the care of the funeral director (the "**Identification Process**");
- (b) identifying, storing and transferring the individual's ashes in accordance with the Identification Process; and
- (c) issuing an itemised, written estimate to every customer as part of the funeral arrangement.

4.72 **Paragraph 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?**

4.73 As outlined above, we believe that a single UK-wide body would be most appropriate, with a predominantly outcomes-based regulatory model applied across the UK.

4.74 We therefore do not believe that aspects of a predominantly outcomes-based regulatory model should be tailored to reflect differences across England, Wales, Northern Ireland and Scotland.

5 **WORKING PAPER: INFORMATION AND TRANSPARENCY REMEDIES**

5.1 **Paragraph 28(d): Should we consider a firm size threshold for any of the remedies discussed here? And if so, what should that threshold be, and why?**

5.2 In our view, the CMA should not consider a firm size threshold for any of the seven remedies considered further below.

**REMEDY 1 – PRICE TRANSPARENCY AND COMPATIBILITY, PAGES 14-15, PARAGRAPH 57(A)-(E)**

5.3 **Paragraph 57(a): How can we best facilitate shopping around and increase customer awareness of total funeral costs and local price differentials?**

5.4 We consider that increasing customer awareness and facilitating shopping around would be best facilitated by funeral directors being required to display upon their websites their products and services, as well as their pricing structures.

5.5 For example, for our most popular funeral offering, and our simplest funeral offering, if we were to provide upon our website:

- (a) a full disaggregated breakdown of the various costs of these two funeral offerings at a branch level; and
- (b) a full disaggregated breakdown of the estimated costs of the disbursements associated with these two funeral offerings at a branch level,

this information would enable customers at a local level to have a better understanding both of our costs, as well as the likely overall costs associated with these two funeral offerings.

5.6 Further, if a set format or structure should be used to enable customer comparisons, we consider that funeral directors should be required to display information in this set format or structure.

5.7 We believe that this would have the additional benefit of enabling third-party comparison sites to use this information to create and offer innovative new platforms, which could include ratings or rankings based upon customers' experiences. In this context, we consider that where any such sites gain commission or a "finder's fee" from any situation, this should be obviously and transparently stated.

5.8 We do not consider that setting up an online platform overseen by the CMA (the "**CMA Platform**") would provide a more effective means by which to increase customer awareness and facilitate shopping around.

5.9 In particular, we note that there are significant practical and operational complexities associated with preparing, providing, and ultimately combining information addressing:

- (a) funeral directors' local products, services, prices, and payment terms, particularly when there can be significant variations in the products and/or services that may be available at a local level;
  - (b) third-parties' local products, services, and costs, again particularly when there can be significant variations in the products and/or services that may be available at a local level; and
  - (c) the operational availability and costs of crematoria.
- 5.10 In view of these significant complexities, we believe that customers would risk facing disappointment and frustration where they invest time and emotional energy selecting their preferred funeral options, only to discover that their chosen funeral is unavailable as selected (e.g. due to lack of capacity). This may then prompt customers to seek to identify immediate alternatives using the CMA Platform, without necessarily pausing to consider fully those alternatives and what they would entail, or fully understanding the implications of the options available to them.
- 5.11 While this "self-service" approach clearly has a role to play in a range of sectors (e.g. configuring and obtaining a price for a new motor vehicle), in our experience customers considering their options in relation to funerals typically need (and expect to receive) support, reassurance, and guidance, which necessarily requires engagement in person. For example, as outlined above, following discussions with us regarding possible options, customers are able to make appropriately informed decisions on important aspects such as the choice of coffin, or the choice of celebrant or minister.
- 5.12 Insofar as customers typically expect to receive support, reassurance, and guidance with regard to at least some aspects of their decision making, we consider that the actual usage of the CMA Platform could be relatively limited, particularly if funeral directors are required to display upon their websites their products and services, as well as their pricing structures, given that customers can easily make their own comparisons within their local area.
- 5.13 We also note that the CMA Platform would not offer the same overall functionality for a customer requiring a burial for their loved one, which may present a further obstacle to its usage.
- 5.14 In addition, if implemented, we believe that the CMA Platform would be very likely to discourage investment in the creation of innovative new platforms in the future.
- 5.15 **Paragraph 57(b): How can we enable better comparison of funeral directors' prices and quality of services?**
- 5.16 As outlined above, we consider that increasing customer awareness and facilitating shopping around would be best facilitated by funeral directors being required to display upon their websites their products and services, as well as their pricing structures.

- 5.17 **Paragraph 57(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?**
- 5.18 We believe that customers could be better prepared for the arrangement meeting by ensuring that all relevant information on the options offered by the funeral director (including low-cost options) is provided to them earlier in the contact process, and in any event in advance of the arrangement meeting.
- 5.19 In addition, when positioning the arrangement meeting to a customer, funeral directors could specifically explain that the arrangement meeting provides the customer with an opportunity to ask any questions about options and costs, while reassuring the customer that no one will be trying to "sell" to them.
- 5.20 **Paragraph 57(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)?**
- 5.21 Costs for a funeral service are dependent upon the choices of the person making the arrangements. However, possible ways to give an earlier indication of likely final costs early on in the process could be to:
- (a) display/provide working examples of local funeral elements as a whole, including disbursements (e.g. on a funeral director's website); or
  - (b) provide a quote following an initial conversation, detailing all of the provisional requirements and their estimated costs.
- 5.22 **Paragraph 57(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?**
- 5.23 As outlined above, we have reservations about the CMA Platform, its functionality, and how customers may be expected to engage with this.
- 5.24 **Paragraph 57(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?**
- 5.25 As set out above, we consider that it is preferable to adopt a standardised methodology for presenting pricing and service data as an alternative to the CMA Platform. By making information readily available online, in an accepted and recognised manner, it would allow customers to compare local options with a web-based search of local funeral directors.
- 5.26 **Paragraph 57(g): Should crematoria availability be incorporated into the platform?**
- 5.27 As outlined above, we consider that incorporating crematoria availability into the CMA Platform adds a further layer of complexity for customers to navigate.



- 5.28 We reiterate our belief that customers risk facing disappointment and frustration if they invest time and energy selecting their preferred funeral options, only to discover that their chosen funeral is unavailable as selected (e.g. due to lack of capacity).
- 5.29 **Paragraph 57(h): What will be the likely costs of this remedy?**
- 5.30 As set out above, we believe that the most effective means of increasing customer awareness and facilitating shopping around would be to require funeral directors to display on their websites their products and services, and pricing structures, by reference to a set format or structure if this would assist customer comparisons.
- 5.31 As the majority of funeral directors already operate websites, we consider that the likely costs of adapting these websites to provide this information would be comparatively limited.
- 5.32 In relation to the creation and operation of the CMA Platform, it is presently unclear what the full extent of the likely costs of this remedy might be. However, given the number and range of data points, and the real-time operation of certain proposed aspects (e.g. crematoria availability), we anticipate that the likely costs required to implement the CMA Platform would significantly exceed the likely costs of funeral directors' adapting their own websites to enable comparisons (e.g. by customers, or by third-party platforms).
- 5.33 In view of our reservations regarding the likely engagement with the CMA Platform, we consider these likely costs to be excessive and disproportionate to the overall benefit to the customers.
- 5.34 **Paragraph 57(i): Will this remedy give rise to any potential unintended consequences?**
- 5.35 Unintended consequences of the CMA Platform include funeral directors providing their availability for all crematoria (i.e. not just their local crematoria), as they may wish to be considered by a wider range of customers, and not just by those who live close to the funeral directors. If customers selected funeral directors outside of their locality (e.g. on the basis of price), this may present practical challenges in relation to the delivery of the funeral services.
- 5.36 In addition, if the CMA Platform enabled competitors to view each other's current disaggregated products, services, prices, and payment terms, then in certain local areas it is at least possible that this outcome could have the unintended consequence of reducing competition on price, rather than stimulating competition on price.

**REMEDY 2 – INTERMEDIARIES TO (MORE EFFECTIVELY) INFORM CUSTOMERS OF THEIR OPTIONS AND ENCOURAGE SHOPPING AROUND, PAGE 17, PARAGRAPH 66(A) – (E)**

- 5.37 **Paragraph 66(a): Are there intermediaries other than the CQC who provide, or are well placed to provide, information on funeral planning to those close to death or to the bereaved?**
- 5.38 Whilst the National Care Forum (the "NCF"), in addition to the CQC, takes an active role in patient care across multiple types of institutions, we do not believe it should be their responsibility to govern funeral practices.
- 5.39 However, we do believe that the NCF would be well placed to encourage their respective members organisations, as a minimum, to ensure they have relevant information on hand, or ideally to encourage all residents/delegated responsible persons to have made instruction in case of the need for the services of funeral directors. Some venues already insist that clear instructions are left as part of their on-boarding of a new resident.
- 5.40 Further, the CQC could take steps to at least encourage care providers, as a minimum, to ensure they have relevant information on hand to provide upon request to residents/delegated responsible persons.
- 5.41 **Paragraph 66(b): Are other ways in which funeral directors and crematoria operators can raise awareness of the platform other than providing information on their websites and promotional material and discussing the platform at the arrangement meeting?**
- 5.42 We believe that it is the responsibility of the funeral director to provide full and fair information of products and services available. Price comparison websites are already in existence, and are available for those wishing for a more direct comparator, rather than using the individual funeral director collateral as a means of comparison.
- 5.43 **Paragraph 66(c): Are there alternatives to raising awareness of the platform to general advertising and the use of intermediaries?**
- 5.44 Notwithstanding our reservations in relation to the CMA Platform, we consider that general advertising and the use of intermediaries would be the most effective means of raising awareness of this remedy. In particular, general advertising could also signpost neutral bodies such as [www.gov.uk/when-someone-dies](http://www.gov.uk/when-someone-dies); or [www.citizensadvice.org.uk/family/death-and-wills/what-to-do-after-a-death](http://www.citizensadvice.org.uk/family/death-and-wills/what-to-do-after-a-death).
- 5.45 **Paragraph 66(d): What are the likely costs of this remedy?**
- 5.46 Costs to implement the remedy would be limited if the remedy consisted of signposting to existing neutral organisations. The likely costs would be significantly higher if the CMA Platform (as proposed in relation to Remedy 1) is to be operated and maintained.

5.47 **Paragraph 66(e): Will this remedy give rise to any potential unintended consequences?**

5.48 Requiring the CQC and/or the NCF to become responsible for overseeing the availability of funeral-related information could prove difficult to monitor and manage.

**REMEDY 3 – FUNERAL PLANNING AWARENESS BEFORE THE POINT OF NEED, PAGE 19, PARAGRAPH 77(A)-(E)**

5.49 **Paragraph 77(a)-(e): We invite views on the following questions:**

(a) **Are there particular circumstances prior to the point of need at which consumers are likely to be receptive to the idea of preparing for their funeral or that of a loved one?**

5.50 Depending upon the individual, a consumer may be receptive to the idea of preparing for their funeral, or that of a loved one, once a specific prognosis has been given.

(b) **What interventions (if any) are likely to encourage funeral planning and how might they be delivered?**

5.51 As noted above, we believe that the NCF would be well placed to encourage their respective member organisations, as a minimum, to ensure they have relevant information on hand.

5.52 Further, the CQC could take steps to at least encourage care providers, as a minimum, to ensure they have relevant information on hand to provide upon request to residents/delegated responsible persons.

(c) **Should this remedy target particular types of consumers?**

5.53 Given the sensitivity of the subject, we believe that information should be generally made available, rather than being targeted at particular types of consumers.

(d) **What are the likely costs of the remedy?**

5.54 Costs to implement the remedy would be limited if the remedy consisted of signposting to existing neutral organisations.

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

5.55 As noted above, requiring the CQC and/or the NCF to become responsible for overseeing the availability of funeral-related information could prove difficult to monitor and manage.

**REMEDY 4 – MANDATORY REFLECTION PERIOD - ISSUES TO CONSIDER, PAGE 21 ONWARDS, PARAGRAPHS 86 AND 89(A)**

- 5.56 **Paragraph 86:** In the scenario described in paragraph 85(a), the customer might incur additional costs (such as, moving the deceased to a different provider). In the scenario described in paragraph 85(b), the costs may only arise as the date of the funeral approaches. We invite views from interested parties as to how long the period for a customer changing their mind without incurring costs could last in either or both cases.
- 5.57 **Paragraph 89(a):** In circumstances in which a customer has called a funeral director to arrange for collection, transport and storage of the deceased, and the funeral director has provided that service, we do not consider that a mandatory 'reflection period' should be applicable to the service that has already been provided.
- 5.58 We do not prevent any customer from changing their mind on funeral choices, or even on choice of funeral director. In this context, a customer is able to cancel their arrangements with us at any time. However, we believe that we should be able to charge for products used and services rendered, where we have properly and demonstrably incurred the costs of these products and services. For example, once we have placed the deceased in a coffin, we are then unable to re-use that coffin if the customer decides to change funeral director. Similarly, where the deceased has been embalmed, that service could not then be withdrawn if the customer decides to change funeral director.
- 5.59 Equally, and in line with the CMA's indication that price transparency needs to be improved, we need to help the customer to understand which introductory requests would fall within the scope of these initial upfront costs.
- 5.60 We are very mindful of appropriate times to discuss costs when we are being notified of a bereavement, and of finding the balance between providing information and responding to a request to attend. We are also aware that providing indicative prices may give the impression that we are concerned only with the financial aspects of our services and not our customers' sense of loss or the ways in which we can help.
- 5.61 We suggest that an effective way of raising awareness about these aspects could be through the means of neutral literature, or a signpost to websites, such as [www.gov.uk/when-someone-dies](http://www.gov.uk/when-someone-dies); or [www.citizensadvice.org.uk/family/death-and-wills/what-to-do-after-a-death](http://www.citizensadvice.org.uk/family/death-and-wills/what-to-do-after-a-death).

**REMEDY 4 – MANDATORY REFLECTION PERIOD – INVITATION TO COMMENT, PAGE 22, PARAGRAPH 90(A)-(D)**

- 5.62 **Paragraph 90(a):** Is a 'reflection period' an effective mechanism for encouraging customers to ensure that they choose a funeral director that best meets their needs?
- 5.63 A stated 'reflection period' in the form of an express right of cancellation, exercisable within a clearly defined timeframe, may provide customers with greater confidence in relation to their decision making. This is on the basis that customers would then know that they could change their minds in the future, if they wished to do so.

5.64 **Paragraph 90(b): If so, when should this 'reflection period' take place?**

- (a) **After getting information on funeral options from a funeral director on its premises and before signing the contract?**
- (b) **After signing the contract in an arrangement meeting but having cancellation rights for a certain period of time afterwards? or**
- (c) **Another suitable time?**

5.65 As noted at paragraph 5.57 above, where a customer has called a funeral director to arrange for collection, transport and storage of the deceased, and the funeral director has provided that service, we do not consider that a mandatory 'reflection period' should be applicable to the service that has already been provided.

5.66 However, we consider that it would be appropriate for there to be a mandatory 'reflection period' in the form of an express right of cancellation that could be exercised by the customer either:

- (a) before signing the contract in an arrangement meeting (e.g. once the customer has received information about possible options from the funeral director at its premises, but has not entered into a contract), or
- (b) within a certain number of days after signing the contract in an arrangement meeting (e.g. two days, or 48 hours),

subject to the customer agreeing to pay the funeral director's properly and demonstrably incurred costs for products used, and services rendered up, to and including the date of cancellation.

5.67 **Paragraph 90(c): What are the likely costs of this remedy?**

5.68 On the basis that:

- (a) the collection, transport and storage of the deceased would be excluded from a mandatory 'reflection period'; and
- (b) the mandatory 'reflection period' would take the form of a set timeframe within which a customer had a right of cancellation, subject to the payment of those costs properly and demonstrably incurred by the funeral director,

we consider that the likely costs of this remedy would be comparatively limited.

5.69 **Paragraph 90(d): Will this remedy give rise to any potential unintended consequences?**

5.70 If a customer cancelled their arrangements and then refused to pay those costs properly and demonstrably incurred by the funeral director, the value of the costs in question may be such that it would be disproportionate for the funeral director to take action to seek to

recover these. This could result in an increase in the value of "bad debts" being incurred, and subsequently written off.

**REMEDY 5 – POTENTIAL CAP ON THE LEVEL OF CHARGES INCURRED FOR THE COLLECTION TRANSPORTATION AND STORAGE OF THE DECEASED, PAGE 24, PARAGRAPH 97(A)-(E)**

- 5.71 **Paragraph 97(a): Will the imposition of a cap on the collection, transportation and storage of the deceased encourage more customers to switch funeral directors after having reflected on their original choice of funeral director?**
- 5.72 We consider that the costs for the collection, transportation and storage of the deceased should be easily identifiable.
- 5.73 Further, as noted above, we believe that we should be able to charge for products used and services rendered, where we have properly and demonstrably incurred the costs of these products and services. For example, where we have attended a location to collect a loved one into our care, we will have paid colleagues to attend.
- 5.74 We would therefore wish to receive payment for the costs we have properly and demonstrably incurred, if and when a customer subsequently decided to switch funeral directors.
- 5.75 However, while concerns about the possibility of customers switching could potentially motivate funeral directors to provide a better quality service, we do not believe that the imposition of a cap on the costs of collection, transportation and storage of the deceased would encourage more customers to switch funeral directors.
- 5.76 **Paragraph 97(b)(i): Should the charge for collection and transport reflect the distance covered by the funeral director or represent an average cost?**
- 5.77 We suggest that suitable consideration should be given to varying occasions that may require increased costs, such as the payment of colleagues on prime days (such as Bank Holidays), or where time required at the location is much longer because of the circumstances involved.
- 5.78 Given the potential variants, in the interests of customer transparency it may be preferable to determine these costs as an average sum, calculated by reference to average costs across the UK, with a reasonable profit added. These aspects could then be increased annually by reference to an appropriate value (e.g. the value of inflation).
- 5.79 **Paragraph 97(b)(ii): Should there a daily charge for the storage of the deceased or an average charge for storage, which reflects the average length of time that the deceased is typically stored?**
- 5.80 We consider that there should be a reasonable daily charge for the storage of the deceased, with this overall storage charge calculated by reference to the actual time that the deceased is in the care of the funeral director, rather than by reference to an average length of time.

5.81 **Paragraph 97(c): Are there other approaches to setting a potential cap on charges levied by funeral directors for the collection, transportation and storage of the deceased (other than cost-based approaches) that the CMA should consider?**

5.82 We consider that a cap calculated by reference to average costs across the UK, with a reasonable profit added, would be appropriate.

5.83 **Paragraph 97(d): What are the likely costs of this remedy?**

5.84 If a cap was to be calculated by reference to average costs across the UK, with a reasonable profit added, we consider that the likely costs of this remedy would be comparatively limited.

5.85 **Paragraph 97(e): Could this remedy give rise to any unintended consequences?**

5.86 If the price cap is not appropriately calibrated, one potential unintended consequence could be certain funeral directors choosing not to provide collection services out-of-hours (e.g. if the potential costs associated with out-of-hours arrangements are not fully recoverable under the price cap), and only providing collection services during normal working hours.

5.87 If the location of the deceased does not have temperature-controlled storage, this delay in collection could be detrimental to the care of the deceased, depending upon the time of year, the ambient temperature of the location, and the extent of the delay.

#### **REMEDY 6 - MANAGING CONFLICTS OF INTEREST, PAGE 25, PARAGRAPH 104(A)-(D)**

5.88 **Paragraph 104: We invite views on the following questions:**

(a) **Are there any other ways to eliminate conflicts of interest that may adversely impact the quality of service provided by funeral director to customers?**

5.89 In order to eliminate conflicts of interest, we would fully support the total prohibition of any payments or inducements identified in Remedy 6, including:

(a) partnership agreements with hospices or care homes, which involve direct referral payments when the hospice or care home facilitates an introduction to a funeral director business;

(b) commissions to employees for upselling funeral packages; and

(c) commissions to hospices and care homes for upselling funeral packages.

(b) **Are there any other types of inducements or payments that should be captured by this remedy?**

5.90 We consider that any direct or indirect inducements and/or payments that could give rise to conflicts of interest should be captured by this remedy.

(c) **What are the likely costs of this remedy?**

5.91 We consider that the likely costs of this remedy would be minimal.

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

5.92 We do not anticipate that this remedy would give rise to any potential unintended consequences.

**REMEDY 7 – DISCLOSURE OF BUSINESS OWNERSHIP AND OTHER COMMERCIAL RELATIONSHIPS, PAGE 27, PARAGRAPH 112(A)-(E)**

5.93 **Paragraph 112: We invite views on the following questions:**

(a) **What potential harm could the non-disclosure of business interests and other commercial relationship cause customers?**

5.94 In terms of potential harm, we believe that the non-disclosure of business interests and other commercial relationships:

(a) prevents customers from making fully informed decisions, which could result in outcomes that customers would have avoided had they been aware of the relevant information; and

(b) risks underlying customers' confidence and trust.

5.95 For example, in circumstances in which a customer had previously endured a very difficult experience with a large funeral director, the customer may choose to use a smaller funeral director for a subsequent family funeral. However, the smaller funeral director may have recently been acquired by the large funeral director, but the customer may only become aware of this when they receive the invoice. Had the customer been aware of this from the outset, they would not have used the smaller funeral director.

(b) **What business relationships and other commercial relationships should be disclosed to customers?**

5.96 We would fully support requirements for:

(a) funeral directors and crematoria operators to disclose their business ownership structure, including confirming when branches form part of a larger funeral director business;

(b) funeral directors and crematoria operators to inform customers of any changes in ownership (e.g. when an independent funeral director is acquired by a larger multi-site operator, so that customers are aware of the current ownership structure); and

(c) funeral directors to disclose when they recommend a crematorium that is owned by the same company as the funeral director business.



**(c) How should such interests and relationship be disclosed to customers?**

- 5.97 We consider that information in relation to ownership should be clearly and obviously disclosed to customers on the outside of premises (e.g. on a clearly visible sign in a prominent position), as well as upon websites, and in any promotional materials.
- 5.98 Where a funeral director is recommending a crematorium that is owned by the same company as the funeral director business, this fact should be made clear to the customer at the time of the recommendation being made, and subsequently confirmed in writing.
- 5.99 In addition, the crematorium's premises, website, and promotional materials should clearly and obviously disclose which brands of funeral directors are members of its company group.

**(d) What are the likely costs of this remedy?**

- 5.100 We consider that the likely costs of this remedy would be comparatively limited.

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

- 5.101 We do not anticipate that this remedy would give rise to any potential unintended consequences.