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Wednesday, 26 February 2020

Dear the Competitions and Markets Authority Team,

Please find below my comments in relation to the working papers released on 30<sup>th</sup> January 2020.

### Quality regulation remedies

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. Funeral directors and crematoria offer very different services. I suggest you should regulate crematoria separately, as has been done in Scotland.

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

Yes. I believe back of house standards have been neglected by many funeral directors who believe they are only observable to a limited extent and are unlikely to be inspected by customers.

Customers are likely to make an assumption that high standards are maintained back of house but due to the nature of bereavement, they are unlikely to assess back of house standards, or even know what to expect.

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

I was pleased to read the remedies outlined in the working papers. I believe that statutory minimum standards, a statutory licensing and inspections scheme, an appropriate body to monitor and enforce standards and the collect and dissemination to customers on the quality of services provided by funeral directors would be highly effective in addressing the concerns you've identified, and is a proportional response to the severity of the issues you've raised.

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.

I am satisfied with the remedies you have proposed and have no 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.



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I believe that an outcomes-based regulatory model would be appropriate to take into account the many different approaches to funeral directing whilst requiring a minimum acceptable level of quality.

There is so much positive progressive change within the funeral sector right now, and it would be inappropriate to prevent this by introducing a rigid rules-based regulatory model.

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, refrigeration is essential.

- (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.

I believe this is a meaningless number and would be interested to hear how this number has been calculated and by whom. I have already spoken to the Scottish Government to share my view on how one refrigeration space per 50 deceased persons is not sufficient.

I believe it would be more effective to introduce a requirement for each deceased person to be stored individually in a suitably refrigerated space.

- (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. Without question.

- (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:

I believe training and education of a high standard should be available but should not be mandatory. I believe that funeral directing is vocational rather than academic, and that formal requirements for entry may dissuade people who would make excellent funeral directors but wouldn't necessarily succeed in formal education.

I would also like to question how families could care for their own dead if training was mandatory.



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- (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?

I don't believe formal education is necessary to be a successful funeral director, as funeral directing is a vocational career path.

Formal education could be substituted by experience, high standards of in-house training, and a licensing model based on outcomes rather than rules. I would like to see a national programme teaching the fundamentals of funeral directing, such as paperwork and legal requirements.

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

It's important that the Poetic Endings' team is knowledgeable and experienced in all matters related to funerals. [✂]



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[✂]

I would support the introduction of a nationally accredited professional education programme, which would teach the fundamentals of funeral directing such as administration and legal requirements. I would then like to see optional approach-based training available from a variety of providers so funeral directors could choose a training provider which resonated with their own approach, whether contemporary or more conventional.

**(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?**

Ongoing CPD should be a requirement to stay up-to-date with the ever-changing needs of bereaved people, especially now the funeral sector is changing so much. The lazy and complacent attitude of some funeral directors, [✂], needs to change.

**(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)?**

An enhanced DBS check, as funeral directors are dealing with vulnerable people. Checks to ensure that business owners are reputable and of good character.

**(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. It needs to be entirely independent in order to address serious complaints.

Funeral directors' own complaint handling and customer redress is not sufficient.

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

I would like to see the introduction of an Inspector of Funerals for England and Wales to monitor and enforce compliance with quality regulation. Trade associations can not be allowed to influence the appointment of this inspector.

**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.**

I believe there should be an Inspector for England & Wales, an Inspector for Scotland and an Inspector for Northern Ireland, to take into consideration the different legal systems which are in place.



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I believe that there are many more innovative and progressive funeral directors in England, so it's important that the Scottish regulatory regime is developed for use in England and Wales with this in mind.

**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.

Trade associations exist to protect funeral directors and the funeral industry. I believe that trade associations have failed to appropriately enforce standards in their own membership and are responsible for many of the issues the funeral sector is currently facing.

I would also like to suggest that the FSCSR plays no role in any quality regulatory regime that may be introduced. The FSCSR is a lobbying group initiated by Dignity and run by the NAFD and SAIF, who have attempted to make the FSCSR look official by inviting organisations and charities to participate. These organisations and charities may represent grieving people but are not necessarily knowledgeable about the intricacies of the funeral sector and the issues it's currently facing. Any attempts by the FSCSR to establish themselves as a voluntary interim regulator should be challenged and refused.

I would suggest that any quality regulatory regime is maintained by a strictly independent and official organisation, preferably an Inspector of Funerals, with NO trade association influence or involvement. Trade associations only role should be to help their members to become compliant with the independent regulatory regime.

**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?**

I would like to suggest that the people tasked with designing the regulatory regime work closely with progressive funeral directors to ensure that any future desirable new entrants, who are likely to bring ethical standards to the funeral sector, are encouraged, rather than deterred.

**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 those who already adhere to appropriate standards, the cost will be minimal. However, funeral directors operating with poor standards (such as ill-equipped mortuaries with insufficient refrigeration) will need considerable investment to meet any new regulatory standards.

Poetic Endings would need to make minimal operational changes in order to be entirely complicit with the Scottish Code of Practice. There would be minimal financial impact to the business.



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

There could be a set fee per funeral carried out, paid by the funeral director. If this cost was between £3-5 per funeral, I believe sufficient funds would be raised to pay for the cost of implementing and running the regime.

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

- Access to sufficient refrigeration to prevent funeral directors from using corridors/ staff rooms to store people who have died who are in their care.

- Funeral directors capping celebrant fees (which are a disbursement) meaning that low quality 'template' celebrants are successful, and high quality celebrants are unable to make a sufficient living.

**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?**

Minimum operational standards should apply to all funeral directors. The regulatory code should allow funeral directors to define their own approach, providing they adhere to certain standards, which means that regional differences could still be honoured.

Differences in legal paperwork in England and Wales, Northern Ireland and Scotland will need to be considered.

### Information and transparency remedies

#### Remedy 1 – Price transparency and comparability

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

- Make it obligatory for coroners and registrars to provide impartial and standardised advice including information about the platform. This information provided must be impartial and include no paid for advertising. It should include information on how a customer can choose the right kind of funeral director for their requirements and make it very clear that not all funeral directors are the same. It could include cost guidance. This impartial information could also be available in GP surgeries, hospitals, care homes etc.

- Make it obligatory for funeral directors to talk about the platform during the arrangement meeting and let customers know that they can shop around and choose a funeral director who is right for them.

- Separate collection of the person who has died from the rest of the funeral costs so customers can choose another funeral director, if appropriate.



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

Make it obligatory for funeral directors to break down their services into components, rather than packages. Packages can then be built to the customers' specification using the individual components. If the comparison platform you describe is built it should not just be based on prices; considerable attention should be given to the quality of service too. Funeral directors could provide information about their businesses, so customers can understand the quality and type of the service they're choosing.

**(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?**

- Make it obligatory for coroners and registrars to provide impartial and standardised advice.
- Make it obligatory for funeral directors to list all of their prices and services online on their own websites so customers can empower themselves with information before the arrangement meeting.
- Make it obligatory for funeral directors to discuss costs in arrangements meetings, including low-cost options.
- Stop funeral directors from advertising misleading low-cost options as a marketing strategy to lure customers to their business.

**(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)?**

- Ensure all funeral directors list all of their prices and services online on their own websites, as well as on the platform, so customers can empower themselves with information.
- On the platform, allow the customer to sort results based on certain criteria, such as overall funeral cost or ratings, depending on what's important to them.

**(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?**

- Make it obligatory for coroners and registrars to provide impartial and standardised advice including information about the platform.
- Public campaign to ensure people are informed of the existence of the platform.

**(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?**

They should be made to do this anyway, regardless of whether the platform goes ahead.

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

Yes. This will mean funeral directors won't be able to lie about crematoria availability.

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

The platform will require considerable investment in technological expertise for it to be successful.



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

If consideration is not given to quality of service as well as price, it may result in customers choosing low quality funeral services based on price alone.

**Remedy 2 – Intermediaries to (more effectively) inform customers of their options and encourage shopping around**

(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?

Hospices, hospitals, bereavement teams, celebrants, clergy, community care, GPs, nurses, care homes, crematoria, cemeteries, charities.

(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?

I can't think of any right now.

(c) Are there alternatives to raising awareness of the platform to general advertising and the use of intermediaries?

Teach children about death, grief and funerals in schools as part of PSHE.

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

Unknown.

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

Unknown.

**Remedy 3 – Funeral planning awareness before the point of need**

I have been particularly outspoken about funeral planning, as I do not believe it is always helpful.

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I am extremely concerned that telling funeral directors and trade associations to encourage the public to pre-plan their funerals would create a highly undesirable situation in which only the biggest operators would have enough money to be able to advertise, and would obviously do this to promote their own business interests.

It's worth considering who the funeral is actually for. Is it for the person who has died, or is it for the benefit of those who have survived? Whilst it is helpful for people to have had a conversation with their family and friends and made some basic decisions (such as burial or cremation), it's usually most helpful for the people who are arranging the funeral to be given the freedom to make the right decisions for them, after the person has died.



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#### Remedy 4 – Mandatory 'reflection period'

(a) Is a 'reflection period' an effective mechanism for encouraging customers to ensure that they choose a funeral director that best meets their needs?

Yes and no, as most customers will not change funeral directors once the person who has died has been taken into their care. I do not believe that a 'reflection period' is an entirely effective mechanism but it may help some people. Grief affects rational thinking and a few days of reflection is unlikely to make a significant difference.

#### Remedy 5 – Potential cap on the level of charges incurred for the collection, transportation and storage of the deceased

(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?

Yes - if collection, transportation and storage is charged separately to other funeral expenses so it's not included as part of a package, and customers know they can shop around for a suitable funeral director.

(b) How should the cap be calculated?

It should be a fair price to cover costs incurred, especially in the case of 'call-outs' at night and over the weekend. Consult with many funeral directors to figure out a reasonable cost.

(i) Should the charge for collection and transport reflect the distance covered by the funeral director or represent an average cost?

If a collection is considerably out of area, it's reasonable to charge an additional fee.

(ii) Should there be 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?

There should be a daily charge for storage if the customer is not going to appoint the funeral director to carry out the rest of the arrangements.

The new appointed funeral director should not be able to abuse the system by using the collecting funeral director's facilities to store the person who has died until the funeral, to avoid using their own facilities.

The customer, whilst deciding, could also take a long time to appoint a suitable funeral director, meaning that a space in the collecting funeral director's mortuary is then used, and can't be used for other customers.

For some funeral directors, mortuary spaces are limited.



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(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?

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

This will require funeral directors to restructure their pricing models.

(e) Could this remedy give rise to any unintended consequences?

Abuse of the system, as detailed above.

#### Remedy 6 – Managing conflicts of interest

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

I'm suspicious that private hospitals may have formal or informal relationships with certain funeral directors. Some hospitals don't have mortuary facilities so have a relationship with a funeral director to carry out the collection after a person has died. Patients at these hospitals should know about any relationships with funeral directors and be given impartial information about other funeral directors.

#### Remedy 7 – Disclosure of business ownership and other commercial relationships

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

None. It would only benefit them.

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

Very clearly in all company literature, on websites and on price lists.

I hope my comments have been helpful. Please don't hesitate to get in touch if you'd like further clarification on any of the points I've raised.

Yours faithfully,

Louise Winter  
Progressive Funeral Director & Founder  
Poetic Endings



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