

Funerals Market Investigation

Westerleigh Group's response to the CMA's working paper on information and transparency remedies

1. Introduction

- 1.1. The Westerleigh Group ("**Westerleigh**") welcomes the opportunity to respond to the CMA's working paper on possible information and transparency remedies (the "**Information and Transparency WP**").¹ As highlighted in Westerleigh's submissions throughout the Market Investigation, Westerleigh would support measures aimed at ensuring that families have as much information as possible prior to selecting the venue for the funeral, both in order that the family can make the correct choice as well as to ensure that the funeral goes to plan and all their personal needs are met.
- 1.2. Westerleigh has led the market on transparency of cremation fees, making full information on its pricing available on its websites, and additionally providing printed price lists to funeral directors for passing on to families. Westerleigh also provides qualitative information on the facilities and service provided and welcomes and encourages customers to visit its sites to inform their decision making ahead of arranging the funeral.
- 1.3. Westerleigh would therefore support measures with the aim of making sure that comparable information on each crematorium in the relevant area is made available to customers in a transparent and consistent format.² Indeed, Westerleigh believes that the fuller the information available to customers, the more they would be likely to choose Westerleigh's crematoria, as it believes that it offers better quality of service, facilities and overall value.

2. Westerleigh's comments on the design of potential information and transparency remedies

- 2.1. Westerleigh would encourage the CMA to ensure that any remedies in this area are designed such that a broad range of information is provided to customers, in order that they are well informed about all relevant elements, including qualitative aspects of each crematorium in their local area.
- 2.2. The CMA's current proposals could result in too limited a range of information being provided to customers on the crematoria available to them. In particular, while Westerleigh agrees that information should be provided on "*all cremation options*", the information provided should go beyond just "*information on fees, slot lengths, what is included and excluded in the price*

¹ Westerleigh's comments on the Information and Transparency WP are made without prejudice to its position, as will be explained more fully when responding to the other working papers published by the CMA, that the CMA has not identified an adverse effect on competition in relation to the provision of crematoria services. As with Westerleigh's submissions during the CMA's market study phase and the market investigation, the comments made in this response are focused on the aspects of the Information and Transparency WP which are relevant to the supply of crematoria services.

² Information and Transparency WP, paragraphs 36 – 41.

and distance from the funeral director's branch".³ The information should also provide greater detail on qualitative aspects which are important to customers, including range of facilities, nature of the music/AV offering, and the size and quality of the grounds and buildings.

- 2.3. Westerleigh is particularly concerned in this respect given the CMA has not fully recognised the importance of these qualitative aspects to customers and competition, and hopes that this gains greater attention as the CMA further progresses its thinking in this area.⁴ Indeed, Westerleigh believes that should additional transparency measures be successful, and customers become better informed about the variability in quality of crematoria, then qualitative aspects of crematoria will drive customer choices to an even greater extent than they do already.
- 2.4. In designing any remedies of this nature it will also be critical to develop a standardised methodology for presenting information, in order to ensure a fair comparison between offerings. As noted above, in relation to pricing, Westerleigh has developed a user-friendly price list format which very clearly outlines the pricing structure for services available at its crematoria, and believes that this format is appropriate for application across other crematoria. Westerleigh would also draw the CMA's attention to recent guidance issued by the Scottish Government (*Guidance on funeral costs published under Section 98 of the Burial and Cremation (Scotland) Act 2016*) which includes clear and straight forward guidance on the composition of price lists for crematoria.
- 2.5. However, it is important that qualitative information is given equal emphasis to pricing information in what is presented to customers. This includes (but is not limited to) booking slot length, which should be prominently displayed as this is a key part of the service offering and needs to be considered along with other key elements (such as price). Westerleigh would propose that price-per-minute is also shown as a metric in order to facilitate comparison, as well as the options for purchasing additional time (and corresponding costs).
- 2.6. Westerleigh would also support the setting up of an independent platform that would make information more easily available.⁵ In order to ensure consistent application, the 'platform' for transparency would, again, need to contain equivalent information across all crematoria. However, the time, cost and risks associated with developing an independent online booking system should not be underestimated.⁶
- 2.7. While in principle, Westerleigh can see the benefits of an online platform, Westerleigh believes that providing accurate 'real-time' information on crematoria availability may prove to be onerous for some operators (in particular, local authorities and standalone private crematoria). It is likely that this would require setting up a complex platform, with real time

³ Information and Transparency WP, paragraph 54.

⁴ These concerns will be explained in detail in Westerleigh's submission to the remaining working papers published on 30 January 2020.

⁵ Information and Transparency WP, paragraphs 36 – 41.

⁶ Information and Transparency WP, paragraphs 51 – 56.

links to each of the 300+ crematoria in the country and integration with their own booking systems. Westerleigh would be concerned that a large and complex IT project of this nature, involving a very large number of crematoria operators, could not be delivered within a meaningful timeframe.

- 2.8. Such a system, if it could be implemented, could also carry the risk of unintended consequences if data from some providers is not sufficiently up-to-date (for example, customers thinking they have booked a service only to find out later that the time/date booked was not available, or conversely making a decision based on the platform informing them incorrectly that their preferred crematorium is unavailable at their preferred time/date). Westerleigh, and the funeral sector generally, are acutely aware that every funeral is a one-off and hugely important event for each family, and it is essential that every service goes to plan. Minimising the potential for error or misunderstanding in the arrangement of a funeral is a key part of the day-to-day operations of crematoria and funeral directors, which currently works well.
- 2.9. Moreover, providing information on the availability of crematoria alone would not take account of several other factors which are relevant to planning a funeral, and could therefore give rise to operational challenges for funeral directors.⁷ Westerleigh therefore recommends that the CMA may wish to exclude this element from any independent online platform. If it is to be considered, then we strongly recommend that this should not form part of the initial phase as it would risk significantly delaying implementation of other information and transparency measures.
- 2.10. More generally, Westerleigh notes that the design of any remedies of this nature should be carefully considered to ensure that the regulatory burden imposed on crematoria operators in the form of, for example, reporting and/or information obligations and costs, is proportionate. In particular, the CMA should be mindful that the total size of the market by value is around £350 million and is predominantly comprised of local councils and standalone private sector crematoria. Nevertheless, Westerleigh believes that it should be possible to design appropriate tailored remedies which provide customers the information they need to make an active and informed choice between crematoria, without imposing an undue burden which would carry the risk of unintended consequences.
- 2.11. Finally, Westerleigh strongly disagrees with the CMA's observation that "*transparency remedies in relation to crematoria may only be effective in areas where customers have a choice of crematoria. About half of crematoria in the UK have no alternative within a 30 minutes' drive, and as such, encouraging shopping around in these circumstances will not help a large number of customers.*"⁸ As will be explained in detail in Westerleigh's response to the remaining working papers published on 30 January 2020, Westerleigh believes that the CMA's

⁷ Such as the service of a funeral director and the associated elements of a funeral such as vehicles and staff; the service of a minister or similar to take the service; the service of registration and the timescale for completion; and the availability of paperwork and the timescale for completion (particularly concerning in complex cases).

⁸ Information and Transparency WP, paragraph 24.

assessment of the extent of local competition is flawed in several material respects and substantially understates the extent to which customers have a choice of crematoria. In Westerleigh's case, the large majority of its customers have an effective choice between at least two (and often several) crematoria. Moreover, Westerleigh envisages that an important advantage of ensuring greater availability of information for customers is that it will likely encourage customers to travel further for a funeral than is currently the case, in order to experience a better quality of service. In Westerleigh's experience, which is supported by the evidence on the 'qualitative pull' of its crematoria, customers are willing to travel for a one-off event.⁹ Thus, greater awareness of the availability of higher quality services and facilities is likely to encourage customers to shop around and make more informed choices about the distance they are prepared to travel.

3. Further comments

3.1. Westerleigh also makes the following observations on specific points raised in the Information and Transparency WP:

- (a) Westerleigh notes that funeral directors will be key to providing better information on crematoria to customers. Westerleigh provides information to funeral directors in order to help them inform the bereaved on the facilities offered by Westerleigh and its prices. Westerleigh would encourage the CMA to consider how funeral directors can be better placed to provide the appropriate information to families.
- (b) Westerleigh would be concerned at proposals which would tend towards rigid standardisation across the sector, and that might inhibit innovation and choice, meaning that families are driven to elect 'standard' options without the opportunity to personalise their funeral service. This would equally be a concern if any transparency measures do not provide sufficient information on qualitative aspects of crematoria offerings, since removing this perspective and focusing on price alone would risk reducing competition on quality and thereby resulting in lower standards, and less investment and innovation in the cremation industry.
- (c) Westerleigh agrees that funeral directors and crematoria operators should adopt the same pricing structure regardless of the sales channel used. Pricing for Westerleigh's services is consistent regardless of the route to booking or channel used.
- (d) In relation to the CMA's consideration of intermediaries¹⁰, Westerleigh has doubts that the Care Quality Commission would be the right vehicle for more effectively informing customers about their options, and believes that organisations such as hospitals, local authority registration offices and bereavement charities may be better placed to engage with the bereaved. As all deaths must be registered through the completion of a Cremation Form 1 (*application for a cremation*), this might be the appropriate

⁹ Further evidence on the qualitative pull of Westerleigh's sites will be provided in response to the remaining working papers published on 30 January 2020.

¹⁰ Information and Transparency WP, paragraphs 58 – 66.

juncture at which to engage with families and provide information about their choices. Westerleigh believes that educating customers 'pre-need' is not likely to capture all cases and may not achieve maximum benefit as the contact may be mistimed. Cremation Form 1 is typically completed through the funeral director. However, as this is a statutory document that is required in every case and signed by the applicant for a cremation, the Form could be repositioned through the registration service, ensuring that it is completed sooner in the process. To ensure consistency in awareness among customers, further information could be provided alongside this Form after the death.

- (e) In relation to promoting funeral planning awareness before death¹¹, Westerleigh notes that there are certain benefits in raising awareness before the point of need. While Westerleigh does not see any disadvantages in the involvement of the Government, the Citizens' Advice Bureau and similar organisation in raising awareness, [§<].
- (f) In considering the appropriateness of a mandatory 'reflection period', Westerleigh would generally welcome further consumer protection, but would encourage the CMA to give consideration to the process of funeral arrangements, which often involve the coordination of a number of different people from geographically spread locations over a relatively short period of time. From the perspective of a crematoria operator, depending on the length of any such period, the ability for customers to cancel could raise operational challenges as frequent last-minute changes of dates, service times, funeral directors, etc could cause operational difficulties and limit the capacity of the site and potentially impact the availability of services for other families. In particular, it is important that crematoria are able to ensure that every single service runs to plan and that the family experiences the funeral in line with their wishes. Such accuracy requires a level of prior planning, management and cooperation with funeral directors and other parties (such as ministers, celebrants, musicians and facilities for wakes, etc), which may not be compatible with a less structured process.¹²
- (g) Westerleigh supports the imposition of a requirement on funeral directors and crematoria operators to disclose their business ownership structure.¹³ A number of private sector operators already provide this information. In the interest of consistency, information on ownership could be included in any documentation issued to customers and online. On the other hand, Westerleigh does not believe that a requirement to disclose a change in staff would be appropriate¹⁴, as this would be cumbersome and difficult to implement and may conflict with other legislation (such as GDPR requirements) and employers' obligations towards their staff.

¹¹ Information and Transparency WP, paragraphs 69 – 71.

¹² Information and Transparency WP, paragraphs 78 – 90.

¹³ Information and Transparency WP, paragraphs 105 – 109.

¹⁴ Information and Transparency WP, paragraph 111.