



Response to the CMA's working paper: 'Remedy options for regulating the price of funeral director services at the point of need'

12 June 2020

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Aims and approach of a price control remedy

(a) Do you agree that the introduction of a price control likely to be an effective solution to remedy any AECs and any resultant, or expected, detrimental effects on customers should they be found in this market investigation?

(b) Do you agree that the introduction of a price control remedy to be a necessary and proportionate solution (paragraph 19) to remedy any AECs and any resultant, or expected, detrimental effects on customers should they be found in this market investigation?

We are very supportive of constraining the price of funerals. We agree that the supply of services by funeral directors at the point of need, and crematoria services (please see our response to the 'Remedy options for regulating the price of crematoria services' working paper), are necessary and will help to relieve some of the detrimental effects of AECs on customers. However, we also believe that without including cemetery services within these price controls, the adverse effect on consumers is unlikely to be remedied comprehensively or to full effect. Some larger funeral directors also own cemeteries and we are concerned that they may offset any price controls imposed on their funeral services by increasing cemetery costs or pursuing more aggressive upselling techniques. We have previously evidenced examples of this.

We also have some concerns that a possible risk of depressed prices through price controls could lead more funeral directors to require all payment before the funeral takes place. This already happens with some funeral directors when offering their simple funeral package, and even more so with direct cremation packages. It can cause significant issues for those on the lowest incomes (examples 1-4). We urge the CMA to consider carefully whether there are any mitigation measures that could be introduced around this. For example, we have previously suggested that we would like to see a cap on how much deposit a funeral director can request so those in the lowest economic groups are not disadvantaged. This could be the disbursements plus a percentage of the funeral director's fees or disbursements plus a given amount, whichever is higher. We would also like to see all customers being given the option to pay the rest of the bill in instalments and for this to be clear from the outset.

Paragraphs 61-65 appear to indicate that the CMA's starting point for setting price controls is to examine current prices in the industry, which is to be expected. However, we are concerned that if this was done without any reference to the extreme price increases that have taken place over the last 14 years, which the CMA's own interim report found to be twice the inflation rate¹, it would mean that any controls would be insufficient to deal effectively with the issue of high funeral prices and, in particular, the widespread issue of funeral poverty. We note that the CMA found that "The scale of these price rises does not currently appear to be justified by cost increases or quality improvements"². We welcome the CMA's commitment in paragraph 64, when determining the initial benchmark package price, "to consider whether adjustments are required to the pricing data in order to reflect any evidence regarding inefficiency and/or lack of price competition between firms", but we are concerned that on its own this would be unlikely to produce an initial price level that would represent a real difference to those on the lowest incomes.

¹ <https://www.gov.uk/government/news/cma-launches-funerals-market-investigation>

² <https://www.gov.uk/government/news/cma-proposes-major-funerals-probe-after-identifying-serious-concerns>



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Finally, to protect the financially vulnerable it is important that there is a cap on the interest that can be charged if a consumer needs to pay in instalments, and on fees that can be added, including admin fees.

Price control design considerations

(c) Do you agree that all funeral directors should be subject to a price control remedy (paragraph 38)?

The CMA's research states that high prices are not confined to the largest providers, but that both small and large funeral directors are capable of making large returns and some are doing so³. Combined with the fact that, as the CMA identifies in paragraph 36, "the challenging circumstances in which people organise a funeral and the impact this might have on their purchasing choices, are relatively universal" we agree with the CMA's thinking that price controls should apply to all providers of funeral director services.

(d) Do you think there is a requirement to limit the application of any price control regulation to exempt certain providers and if so, what should the criteria for exemption be (paragraph 39)?

We do not see any requirement for this, but we recognise we may not have the full expertise relevant to comment on this.

(e) Do you agree or disagree with the suggestion that a maximum price could be applied to a benchmark package of products and services (paragraph 59)?

We have previously stated that we strongly support the idea of 'unbundling' packages, as we have evidenced the difficulty people face when they have to take a 'traditional' package, instead of a 'simple' package, simply because they want one element of the traditional package, such as a viewing or a funeral on a specific date, and have to pay thousands more for the privilege. We also support customers being able to source elements from different places; such as their own coffin, or transport, and to package a funeral together that suits their needs much more and avoids them paying for elements they don't want or need. Therefore we have a concern that narrowing price controls on funeral director services solely to a package may end up perpetuating, and possibly even strengthening, this culture/situation.

We would be more supportive of a price cap on the essential services that all customers require when purchasing a funeral (option c in paragraph 28), plus caps on add-ons that are generally considered to fall within most societal norms, such as viewing, embalming and limousines. In addition to our above concerns, a price cap on the suggested 'standard' package, leaves open the possibility that people who want some, but not all, of the package's non-essential elements, will be disadvantaged by funeral directors increasing the price of these when added on to a pared down version, in order to try and offset any loss from the capped package. For example, someone opting to take the essential products and services, but then wanting to add viewing or a limousine could find themselves

³ Paragraph 241

https://assets.publishing.service.gov.uk/media/5e4d4a2286650c10e3ae7792/FD_Profitability_Working_Paper_-_web_---.pdf



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paying excessively for those extra items. A large proportion of people who would be affected by this scenario would be people on the lowest incomes.

(f) Do you agree with the suggested products and services within the proposed "standard" benchmark funeral package (paragraph 60)?

Our response to this, and to further questions about the benchmark package, are based on the scenario that price caps end up being focused solely on a package in line with paragraph 28 d), which we assume, taken in context with option c), is intended to include more than just essential elements. On this basis, we largely agree with the suggested products and services in the proposed benchmark package. However, we believe more specificity or definition is required for some of the items as they are currently listed.

- 1) 'Viewing of the deceased (suggested during the hours 8am-6pm)' should state which days of the week are covered.
- 2) We believe a definition of the 'standard' coffin would need to be provided, both so funeral directors can be confident they are complying with the requirements and so that consumers are clear what they are getting. In suggesting this, we refer in part to the CMA's concerns in paragraph 115 of their 'Funeral director sales practices and transparency' working paper, which identifies that funeral directors could benefit from coffin mark-ups if a customer initially chooses a funeral director without knowledge of its coffin prices/policies, and then later finds out they can't source a coffin from a third party. If a customer does not know what kind of coffin is included in the package then this is much more likely to happen. Depending on a funeral director's policies, they could end up with an unsatisfactory choice between retaining the original coffin offered in the package; upgrading the coffin, potentially to one significantly more expensive; or perhaps having to upgrade to a whole new package. Price transparency around the other coffins a funeral director offers will not be sufficient to mitigate this risk if the 'standard' coffin is not defined.
- 3) What personnel are referred to in 'Provision of hearse and personnel'? Does this just include a funeral director to lead the day or are coffin bearers also included? We believe it should include bearers as our sense from the clients that we work with is that most people do opt to have bearers. Whatever the intention is, this needs to be made clear.
- 4) 'Choice of route for funeral procession (within defined radius)' – our assumption is that the CMA does not intend this to include a two-location funeral e.g. where a consumer wants to have a service at a church first before attending the crematorium. However, that is merely our interpretation and we feel it would be beneficial for this to be clear as other people may interpret it differently. We would also like to know who will 'define' the radius within which this element applies and how this would be decided. It may not be appropriate for it to be a fixed radius across the country as the geographical make-up and population density of areas can be very different, e.g. between very rural and urban areas. However, it could be problematic if this radius was completely left to funeral directors to define as it could become difficult for consumers to compare and could be an area where funeral directors could impose extra charges unreasonably.



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We also note the CMA's findings in the 'Funeral director sales practices and transparency' working paper that there may well be an "oversupply" of embalming in the industry, including the suggestion that this "could be consistent with there being a substantial proportion of deceased who are embalmed but not viewed" (paragraphs 103-106). Given that this paper also found evidence from several sources to suggest that embalming rates are higher where it is offered as standard within a package as opposed to situations when it is sold as an extra service (paragraph 102), there could be a case for not including embalming in the benchmark package.

Excluding it could help create an environment in which this service is presented as the consumer choice that it should be and might result in less people paying for it unnecessarily. However, as it can be a core aspect of the viewing process for some people, it would be important that embalming costs were capped separately, as this could be an area where funeral directors could seek to increase their profits to offset any loss from a capped package. If no separate caps for individual products and services were implemented then it should be ensured that the benchmark package price was low enough to guarantee that those who did want it were not financially disadvantaged by its exclusion.

(g) Are there any funeral director providers for whom the suggested "standard" benchmark funeral package (paragraph 60(e)) would not be a suitable product/service to offer, for example a funeral director offering highly specialised or unique services?

We are aware that there are a reasonable number of companies who do not currently offer this kind of package, either because a) they do not offer packages at all, but only customised funerals, or because b) they solely provide direct cremations and/or attended cremations with more limited services.

Regarding the former type of company, we suggest that the price cap should still apply in that the sum of the individual products and services listed under the proposed 'standard' package should not exceed the price cap. We would expect this to be the same for all funeral directors where someone chooses to go outside of the package and have additional services. As the CMA's working papers states in paragraph 49, in this case "the price would exceed the specified price cap to reflect the cost of these extra products/services" and therefore the products and services that aren't 'extra', that are part of the 'standard' package, should themselves not exceed the cap.

Companies that simply do not provide some of the services listed e.g. viewing, attendance or a limousine, should not be required to start providing those services. We are hopeful that the price cap on the 'standard' package will naturally influence the prices of these other types of funerals as consumers will not want to pay a disproportionate amount for less services.

(h) Do you consider that there is evidence to suggest a lower or declining demand for any products/services in the suggested benchmark package, in particular we seek views on the use of limousine/s and embalming (paragraph 47)?

We do not have access to enough data to be able to comment on whether there is a lower or declining demand in any of the products or services suggested. However, it is clear from the clients that we work with that a reasonable number of people either make a completely free choice not to have a limousine (example 5 is just one of many) or,



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as is perhaps more often the case with our clients, opt not to have one in order to save money (example 6 is just one example).

As bereavement is such a difficult time for people we are not able to collect impact data from all the clients that we help and the sensitive nature of the conversation can also mean that we don't necessarily gather all the data available even from the clients with whom we do discuss it. However, we believe all of this is likely to mean only that the following figures are probably higher in reality. Amongst the clients for whom we recorded that savings had been made, the following percentage did not have a limousine/following car: 36% in 2017, 33% in 2018 and 26% in 2019. While this doesn't necessarily indicate that these people, or at least not all of them, did not ideally *want* a limousine, it does show that there were a good number of people who did not have one.

We are supportive of the benchmark package including a limousine because our sense from our work is that the majority of people probably do desire one, but we believe that if this package was introduced it would be vital it was very clear to consumers that they can choose to have something different, including funeral arrangements that involve less products and services with a lower overall cost.

We have more limited data available regarding embalming, however we do see some clients choose not to have it, again either as a cost-led decision (examples 7-9 are just a few of many) or simply because they do not want it. We also refer you to our comments on embalming in our answer to question f.

(i) What is your view on including or excluding time-based restrictions on certain services, for example should collection, transportation of the deceased be available 24 hours a day, seven days a week or should viewing of the deceased at the place of storage/funeral director's premises be limited to "office hours" such as 8am to 6pm. Also, should there be any restrictions on the route for the funeral procession (paragraph 60(d))?

We believe it would be reasonable to restrict viewing times to 'office hours', but we do not feel any other restrictions should be imposed.

(j) Do you consider that we should include a requirement for cost reflectivity for all disbursement costs within any price control regulation? If not, are there particular disbursement costs, for example cremation costs, which should be included (paragraph 57)?

We do not believe it should be allowed to charge a mark-up on cremation and burial fees. We are pleased to say that we do not generally see funeral directors doing this, but we would support there being regulation against it in case.

Given the evidence and concerns highlighted in the CMA's 'Funeral directors sales practices and transparency' working paper we also believe regulation is needed around other disbursement costs, particularly coffin costs. The CMA has shown that demand-side factors reduce the degree to which the bereaved shop around, both generally and in terms of sourcing a coffin from a third party, but that even if someone was prepared to do this, they may not know it is possible and, in some cases, the funeral director may not allow it. We also note that the CMA found evidence of significant mark-ups on coffins. As a result, we think a cost reflectivity requirement is needed here.



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While we do not have expertise in this area, we also believe that all costs billed as third party fees should be passed onto the customer at cost, because they cannot fairly be described as 'third party' if any mark-up is added. Cost reflectivity in this way would also attempt to ensure products outside of the 'standard' benchmark package do not increase inappropriately. The CMA would obviously need to take into consideration any risks associated with this kind of regulation, such as the possibility that companies may increase costs in other areas to mitigate for any loss or whether the impact on some businesses may be more than they can absorb.

(k) Alternatively, do you think that price control cap on average revenue per funeral, would be as effective in addressing any AECs and customer detriment, whilst also addressing unintended market distortions such as the risk of a focal point for prices (paragraph 60(f))?

We do not have the relevant expertise to comment in detail on this question, however we agree with the CMA's observation in paragraph 50 that a benchmark package, or indeed the kind of price controls we discuss in question e), would be easier to communicate to consumers and for them to understand what to expect in terms of price, than the option of a cap on average revenue.

(l) Do you think the same approach to the design of a price control is required across the UK, or whether there should be any variation at a regional or devolved nation level (paragraph 69(a))?

We do not have the relevant expertise to comment on this question.

(m) Do you think that one maximum price should be set for a benchmark package across the whole of the UK? Alternatively, what are your views on setting different regional or devolved nation prices (paragraph 69(b))?

While we do not have the relevant expertise to comment in detail on this question, we think it is important to acknowledge that there are existing regional / devolved nation variations in average funeral costs⁴, which may reflect variations in funeral directors' supply side costs. Therefore a one-size-fits-all approach could be harder to implement for funeral directors in areas with higher underlying costs. In considering a uniform cap versus regional variations, it will need to be understood to what extent regional price variations are due to variations in third party costs (excluded from the proposed benchmark package) and to what extent they are due to other supply side cost variations (e.g. overheads such as premises), over which funeral directors may have limited control.

(n) What are your views on the interaction of the Burial and Cremation (Scotland) Act 2016 with the proposal of price regulation in the UK (paragraph 74)?

We do not have the relevant expertise to comment on this question.

⁴ <https://www.royallondon.com/funeral-plans/funeral-costs/>



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Implementation, monitoring and enforcement

(o) What is your assessment of whether the option of setting a maximum price for a benchmark package of products/services (paragraph 60) is capable of effective; (i) implementation? (ii) monitoring? (iii) enforcement?

We do not have the relevant expertise to comment on this question.

(p) Do you think that compliance reporting requirements to the CMA or a regulator, should be the same for all funeral directors (paragraph 94(b))?

We do not have the relevant expertise to comment on this question.

(q) Do you have any views or suggestions on designing and implementing an effective communication strategy to ensure that consumers, funeral directors and relevant third parties understand their rights and responsibilities if price regulation is introduced in the funeral industry? In addition, how could we ensure that a benchmark package is sufficiently promoted and visible to consumers (paragraph 94(c))?

The main comment we would like to make around this is that we have some concerns that having a 'standard' package in this way could strengthen perceptions and feelings of what a funeral 'should' be and of what bereaved people are 'expected' to provide for their loved ones. For example, conversations with our clients show that having a limousine or following car is seen as part of 'giving someone a good send-off' or ensuring a 'respectful funeral'. Other elements like this can include having coffin bearers, rather than the coffin being present in the chapel when people arrive, or meeting direct at the crematorium as opposed to having a funeral procession. It could also be the case regarding the type of funeral itself, making direct cremation perhaps seem even more unacceptable. In this way, the package could end up having an impact on people's sense of choice and therefore reduce the space in which people feel able to make savings.

As a result, we believe the language used to describe the package would be very important and should not include the word 'standard' or anything else that might make it sound like 'the norm'. For the same reasons, any communication about the package would need to be done carefully and make very clear that it is just one option and that other, less expensive services exist. Therefore we feel it is perhaps not best to talk or think about this in terms of promotion, but rather simply as ensuring the public are informed about the price cap and to what it refers. Equally, it is key that the independent platform proposed in the 'Information and transparency remedies' working paper, provides information on all funeral director services, not just this package.

If our suggestion is accepted, that the price cap should also apply to the sum of individual products and services listed under the proposed 'standard' package, then this side of it would also need to be clearly communicated.

As for implementing the communication strategy, we refer the CMA to our 'Information and transparency remedies' working paper response where we provided a range of suggestions about how to ensure bereaved people are fully informed about the platform. Those ideas could also be applied here.



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(r) What preparation would be required and how long do you think funeral directors might require in order to prepare for the implementation of any price control regulation?

We do not have the relevant expertise to comment on this question.

(s) What would be the likely costs of implementation, monitoring and enforcement for funeral directors?

We do not have the relevant expertise to comment on this question.

(t) Do you consider an initial duration of five to seven years is an appropriate period for the implementation of a price control remedy and achievement of its aims (paragraph 24)?

We do not have the relevant expertise to comment on this question.

(u) Do you consider there to be other risks or options for mitigation which we have not considered (paragraphs 75-77)?

We are not aware of any others.

