



Response to the CMA's working paper: 'Remedy options for regulating the price of crematoria services'

12 June 2020

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109. We would welcome views on the proposals outlined in this working paper and any other comments on the proposed price control remedy.

We believe price controls should be implemented on crematoria services and that these will help to relieve some of the detrimental impacts of AECs on the bereaved. 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. Firstly, in some areas of the country, like London, cemetery charges often constitute the largest portion of a funeral bill, stretching into several thousand pounds. Secondly, 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.

110. We would welcome views on our current thinking that any price regulation in the form of a maximum price would apply to all crematoria operators in the same way.

We agree with the CMA's view that any maximum price regulation should apply to all crematoria operators in the same way, noting however that this would not supersede local authorities' obligations to recover costs. In doing so, we note the CMA's findings in their 'Updated overview of key research and analysis' that during 2014 – 2018, two of the four largest crematoria operators "earned profits that were significantly in excess" of the CMA's estimate of their cost of capital, as did the majority of the local authority crematoria in their sample, though they are referred to as 'returns' (paragraph 89).

111. We would also welcome responses on the approach to defining the scope of products and services included in the benchmark package, in particular:

- a) *Are there any products or services which are not currently included in the suggested benchmark package which should be included? What is the evidence to support this view?*

This working paper states that the FBCA estimates around three-quarters of people who have a cremation opt to collect the ashes and the CMA has cited this in their reasoning for not including the scattering of ashes in the benchmark package. However, in doing this we note that no distinction has been made between a witnessed and unwitnessed scattering.

We can see the argument for witnessed scatterings to be excluded and provided as a separate service as a) this presumably accounts for no more than 25% of cremations, quite probably less and b) it no doubt requires a reasonable amount of extra staff time, compared to unwitnessed scatterings. However, we would advocate for the benchmark package to include a container for removing the ashes or an unwitnessed scattering as a choice and we are unconvinced there is a good reason not to include this in terms of the actual cost to crematoria. We also note that the Institute of Cemetery and Crematorium Management, when providing cremation fees for Royal London's annual National Funeral Costs Index Report, does include the fee for unwitnessed scattering, if this is charged separately.



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In continuing our response to question a), and in also responding to b), we would like to reflect that paragraphs 54 and 56 seem to be contradictory as 54 states that the CMA currently thinks the benchmark package would include medical referee and environmental fees, while 56 states the current thinking is that these would be excluded.

Medical referee fees are charged by all crematoria in England and Wales. They are not required for babies under 24 weeks gestation and there may be some situations where crematoria choose not to impose them, such as those who do not charge at all for a young child's cremation, but otherwise they are mandatory for the bereaved. The key difference is whether the crematorium includes them, often with no reference to the fee at all, in the advertised cremation cost or lists them as a separate item. As these costs are mandatory we believe they should be included in the benchmark package.

The Defra requirement to reduce the amount of mercury released by cremations was issued in 2005. We agree with the ICCM's view that those crematoria that are still without abatement technology, who are charging an environmental fee due to the off-set payment they have to make, should really upgrade, as most others have already done. Those that have not upgraded should not charge. However, whilst these charges remain, plus those from some crematoria that have upgraded, but are recovering the capital costs, they are mandatory to the bereaved wherever they are applied.

The working paper states that if these two fees were excluded from the package that the "final outcome for consumers would be the same in terms of cost but the cremation prices they see would be different". We assume the difference the CMA is referring to, in terms of how the prices are seen, refers to the difference between cremation fees either being listed as one figure (the cap with medical referee fees and environmental fees included) or as two, or even three figures (the cap plus medical referee fees and/or environmental fees). If this is the case, we do not share the CMA's confidence that 'the final outcome for consumers would be the same in terms of cost'.

How could it be guaranteed that the cap, when excluding those fees, would be set at such a level that the total price to consumers, once the fees were added on top (with all their regional variations), would be the same as it would if the cap included them? We are concerned that there could be a convergence around the cap and that this, plus these fees, could result in a significant increase in cost for the bereaved. This might be especially the case for a crematorium with no rival within a reasonable distance.

We also often find that when these fees are presented separately on a price list, it is done so in quite a confusing manner – [Crem1] is just one example of many (example 1). Including them in the overall cost will make it much clearer for the bereaved. If they were excluded, it would be vital they were presented in a clear, standardised format.

We recognise that including both these fees would make it more difficult to have a uniform price across the UK, which could impact on the effectiveness of implementation and monitoring. We do not have the



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expertise to be able to comment on whether this outweighs the potential negative impact on consumers from a cost perspective, but feel it needs to be very carefully considered by the CMA.

We absolutely agree that crematoria operators should be required to pass these fees on at cost, whether or not they are included in the package.

- b) *Are there any products or services which have been included in the suggested benchmark package which should not be included? What is the evidence to support this view?*

We have no further comments.

- c) *What is your view on time-based restrictions relating to the benchmark package, for example the length of the chapel slot?*

It could be beneficial for the benchmark package to include a set slot length as this would better enable comparison and equity of service between crematoria. We do not have a strong view on the length of the slot and can only respond to the various findings in the CMA working papers, particularly the 'Crematoria: outcomes' paper, which seem to suggest that a slot of 40 or 45 minutes would represent the average.

However, if the package is defined as providing a slot longer than 30 minutes, there are a number of important things that would need to be given due consideration. 1) Whether it might result in crematoria reducing the choice offered, i.e. not offering the chance to have a shorter slot if wished. 2) The possibility that shorter slots might only be offered at certain times, e.g. earlier in the day, as opposed to being available throughout the day. If this was the case it could reduce the amount of people who chose them simply because the timing wasn't appropriate rather than because they wanted a longer slot. 3) The package slot length could end up being seen as 'the norm' and therefore effectively remove people's feeling of choice. All of these things could decrease choice and increase the cost to some consumers.

A way of mitigating all of this could perhaps be to make the slot length 30 minutes, but to have a cap on the amount crematoria could charge to add on extra time.

112. We welcome views on how the price cap measures could be determined and reviewed.

We do not have the relevant expertise to comment in detail on the questions in this section, however, we share the CMA's concern in paragraph 66 that using a pricing information approach could risk "the regulated maximum price" being "seen as validating a particular price level and could become a focal point for the rest of the market". In addition, if current pricing data was used to set the cap without any reference to the huge increase in cremation fees over the last decade or so, it would mean that any controls would be insufficient to deal effectively with the issue of high cremation costs and, in particular, the widespread issue of funeral poverty. In their final report, the CMA estimated that in the ten years to 2017 "the real terms increase in the average [cremation] fees is nearly 50%" (paragraph 6.58) and stated that the "evidence indicates that price increases are unlikely to be solely attributable to



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increasing costs" (6.72). Royal London also found last year that "Cremation fees across the UK have increased by more than three times the rate of inflation over a four year period"¹.

We acknowledge the extra complexity of a rate of return approach and share the CMA's concerns in paragraph 68 around the 'risk of companies overinflating costs', 'consumers facing higher prices due to inefficient investment' and the required 'assumption that the crematoria individual costs are efficient'. However, given our points above and the CMA's own evidence, we suggest that these elements may already exist within the current pricing data and so they should also be considered when weighing up the risks and benefits of a pricing information approach.

We suggest that perhaps allowing regional variations could reduce the danger of the price cap converging around the highest UK prices.

113. We are also interested in responses to the following questions relating to implementation, monitoring and enforcement of the price control:

h) What is your assessment of whether the option of setting a maximum price for a benchmark package of products/services (paragraph 49) is capable of effective; i) implementation? ii) monitoring? iii) enforcement?

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

i) Do you think that compliance reporting requirements to the CMA or a regulator, should be the same for all crematoria?

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

j) Do you have any views or suggestions on designing and implementing an effective communication strategy to ensure that consumers, crematoria and relevant third parties understand their rights and responsibilities if price regulation is introduced? In addition, how could we ensure that a benchmark package is sufficiently promoted and visible to consumers (paragraph 105.b)?

We note in the working paper that, akin to the 'Remedy options for regulating the price of funeral director services' paper, the term 'standard' is used when referring to the benchmark package. Therefore, similarly, the main comment we would like to make is that we have some concerns that having a 'standard' package in this way could strengthen perceptions and feelings of what a cremation service 'should' be and of what bereaved people are 'expected' to provide for their loved ones. While the scope for this to be problematic is narrower with the proposed cremation package than it is for the funeral package, it could still be an issue in relation to the slot-length, time of day or whether the cremation is attended or unattended. All of these are aspects where it is possible for consumers to reduce costs, which we see people do regularly (examples 2-4 are just a few of many), so it is essential these choices are not presented as lesser choices.

¹ <https://www.royallondon.com/media/press-releases/2019/june/cremation-fees-rise-by-up-to-56-over-four-years/>



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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 options exist, including those that are less expensive. 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 crematoria services, not just this package.

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.

k) What preparation would be required and how long do you think crematoria might require to prepare for the implementation of any price control regulation?

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

l) What would be the likely costs of implementation, monitoring and enforcement for crematoria?

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

m) Do you consider an initial duration of 5 to 7 years is an appropriate period for the implementation of a price control remedy and achievement of its aims (paragraph 108)?

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

n) Do you consider there to be other risks or options for mitigation which we have not considered (paragraphs 83-86)?

We completely accept, as the CMA's working papers states, "that a customised package would no longer be the price-regulated package subject to a maximum price". However, we believe it would be important to ensure that the price cap still applied, in the sense that the sum of the individual products and services listed under the proposed 'standard' package should not exceed the price cap.

