



Response to the CMA's working paper: 'Local Authority tendering remedy proposal'

12 June 2020

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LA tendering as a remedy option

(a) To what extent do respondents think that wider introduction of tendered LA low-cost funeral schemes, intended as a response to problems identified on the demand side of the market would be: (a) effective; (b) proportionate. Please answer with respect to each of the implementation options available, that is:

(i) a CMA Order applicable to all LAs;

(ii) a CMA recommendation to LAs;

(iii) a CMA recommendation to central government(s) that it/they should create a statutory responsibility on LAs.

We support the wider introduction of LA low-cost funeral schemes, or resident funerals. We agree with the CMA that LA procurement activity means they would have the ability to overcome some of the demand-side issues that are experienced by bereaved people and also that it would hopefully prompt lower prices from other funeral directors. We believe this could be a proportionate response, however, the level of effectiveness will be heavily dependent on them being widely known about, on how the information is communicated and on their design/content.

While we do not have expertise in this area, we are inclined to suggest that a CMA Order would be the most preferable option as recommendations do not have to be carried out by either LAs or central government. A recommendation to LAs could result in a patchy, postcode lottery situation, while a recommendation to central government could end up with nothing at all.

(b) How should the specification of the funeral product to be provided under a LA scheme be determined?

(i) Should the focus be on delivering a competitive negotiated price for a 'standard' funeral package, or addressing funeral poverty through ensuring availability of a low-cost respectful funeral option.

It is unclear from the working paper what the CMA means by 'standard' funeral package or what this would contain. However, for the purposes of our response we will assume that the definition is the same as the proposed 'standard' benchmark package in the 'Remedy options for regulating the price of funeral director services' working paper.

We are supportive of a low-cost, respectful funeral option being made available as an attempt to help address funeral poverty. However, we question whether it needs to be an either/or situation. We suggest there could be scope for two competitively negotiated packages to be offered - one falling under what the CMA are referring to as 'standard' and the other simpler and lower-cost. Or, a number of councils provide resident funerals that have a very simple base, but to which the bereaved can add other items if they wish, such as limousines. If this was the model that was followed, we would like to suggest that the cost of the extra products and services that might otherwise have been included in a 'standard' funeral package should also be offered at a competitive rate, as opposed to the funeral director's normal rate. Without this some of the demand-side problems would remain.



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In designing and implementing LA schemes, we believe mitigation measures would need to be carefully considered regarding the possible risk that, because of the lower prices, many of the appointed funeral directors might require all payment before the funeral takes place. This is something that we have evidenced in our response to the 'Remedy options for regulating the price of funeral director services' working paper and that can cause significant issues for those on the lowest incomes. Indeed, example 1 in our evidence for that paper is of a client who used a funeral director through a resident funeral scheme. Please see also example 1 in the evidence for this paper.

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.

(ii) How much scope, if any, should there be for variations between LAs?

Our concern about there being scope for variations between LAs would be that people may experience a postcode lottery around resident funerals, in a similar way that people do with public health funerals.

(c) What might be potential unintended consequences of wider LA tendering for low cost residents' funerals?

We are not aware of any, but acknowledge that we do not necessarily have the relevant expertise to identify these. A normal assumption might be that tendering might favour larger companies with more buying power, however we note that this does not seem to have been the case with the resident funerals that already exist so we do not consider this to be a particular risk.

(d) What are the current barriers to LAs establishing tendered low cost funeral schemes (eg available resources, other priorities, not regarded as a LA responsibility, etc)? How might they be overcome?

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

(e) What are the barriers to funeral director participation in LA tenders for resident schemes? How might they be overcome?

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

(f) What are the barriers to take-up of LA resident schemes by bereaved families? How might they be overcome? What types of bereaved people/families would be most likely to use such schemes?



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While we do not hold a great deal of easily accessible data around resident funerals, also known as municipal funerals, from the data we have been able to analyse, the main obstacle seems to be a lack of awareness. In the vast majority of cases where we have discussed a resident funeral service with clients, they did not know it existed and at least two people already had a funeral director in mind and stayed with that original company as they didn't want to change (example 2). In one of these cases, the client also advised that they had had a bad experience in the past with one of the funeral directors on the approved list and this seemed to put them off. If only one funeral director was contracted this could potentially present an obstacle for anyone who did not feel happy to use that funeral director.

In order to overcome this obstacle LAs clearly need to do more to advertise their schemes to residents. Most have information on their websites, though some do not. For example, [LA3]'s scheme was reported in the local press and on investigation does exist, but it is not mentioned anywhere on the council's website for reasons that were unclear on speaking to them (example 3). Some councils have their own in-house funeral directors and where they anticipate resistance from the industry if this were well-known publicly they sometimes do not advertise them (example 4). On some websites the information is there, but very hard to find (example 5). We suggest resident funeral schemes should be included as a standard service that LAs offer on any leaflets that are routinely sent out, for example with people's council tax bills, and on material in council offices/civic centres. Details should also be routinely provided by registry offices and hospital bereavement services.

Two clients we looked at experienced obstacles due to the location or nature of the service offered. One person who had disabilities was inclined to go with a closer funeral director for ease in terms of travelling to view the body (example 6), and one person wanted an attended service when the only offer available through the resident funeral scheme was a direct cremation (example 7). We have also noted, though we are not aware of any clients we have helped who have been affected by it, that some schemes only seem to allow provision for either cremation (example 5) or burial (example 8), but not both.

In order for resident funerals to be an effective remedy they need to be accessible to, and to meet the needs of, as many residents as possible, which means they need to offer access to both cremation and burial, in both an attended and unattended form. There also needs to be the option to add on to a low-cost option some of the core elements that the CMA sees as 'standard', both from the perspective of personal choice and from the point of view of need and diversity (example 6). As is identified in example 6, contracting only one funeral director or operating only an in-house service, can create an obstacle in terms of the location and accessibility of viewing facilities, and of their offices if home visits aren't offered.

Even when a council does have information on their website, another obstacle, though not necessarily of greater degree than also exists in the majority of the funeral industry, could include a lack of transparency and detail, as some council websites are lacking in clarity and specificity for consumers around pricing, payment terms and the products available. [LA6] does not state that the advertised price includes a private ambulance to transport the deceased on the day of the funeral, while a hearse would be extra. It also appears to suggest it is not possible to add on a following car. In the case of example 6, this may have been an obstacle due to the client needing transport because of their disabilities.

[LA9]'s information merely gives a large range of the kind of reduction in costs consumers can expect as a percentage of the regional average. It then gives a list of funeral directors and advises you to speak to the individual



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companies to find out about charges. On visiting the first funeral director on the list, just as an example, we saw that they do not even have any prices on their website. We also noted that cremation and burial costs were not referenced anywhere (example 9). Neither LA6 nor LA9 give any information about payment terms. These are just two examples, but we have no doubt that there are others.

It is vital that the same stringent requirements around information and transparency are applied to LAs in their advertisements of resident funerals as they are to funeral directors. Bereaved people should be able to obtain the core information they need from the council's listing, rather than simply receiving a list of as many as six different companies who they then have to contact individually, or whose websites they then have to visit. This core information should incorporate pricing, including the cost of any available add-ons; disbursement costs; what's included/excluded; payment terms, including details of any deposit, when the balance needs to be paid and what options they have for paying it, i.e. can they pay in instalments and if so will interest be added to this. Without putting these measures in place the extent to which these schemes could relieve demand-side issues will be heavily limited.

While we can see advantages, and indeed a necessity for some reasons, in having more than one appointed funeral director, we recognise it can perhaps complicate the job of providing clear, specific information on the above on council websites. However, we do not think it is impossible and strongly believe that this needs to be the new, expected norm across the funeral industry.

A potential danger of LA schemes being focused solely on providing low-cost funeral services is that this could dissuade some people from accessing them. Careful consideration around the language and tone used to describe them would certainly be important. It is crucial that they do not become seen as one step away from a public health funeral, with all the stigma that continues to be attached to that. We have had conversations with clients before who have felt uncomfortable about the idea of taking up a lower-cost offer through the council, thinking that it will be of lesser quality or seeing it almost like receiving charity. We generally find that explaining that the scheme is simply available to all residents, as opposed to it being aimed at people on lower incomes, is helpful in these instances. If details of these schemes were included in standard council materials, along with all the other council services that are available to residents, this might go some way to normalise it, as well as help it be widely known about. We also agree with the CMA that if they became available nationally without question, for example through using a CMA Order, this could equally contribute towards it becoming seen as an acceptable option.

We note that the need to cater for specific faiths or cultures is mentioned in paragraph 30, regarding the idea of resident funerals becoming the 'default' option in certain circumstances, but it does not seem to be mentioned elsewhere. It is very important this is taken into consideration in the design of any resident scheme, regardless of the application of a 'default' option, so as to avoid creating obstacles for some people and, as the CMA suggests, it may be another reason to have more than one appointed funeral director, particularly in certain areas. It is also part of the need to ensure both cremation and burial are available as an option.

(g) What impact have existing LA schemes had on wider pricing for funerals in their respective local areas?

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



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(h) What should be the CMA's priorities for further analysis or evidence gathering on existing schemes?

We suggest resident surveys would be a good way to find out what might deter people from opting for a resident funeral and, equally, what might encourage them to do so. Within this, the products and services that people consider important could be explored. We suggest this could be a survey available to all residents, for example through an invitation to respond to a survey on council websites, with the option to receive a paper form in different languages for anyone digitally excluded or where English or Welsh wasn't their first language.

It would of course be very helpful, within the response, to hear the thoughts of people who have recently been bereaved, but we don't feel it should be solely focused on them as that could exclude a large number of voices and opinions, all of which could be useful. However, it would probably be beneficial to know whether or not the respondent had been bereaved recently and thought would need to be given to the questions, both from a sensitivity point of view, but also because there would likely be different/extra data that could be gathered from those who had arranged a funeral in the recent past. It might even be beneficial to have two versions of the survey available.

LA tendering as basis for price benchmarks

(i) Do respondents think that the outcomes of current and future LA tendering exercises for provision of resident funeral schemes could provide useful data points for benchmarks to feed into price controls?

We do believe that these outcomes could make a useful contribution to future price control benchmarks.

(j) Please provide any other relevant comments or observations on these proposals.

We can see the argument for using LA appointed funeral directors as the default option for deaths where the Coroner or Procurator Fiscal is involved, as put forward in paragraph 30, as long as clear, flexible opt-outs are in place with no cost incurred by the bereaved if they choose to change after initial collection of the body. However, we are uneasy about this default being in place for other, less complex scenarios, like deaths in LA care homes, just as we are with the current situation whereby some care homes have "formal and informal arrangements"¹ with specific funeral directors (example 10).

As referenced in the CMA's final report, their consumer survey found that almost all respondents felt, for several reasons, "that it would be extremely unlikely for someone arranging a funeral to change the funeral director" after the body had been collected (paragraph 3.28). We too have seen this become an obstacle as people can be upset at the idea of their loved one being moved more than is absolutely necessary (example 51, May 2019 submission). The LA scheme being the default may not necessarily constitute a risk to the bereaved in terms of cost, indeed it could be better than a situation where a care home has an agreement with a more expensive provider. However, it would, as

¹ Paragraph 19

https://assets.publishing.service.gov.uk/media/5e32d264e5274a08e5344c0f/Role_of_intermediaries_etc_EXCISED_.pdf



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the CMA observe, "represent a more interventionist option" and could result in emotional distress and/or people feeling pushed into using a funeral director they would not have chosen.

If this 'default' was implemented it would again be vitally important that there were no costs incurred by the bereaved should they choose to move to a different funeral director, contrary to examples we have seen (example 10). We would also want to see robust safeguards in place to ensure that this default arrangement was discussed with care home residents and their next of kin as a matter of course, for example at appropriate points in advance of bereavement, such as on moving into the care home and at a time of significantly worsening health. There should also be stipulations regarding what needs to happen at the time of death, e.g. around making contact with the next of kin and timescales before any action is taken, especially if no record exists to show this conversation had taken place.

