

## **CMA FUNERAL MARKET INVESTIGATION**

### **Comments on Local Authority tendering remedy proposal dated 20 February 2020**

#### **Comments on Specific Questions**

##### 49. 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; we feel that this would be the most effective solution being quicker to implement and mandatory for all LAs to follow.

(ii) A CMA recommendation to LAs; we agree with the points made in point 43 of the report that a recommendation would be outside the CMA's control leading to introduction on different timescales and some LAs deciding not to implement meaning that customers wouldn't benefit from the intervention at all or delays would occur.

(iii) a CMA recommendation to central government(s) that it/they should create a statutory responsibility on LAs; the worry with this option is that with the

government's heavy workload the statute would never get passed and that would undermine all of the work done by the CMA.

(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? We think that tendered LA funeral schemes are likely to result in more competitive pricing arrangements. By offering a standard funeral package we as the LA would have already undertaken the negotiations on the competitive elements so people can feel reassured on that aspect. The standard funeral package gives certainty to families on what is included meaning that they are better informed. N.B. See our comment in 'Other Comments' under item 22 below re the difference between 'standard' and 'low cost'

(ii) How much scope, if any, should there be for variations between LAs? There should be scope on price depending on regional differences e.g. between London and the South East and other areas. Composition of the standard package should be consistent across the piece. Flexibility and choice can be maintained by giving the bereaved the opportunity to add 'extras,' but any such items should be clearly priced. Variations will also be needed to accommodate other cultures and religious practices.

(c) What might be potential unintended consequences of wider LA tendering for low cost residents' funerals? Funeral directors could be against the idea and may undermine the offering, e.g, referring to it as 'the Council funeral' in a derogatory manner. Any extras not included in the standard offering could be sold at increased, highly profitable prices. There could be a cut in quality and content of a 'low cost' funeral. We would be keen to ensure that good quality is the 'norm'.

(d) What are the current barriers to LAs establishing tendered low cost funeral schemes (e.g. available resources, other priorities, not regarded as a LA responsibility, etc)? How might they be overcome? There could be a lack of interest from LA officers or politicians who may focus on and prioritise their budgets above all else. There may be a lack of knowledge on how to market and raise awareness of such schemes and varying opinions if they are worthwhile.

(e) What are the barriers to funeral director participation in LA tenders for resident schemes? How might they be overcome? For some funeral directors their high prices compared to others would be exposed. There could be difficulty in filling in the tender information. A solution would be to write the tender requirements in simple terms and maybe even pre-price items within cost bands (min£-max£).

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(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? The biggest barrier is that they don't know of the schemes' existence. More publicity would be effective – this could cover putting booklets in with Council tax bills, for Registrars, GP surgeries and hospitals being required to tell relatives about the scheme and for statutory paperwork re the deceased to include a question asking 'were you made aware of the LA resident scheme?'

(g) What impact have existing LA schemes had on wider pricing for funerals in their respective local areas? One impact that we experienced when introducing our Orbitas Funeral Scheme in 2014 was that one of the funeral directors who had signed up to take part didn't continue and instead introduced his own 'lower price' scheme.

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

#### *LA tendering as a 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? Benchmarking will only work if the scheme is standardised and even then it would need to take into account the geography of the area – rural vs urban etc.

#### *Other Comments*

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

We have referred back to the numbered sections in the report when making comments and observations in the hope that this will aid understanding.

2. As 'The Orbitas Funeral' has not been referenced in Appendix A we have resent the details for inclusion. This scheme is a reincarnation of a scheme formerly known as 'The Local Funeral' which was established by the demised Crewe & Nantwich Council in 1999, provided through the Co-op and ran for ten years until 2009 when Cheshire East Council took over. The Orbitas Funeral was established on similar principles in 2015 and covers a wider geographical area including that of the former Crewe and Nantwich Council.

9. We agree with the rationale for including LA tendering as part of a remedies package. It was directly as a result of weak consumer engagement affecting price that led us to introduce the Orbitas Funeral (and previously the Local Funeral).

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10. Generally we accept the comments as true but in our experience many Funeral Directors will not enter into a LA tender and this was certainly the case in 1999 when many of them boycotted the exercise in the hope that the scheme would crash. In 2014 on introduction of the Orbitas funeral there was a low response rate although two Funeral Directors, one for the North and one for the South of the Borough were appointed. However, the one in the North stopped almost immediately and instead set up his own 'low price' offering. The main motivator for introduction of our scheme was to bring certainty so that consumers know exactly what is involved at what price, not necessarily the lowest, but providing good value.

11. We disagree with the comment about LA motivation being because they are obliged to organise and pay for a public health funeral if nobody else is willing or able to make the arrangements. Establishment of the Orbitas Funeral was not motivated by Cheshire East Council having to pay for funerals; in fact there have been no discussions with Environmental Health about it. The motivation was to remove distress and vulnerability from residents and to give them an element of protection.

15. Our most recent tendering experience has resulted in a 'panel' of providers being appointed; two in the North and two in the South of the Borough. Originally we had eight responses to our tender request and on the face of it all met our requirements. We conducted site visits and interviews with each funeral director after which two of them were advised that their facilities didn't meet our standards – refrigeration facilities in one and storage/transport facilities in the other. Two others withdrew from the process, at least one of which was because they didn't want to be associated with other funeral directors who they felt didn't work to as high a standard as they did.

16. Applicants contact the Funeral Director directly and we can't easily distinguish use of the scheme. We acknowledge that we aren't very pro-active in marketing and haven't committed funds to advertising. We do include details in the 'All About Me' booklet and leaflet which is enclosed; this is aimed at local residents who may wish to plan for death so that they can express their wishes on a number of topics which they may not have previously considered. It has proved very popular and Orbitas has been able to fund its printing through receipts from the Metal Recycling Scheme.

22. We note the use of terminology referring to 'low cost funeral schemes' and 'standard schemes' but we are not clear as to what the CMA considers makes up each scheme and whether they are different. We agree that a tendering exercise making use of LA procurement procedures should be considered as a wider remedy but it should not be motivated solely by lower costs but also by provision of certainty for consumers and 'shopping around' on their behalves.

24. We agree with the observation that it may prompt lower prices from non-appointed providers – in our experience it has also been the case that a Funeral Director opted out and provided the service himself.

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26(b) to appeal to a wide audience we feel that the scheme should not be identifiable as such. As stated previously 'the Council scheme' or similar terminology denigrates and makes it less appealing. The scope of the product should be based on national needs and not slimmed down. There should be a simple specification which is easy to benchmark for comparison.

(d) Local registrars would be very helpful in raising awareness but won't unless mandated to do so.

27. We would like to see a standard funeral which a casual observer would not view as any different than any other. A low-cost more restricted option aligns more with a 'paupers funeral' and has no wide appeal.

28. Our experience is that a number of funeral directors will positively work against the success of such a scheme and won't participate if it is voluntary. We don't think that the idea of requiring all funeral directors to advise their potential customers of the prices of those offered under an LA scheme would be workable, practical or enforceable.

29. (a) We think that in a LA the size of Cheshire East it is better to have multiple providers based across the area. Cheshire East has a population of xxxxx and a square mileage of yyyyy and it is approx. 45 miles from north to south of the borough. A funeral director needs to be local; a scheme based say 30 or 40 miles away would not be attractive and that's why we are offering a number of providers for the Orbitas Funeral.

32 (b) We do not feel that there is a burden of additional responsibility – the cost of running the scheme has been negligible. Cost awareness raising and keeping customers aware of the scheme is more of a challenge.

35. We don't feel that using purchasing consortia to run tenders would be successful in a large, rural area such as Cheshire East but would expect it to be more successful in smaller urban areas.

36 (c) fixed or maximum price and any basis for annual adjustment gives an element of competition but it is not clear who will set the price and whether regional factors will be considered.