

## London Cremation Company

### Submission in response to CMA's Market Investigation Working Paper on Funeral Directors: Pricing Levels and Trends published 20 February 2020

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#### 1. Executive Summary

- 1.1. This submission is made by the London Cremation Company ("LCC") in response to the CMA's working paper on Funeral Directors: Pricing Levels and Trends (the "Working Paper"). The submission is intended to highlight key areas where the CMA's analysis raises concerns for the LCC. In particular, it queries whether the competitive and fragmented funeral director market merits intervention beyond the need to enable end customers to express their choices for the crematoria they want to use and to contract directly with that crematorium. The CMA's Figure 7 shows that between 2016 and 2017, the average professional fee for independent and other FDs declined by £67 (3%), (and show reductions below the rate of inflation) while for Dignity and Co-op it continued increasing.
- 1.2. Two players do appear to be increasing prices. Co-op and Dignity were on average 31% and 39% more expensive than independents and other FDs respectively in 2010, but this increased to 36% and 63% in 2019.
- 1.3. [§<], but there is no obvious justification for imposing a price cap or regulation of profitability more widely, particularly where prices are running below inflation and profitability is not excessive.
- 1.4. There is evidence that pricing differs in regional and urban areas. This is under investigated.
- 1.5. The CMA deals differently with property valuation for FDs than it does for crematoria. This is simply inconsistent. It should be straightforward to obtain indicative valuations of FD properties given the relatively standardised premises they occupy (e.g. consulting a property valuation service with access to industry databases for commercial property).

#### 2. The Working Paper

- 2.1. The Working Paper examines evidence available to the CMA on pricing trends and levels in the supply of funeral director services. Its importance is mainly as a basis for the CMA's assessment of the factors driving prices, and the reference to inflationary pressure from disbursements such as cremations is presented as evidence for the need to price cap cremations. The reality is that crematoria prices differ widely across the UK and that crematoria costs, particularly the cost of land, also differ widely across the UK, and in any event are typically only 20% or less of the overall funeral cost. This reality is masked in the CMA methodology, and insufficient weight is given to legitimate differences through the CMA taking an unnecessarily broad brush and national approach.
- 2.2. The Working Paper draws on information from the thirteen largest funeral directors ("FDs") by number of branches (including data on their revenue and disbursements, and research by some of these FDs on pricing in the sector), and data obtained from a sample of smaller FDs, as well as a database of pricing data compiled by SunLife.

- 2.3. It should be noted that averaging and sampling might not be criticised if the purpose is to establish generalities. However, the methodology adopted misses the very important differences that exist between different funeral directors and crematoria in terms of their pricing and their costs and profitability. The methodology also is likely to misrepresent the position overall, particularly as specific suppliers' costs vary by location or region.
- 2.4. The CMA assessment is put forward as evidence that Dignity and Co-op increased prices substantially, with the premium of Dignity's prices over those of Co-op increasing as well. Additionally, Dignity, Co-op, and other FDs all increased their average professional fee in real terms, with the most significant increase in average professional fee by Dignity, followed by the Co-op, and then by independent and other FDs.
- 2.5. The CMA also notes that "*the evidence obtained so far from reviewing internal documents provided by the three largest funeral directors supports the above observations.*"<sup>1</sup> However, evidence from those same documents (see Figure 15 below) indicates regional pricing differences that have not been investigated or acknowledged.
- 2.6. A different approach is also taken by the CMA between assessing FD profitability and crematoria profitability. This inconsistency is a matter of considerable importance as it relates to the CMA's rationality in addressing and assessing the same principle. This is addressed further in our comments on the Working Paper on Crematoria Profitability.

### **3. The CMA's analysis of SunLife Data**

- 3.1. At Figures 1 to 6 of the Working Paper, the CMA has conducted some reweighting of SunLife data in an attempt to more accurately reflect the average position evened out for the UK as a whole.
- 3.2. There is some indication that prices in fact varied by region:

*"The 2017 divergence is largely due to a spike in East and South East average prices in 2017, which are weighted more heavily when taking into account death data by region, and a reduction in the weighting of regions such as Wales and Northern Ireland which had a price decrease.<sup>12</sup> The 2019 divergence was due to an increase in average prices in the Midlands and East and South East England, which are weighted more heavily when taking into account death data by region."<sup>2</sup>*

Comparing SunLife's average prices with that of the reweighted figures, the CMA concludes that the trends and price levels of the original and reweighted data are largely similar from 2010-2016. However, the CMA notes that in recent years, there are cases which show how SunLife's methodology and sample selection can lead to diverging results in terms of price levels and trends. In particular, the regional death rate has an effect in specific years where some regions with high death rates behaved differently from the rest. As such, from 2016 onwards the reweighted average price was higher than SunLife's estimate (by up to approximately £110). Overall, this resulted in a slightly higher estimated rate of price increase (5.0% compared with SunLife's 4.6%).

- 3.3. It is also clear that no detailed assessment is being made of different price levels by geography or region, even though there is a recognition that such differences did, in fact, exist.<sup>3</sup>

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<sup>1</sup> Paragraph 7, *Working Paper*

<sup>2</sup> Paragraph 28, *Working Paper*

<sup>3</sup> See further LCC submission on geographic market definition

3.4. **The drivers of costs: cremation fees are a small proportion of overall funeral costs; there is no evidence that cremation fees are driving the pricing decisions of the leading Funeral Directors.** By taking averages of the sampled branches for each of Dignity, Co-op, and independents and other FDs, the CMA examined:

- (a) How prices varied between FDs over the period; and
- (b) Whether professional fees and disbursement costs (such as crematoria charges) had the most inflationary pressure on FD's prices.<sup>4</sup>

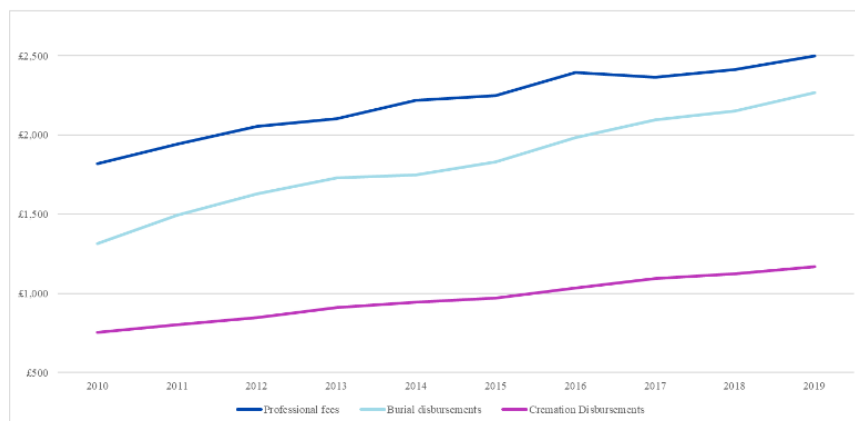
**Table 5: Professional fees and burial/cremation disbursements weighted by share of supply, 2010-2019 and CAGR**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	CAGR % (2010 – 2019)
Professional fees (£)	1,820	1,944	2,054	2,104	2,217	2,248	2,394	2,365	2,413	2,501	3.6%
Burial disbursements (£)	1,313	1,492	1,629	1,731	1,749	1,832	1,983	2,097	2,152	2,268	6.3%
Cremation disbursements (£)	754	804	847	910	945	972	1,035	1,092	1,123	1,170	5.0%

Source: CMA analysis of SunLife data.

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**Figure 6: Professional fee and disbursements growth weighted by share of supply**



Source: CMA analysis of SunLife data.

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3.5. At Table 5, the CMA shows that over the period, professional fees had a smaller growth rate (3.6% but for a bigger proportion of the costs of the funeral) compared with burial disbursements (6.3%) and cremation disbursements (5.0%), which relate to a smaller proportion of the total costs of the funeral. At Figure 6, the CMA shows that cremation disbursements were significantly cheaper than burial disbursements over the whole period. However, since cremation fees represent a small proportion of total fees (c. <20%) there is no evidence that they are driving the increasing in prices for a total funeral by some players.

<sup>4</sup> Paragraph 36 et seq., Working Paper

<sup>5</sup> Table 5, Working Paper

<sup>6</sup> Figure 6, Working Paper

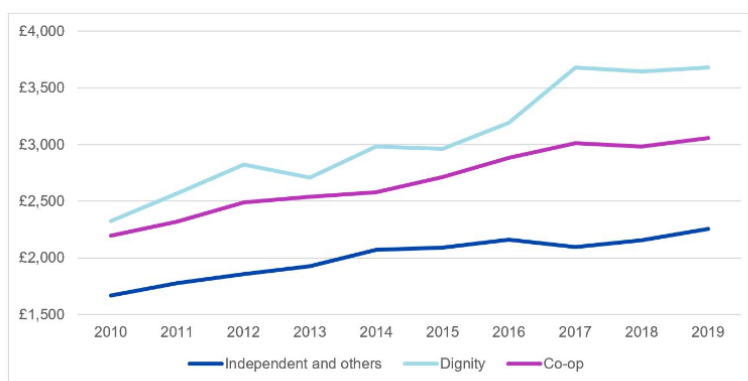
## Professional fee rises over time

**Table 6: Average professional fees for Dignity, Co-op and other FDs, 2010-2019**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	% increase 2010 - 2019
Independents and others (£)	1,670	1,779	1,857	1,928	2,071	2,088	2,161	2,094	2,158	2,254	35%
Dignity (£)	2,326	2,568	2,823	2,707	2,981	2,961	3,190	3,679	3,644	3,682	58%
Co-op (£)	2,196	2,317	2,488	2,539	2,578	2,712	2,884	3,011	2,982	3,056	39%

Source: CMA analysis of SunLife data.

**Figure 7: Professional fees growth for Dignity, Co-op and other FDs**



Source: CMA analysis of SunLife data.

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- 3.6. The CMA's analysis of FD fees over time shows two providers with elevated price levels.
- 3.7. At Table 6, the CMA shows that over the period Dignity increased professional fees most, in both absolute levels and as a percentage relative to 2010.
- 3.8. The disparity in average professional fees between independent and other FDs, and Co-op and Dignity has increased over the period. Co-op and Dignity were on average 31% and 39% more expensive than independents and other FDs respectively in 2010, but this increased to 36% and 63% in 2019.
- 3.9. The graph in Figure 7 also shows that independent providers have on average not increased price as much as Co-op and Dignity and remain significantly cheaper on average.
- 3.10. Between 2016 and 2017, the average professional fee for independent and other FDs declined by £67 (3%), and for Dignity and Co-op it continued increasing. Between 2017 and 2019 there is what is referred to by the CMA as a "*stagnation in professional fees for Dignity and Co-op*",<sup>8</sup> but the average fee for independents and other FDs continued increasing. This is shown in Figure 7 and Table 7.

**Table 7: Professional fee growth rate for Dignity, Co-op and independents and other FDs**

	CAGR (2010 – 2017)	CAGR (2017 – 2019)	CAGR % (2010 – 2019)
Independents and others	3.3%	3.8%	3.4%
Dignity <sup>21</sup>	6.8%	0.0%	5.2%
Co-op	4.6%	0.7%	3.7%
Inflation rate (RPI)	2.9%	3.0%	2.9%

Source: CMA analysis of SunLife data.

<sup>7</sup> Table 6 and Figure 7, *Working Paper*

<sup>8</sup> Paragraph 42, *Working Paper*

3.11. The relationship between inflation and growth in professional fees is analysed, as some proportion of growth is accounted for by inflation and cannot reasonably be regarded as monopoly pricing.

The CMA has assessed CAGR

**Table 8: Average professional fees for Dignity, Co-op and independent and other FDs, 2010-2019 (real)**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Real CAGR (%)
Independents and others (£)	1,670	1,691	1,710	1,723	1,808	1,805	1,837	1,718	1,713	1,745	0.5%
Dignity (£)	2,326	2,441	2,600	2,419	2,603	2,560	2,711	3,018	2,893	2,850	2.3%
Co-op (£)	2,196	2,202	2,291	2,269	2,251	2,345	2,451	2,470	2,368	2,366	0.8%

Note: Data is deflated such that 2010 is the base year. RPI Index sourced from ONS.

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3.12. Table 8 shows that across the period 2010-2019, Dignity, Co-op, and the independent and other FDs all increased their average professional fee in real terms above inflation.

3.13. However, these numbers are very small increases on a compound basis over time. It shows that the real average professional fee charged by independent and other FDs increased by £75 across the period, followed by Co-op with an increase of £170, followed by Dignity with an increase of £524.

Inter-quartile rates and disbursements

**Table 9: Cremation disbursement fees for Dignity, Co-op and other FDs, 2010-2019 and CAGR**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	% increase (2010 – 2019)	CAGR (2010 – 2019)
Independents and others (£)	760	806	850	919	970	1,012	1,032	1,106	1,144	1,189	56%	5.1%
Dignity (£)	753	835	866	917	919	809	1,018	1,075	1,163	1,200	59%	5.3%
Co-op (£)	728	773	821	864	904	951	993	1,029	974	1,033	42%	4.0%

Source: CMA analysis of SunLife data.

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3.14. Considering the above, crematoria cost increases are only a very small component in the increase in total funeral package fees. Both have increased, but professional fees have increased as a much larger absolute number reflecting their larger base. The consumer impact is driven by professional fee increases.

**4. The CMA’s Conclusions**

4.1. The CMA presents this evidence as follows:

*“the growth in the average professional fee charged by independents and other FDs in the sample was approximately 0.5 percentage points (17%) higher than the average inflation rate (measured by RPI) over the entire period 2010 – 2019, which corresponds to an increase in real terms in the average price charged of £75. The average professional fee charged by independent and other FDs fell slightly in nominal terms, and by a greater amount in real terms, between 2016 and 2017, but has increased again in 2019. Co-op and Dignity increased prices*

<sup>9</sup> Table 7, Working Paper

<sup>10</sup> Table 8, Working Paper

<sup>11</sup> Table 9, Working Paper

*by 2% and 4% respectively above the inflation rate for 2010 to 2017, but from 2017 to 2019 their prices stagnated and were around 3% below inflation. Over the entire period, the average prices charged increased in real terms by £170 for Co-op and £524 for Dignity.”<sup>12</sup>*

- 4.2. This is not a very strong basis for supra normal profits or the need for a price cap, or evidence of monopoly pricing throughout the industry- nor is there evidence that cremation fees have been driving the leading funeral directors to increase the prices of their funerals.

## **5. Dignity’s own research documents on regional pricing**

- 5.1. Dignity provided research to the CMA which found, in 2016, that there are differences by different areas in the country:

*“As hypothesised, FD charges are influenced by the presence and magnitude of the competition, with the highest average FD cost found in areas where Dignity Funeral Directors are present – and the lowest in Independent only areas. It also stated that ‘the presence of both Dignity and Co-operative funeral directors in the same town does seem to push [independents] prices higher, than where there is limited competition.’<sup>13</sup>*

- 5.2. In 2017, the research found that

*“there is not a huge differential in FD cost by provider mix’, but that ‘Dignity and Co-op [were] both slightly more expensive in CDI areas, probably a function of them being in more urban conurbations,’<sup>14</sup>*

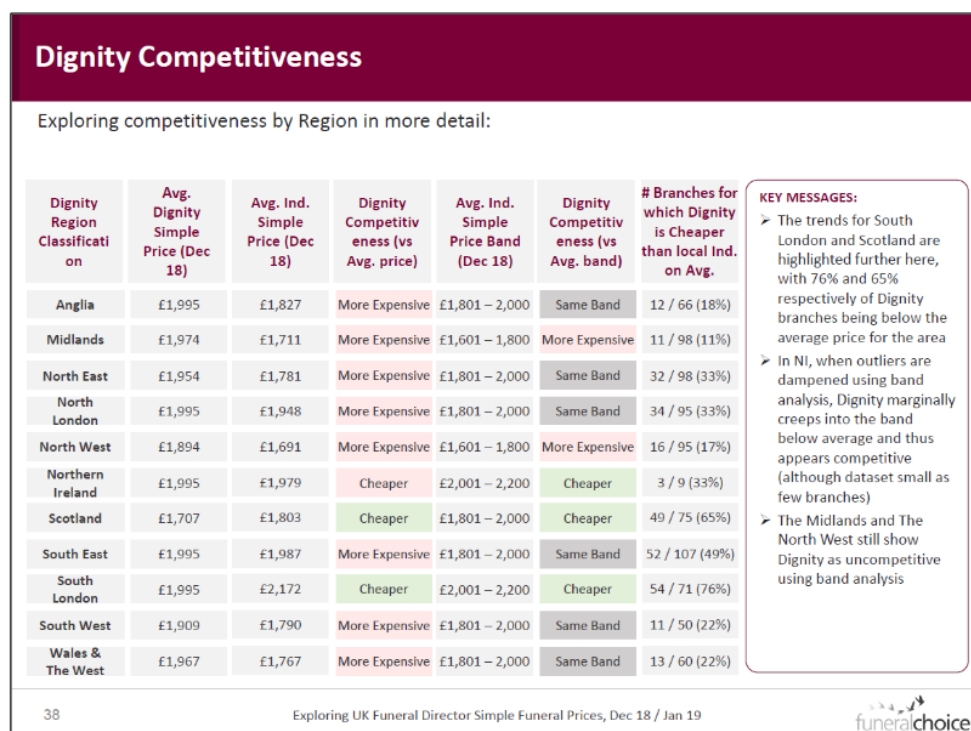
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<sup>12</sup> Paragraph 55, *Working Paper*

<sup>13</sup> Paragraph 120(a), *Working Paper*

<sup>14</sup> Paragraph 120(b), *Working Paper*

Figure 15: Dignity competitiveness vs independents by region, 2017-2018 analysis of Your Funeral Choice pricing data



Source: Dignity

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5.3. Figure 15 of the Working Paper also shows the importance of location, showing that in 4 of the 11 regions considered, Dignity has a “higher average simple price compared with regional Co-ops located within 5 miles of their branches (calculated by the CMA to be between £63 - £359)”,<sup>16</sup> and “in three Dignity has a lower average sample price (calculated by the CMA to be between £14 to £606). In the remaining four regions, there are no regional Co-op branches within 5 miles of the Dignity branches.”<sup>17</sup>

## 6. The Co-op’s Evidence

6.1. The Co-op’s evidence is presented by the CMA as follows:

“As part of its most recent strategy review (in early 2019), Co-op commissioned various work from [?]. A presentation [?] included information on price benchmarking that [?] had undertaken, through mystery shopping and web-scraping. This focused on the question of whether price needed to be flexed **regionally or locally**. This found that Co-op was generally at a price premium to independents but cheaper than Dignity (when comparing like-for-like).

Figure 18 shows results of a mystery shopping exercise for standard funerals in eight Co-op branches and the equivalent funeral for 19 Dignity and independent FDs. **This is split into six geographic areas with a different group of Co-op price branches in each.**<sup>18</sup>

<sup>15</sup> Figure 16, Working Paper

<sup>16</sup> Paragraph 123, Working Paper

<sup>17</sup> Paragraph 123, Working Paper

<sup>18</sup> Paragraphs 123-124, Working Paper

**7. The Funeral Partners' Evidence**

7.1. The Funeral Partners provided the CMA with research completed in April 2016, commenting on general pricing trends and the market overall. This evidence is presented by the CMA as follows:

(a) *“Figure 23 illustrates that its analysis found wide differences within areas (covering areas 5 miles around Funeral Partners branches), although with some consistency between areas as to the upper and lower bounds.”*<sup>19</sup>

7.2. Moreover, Figure 26 of the Working Paper also provides further evidence from Funeral Partners' research noting regional disparities, and potentially the existence of separate local markets.

**8. LCC Comments on the CMA's Evidence**

8.1. In summary:

- Cremation cost increases are clearly not the principal driver of funeral price increases over the period;
- Methodology used is inconsistent with other areas of the investigation, raising questions of rationality and consistency;
- The CMA appears to have overlooked regional pricing differences that are material and important in indicating that markets may be defined in relation to more local demand.

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<sup>19</sup> Paragraph 137, *Working Paper*