

LGA Response to Competition and Markets Authority proposed price control remedy for crematoria and local authority procurement of funeral director services remedy



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1. About the Local Government Association

- 1.1. The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government. We are a politically-led, cross-party organisation, which works on behalf of councils to ensure local government has a strong, credible voice with national government.
- 1.2. We aim to influence and set the political agenda on issues that matter most to councils so they are able to deliver local solutions to national problems. The LGA covers every part of England and Wales, supporting local government as the most efficient and accountable part of the public sector.
- 1.3. Families come into contact with local authority bereavement services in difficult and often distressing circumstances. A key concern for councils is ensuring that services they provide are reliable, effective and dignified, whether it be a cremation or a burial.

2. CMA proposals

- 2.1. On 20 February 2020 the CMA published a series of working papers which included potential remedies which will have a direct impact on local authorities, including a [price control remedy for crematoria](#) and a remedy involving [local authority procurement of funeral director services](#) for local residents.
- 2.2. The LGA welcomes the opportunity to comment on the proposals; should the CMA decide to proceed with them then it is important that local authorities are not adversely affected.

3. LGA response to the proposed price control remedy for crematoria

- 3.1. The proposed remedy is a price cap applied to a benchmarked cremation package, which would apply to all crematoria operators in the UK, including local authority crematoria. The CMA would also recommend to government that a new regulator be established to assume responsibility for price regulation.
- 3.2. Local authority crematoria operate in a very different context to private crematoria. Local authorities operate under a principle of democratic control. This means that elected members should be able to set fees and charges at an appropriate level for their communities. Communities are able to scrutinise levels of fees and charges as councils are required to publish them for public

Submission

scrutiny. Communities can object to those fees through their local council members and ultimately, can remove councillors from public office via the ballot box if they dislike the way services are being provided. Fees are therefore subject to democratic accountability, and we are not aware of any other local authority fee being regulated outside of this framework. The introduction of a fee regulator for local authorities would lack the usual accountability that councils have with their local communities. Our view therefore is that local authority crematoria should be exempt from a price control remedy.

- 3.3. In the event that price controls were applied to local authority crematoria, any price cap would need to take into consideration regional and local variation in the costs of running crematoria, particularly in terms of staffing and land value. For instance, staffing costs will be greater in areas like London and the South East, as will land costs.
- 3.4. A price cap would also need to take in the full range of costs which affect local authority crematoria, including borrowing costs related to establishing the crematoria, ongoing maintenance costs and all operational costs. In addition, local authority crematoria owners would expect to be able to make a fair return to put towards future investment and improvements which their communities expect. Local authority crematoria may also have the additional cost pressures of providing public health funerals, low-cost cremation options and higher employer contributions to the Local Government Pension Scheme than private sector crematoria.
- 3.5. Imposing a cap which disallows local authorities from charging at a level which allows them to recoup these costs could ultimately result in making the provision of low-cost options more challenging or local authorities potentially exiting the market entirely (as these services are discretionary), thereby further reducing the level of competition.

4. LGA response to the local authority tendering remedy proposal

- 4.1. The proposed remedy is that local authorities be required to tender for a defined package of funeral director services that appointed funeral director(s) would provide to residents at a lower rate. The CMA's view is that local government procurement expertise would address detriments arising from weak consumer engagement on the demand side. This would build on the approach that some local authorities have already taken by negotiated preferential funeral director packages for their residents.
- 4.2. We are glad that the CMA has acknowledged the very good work that local authorities are doing to support bereaved residents and those experiencing funeral poverty. However, we would question whether introducing a blanket, national requirement for all local authorities would be proportionate.
- 4.3. A national requirement would not give local authorities flexibility about what a local solution to the issue should look like. Local flexibility is key to provide low cost options that suit the local area whether they are direct cremation services, supporting DIY funerals, local authority staff carrying out funeral arrangements or tendering a low-cost option from a funeral director.
- 4.4. This remedy would represent a new burden for local authorities, with associated tendering and marketing costs. If this is a new burden, local authorities would need to be appropriately funded to carry out this work. We would suggest instead that funeral directors could be well placed to provide low cost options to their customers.

- 4.5. The issue here appears to be the affordability of funeral director services and the ability of customers to exert pressure for more competitive pricing. The CMA is already considering information and transparency remedies, which would presumably begin to address the issue of weak consumer engagement on the demand side leading to more competitive pricing. We would support these remedies, particularly those designed to support awareness and accessibility of low-cost options and to make it easier for customers to calculate the total cost of the funeral, including disbursements, early on in the process.
- 4.6. If the CMA feel that more needs to be done to create accessible low-cost options, they should consider strengthening the proposed remedies around a funeral director price control to directly address the issue in the market.
- 4.7. Beyond this general principle, we also have concerns that a local authority tendering process could produce adverse effects in the market and for consumers.
- 4.8. Firstly, tendering processes only produce competitive results were a contract is desirable; low-cost funeral contracts may not be high-value enough to create this desirability, particularly if the local authority is unable to guarantee a certain volume of business. This could result in a local authority being forced to accept non-competitive tenders only to satisfy a requirement to have procured a funeral package. The CMA cited the tendering for coroner services in local authorities as an example of how the process could work. However, this would be a poor example; procurement of coroner services contracts has become increasingly challenging in recent year leading to higher costs and, in some cases, the need to procure these services from outside of the funeral director sector.
- 4.9. Secondly, a formal tendering process is resource intensive for the funeral director as well as the local authority. According to the CMA research papers, smaller independent firms occupy the lower end of the price range for services; they are also less likely to have the experience and resource to take part in a competitive tendering process compared to larger firms. Introducing a formal tendering process could effectively exclude smaller firms from this portion of the market, thereby reducing competition, and potentially raising the cost of the local authority procured funeral packages.
- 4.10. It is our view that, although local authority tendering for funeral packages may work in some areas, it would be wrong to assume that making it a requirement for all local authorities would produce equally good a low-cost options for customers in all areas; and is therefore not an effective remedy to the issue.
- 4.11. If the CMA's final report does find that there are adverse effects on competition in the funeral director market, they should try to suggest remedies to help that market become competitive again, rather than asking local authorities to create a new market, which may be ineffective in introducing competition, as well as creating a new burden on local authorities.