

FUNERAL MARKET INVESTIGATION

WORKING PAPER ON QUALITY REGULATION REMEDIES

CO-OP RESPONSE

1 Introduction

- 1.1 Co-op is broadly supportive of the proposals set out in the Quality Remedies Working Paper (**Paper**) and agrees that a regulatory regime with clear standards, underpinned by effective monitoring and enforcement by an appropriate body, which also collects and disseminates information to customers is both necessary and likely to be proportionate. As set out in paragraph 2.4 below, we believe that businesses and individuals should be subject to a licensing regime, assessed upfront and re-assessed on a regular basis.
- 1.2 As the CMA has noted, the remedies consulted on in the Paper are likely to be part of a package of broader remedies that must work as a whole. This is important for a number of reasons:
- (a) The proportionality and effectiveness of any remedies need to be considered in the round. The package proposed in the Paper is, in itself, comprehensive and would represent substantial change for the sector. As we have indicated, in the context of maintaining 'back of house' quality, we believe this is warranted. However, in the context of a sector where consumers confirm, time and again, that they are very satisfied with the service they receive, where there is a range of market participants, sustained entry, and where prices and profitability are dropping substantially, additional, more onerous remedies, including price regulation, would be disproportionate.
 - (b) The proposed elements of any remedies must interact and work together. For example, remedies that increase the quality of services must be implemented alongside and to a large extent, at the same time as remedies to increase information and transparency so that customers can clearly see the links between quality and price.
- 1.3 The CMA's decision to publish extensive remedies working papers before setting out its conclusions on any adverse effect on competition it believes may exist, has not permitted us to fully consider the CMA's proposals in the round. It has made it challenging to comment on the workability of the CMA's potential package of remedies, its effectiveness in addressing potential concerns or its proportionality. Consequently, whilst we have sought to provide comments where possible, Co-op reserves the right to make further comments as and when we better understand the CMA's evidence base and conclusions relating to it, as well as the extent of the overall remedies package proposed and the interrelationships between the various remedies under consideration.
- 1.4 In taking steps to address potential concerns in the funerals market, the CMA must remain mindful of the evidence that it has collected confirming that consumers, time and again state that they are very satisfied with the service they receive, including in relation to price; that there is a range of market participants with sustained entry and that prices and profitability are both dropping, in some cases substantially. As the CMA has recognised, customers in this sector are vulnerable and grieving. Existing working practices have evolved to deal sensitively with those customers at a difficult time and to ease the challenges for those customers as far as possible. The impact of proposed remedies must therefore take into account the impact on customer wellbeing of the experience of arranging a funeral. We would therefore advocate in favour of testing proposed changes to current customer-facing practices before implementation.

- 1.5 We have addressed each Back of House Standard proposed below. Failure to comment on a particular element of the CMA's proposals should not be read as acceptance of it. As we have indicated, the potential implications of each aspect of the remedy requires more careful consideration, both of its impact alone and how any combination of remedies will work together as a package, than is possible to do in the timeframe allowed for in responding to the CMA's working papers.
- 1.6 Our responses to the specific questions set out in paragraphs 108 - 119 of the Paper are set out in the Schedule to this response.

2 Remedy design

Scope of services to be covered

- 2.1 We agree that the right focus of a new quality regime should be on the quality of unobservable back of house services.
- 2.2 To the extent that a new regulator is collecting information on quality and publishing it, there could be some benefit in those activities extending to information on the overall quality of the funeral home (for example available facilities going beyond back of house, such as vehicles, viewing facilities etc.). This would be for the purpose of increasing transparency, rather than regulating those aspects of quality. The incremental cost of a regulator doing so when it is already gathering information from funeral directors is low and there is a benefit to customers in having more comprehensive and independently gathered information available. Transparency of observable front of house quality may well mitigate any further need to regulate it and will support more informed comparisons between funeral directors. We agree that in addition to back of house information addressing matters set out in Table 1, it is appropriate to collect the information identified at paragraph 89 of the Paper.

Effective monitoring and enforcement

- 2.3 The funerals market in the UK is under-regulated compared to other markets internationally (where quality and transparency are regulated alongside each other). Quality regulation of the funerals market, properly enforced through a regulator is necessary to ensure those aspects of quality which are important to customers but not visible to them. There are a number of existing and developing regimes that point the way to an appropriate regulatory framework such as the Scottish Inspector of Funeral Directors.
- 2.4 Businesses as a whole should be licensed to make sure the entire organisation is accountable for good governance, quality and transparency standards, complaints monitoring and other regulatory obligations. It may also be necessary to licence individuals at the appropriate level of seniority to ensure the accountability of senior staff and to ensure that small funeral businesses (including sole traders and partnerships) are also appropriately regulated. To ensure effectiveness and to give customers the reassurance they seek, licenses should be required prior to trading, continuously monitored and audited and re-assessed on a periodic basis i.e. every 3 - 5 years.
- 2.5 We agree with the need for an inspection scheme alongside a robust enforcement regime; including appropriate sanctions are necessary for the credibility and effectiveness of an inspection scheme.

Regulation: who should regulate?

- 2.6 We think that self-regulation is unlikely to be effective for reasons that the CMA has identified. Any regulator taking on this role would need to be proactive, committed and engaged. There would therefore be some benefit to that regulator being independent and funded for the task, as is the case in Scotland. Alternatively, of the existing regulators, we believe that the Care Quality Commission is closest to having the right existing skills and focus to take on the quality regulation of funeral directors.
- 2.7 It appears likely that there could be multiple bodies with responsibilities for the funeral sector as a consequence of this market investigation, all of which will need to coordinate and interact engage with consumers in a way that is clear and understandable. To the extent possible, this proliferation should be avoided and ideally, oversight of the sector should be carried out by a specialist regulator. From the working papers it appears there could be:
- a) a quality regulator (whether new, or an existing regulator with expanded powers, such as the CQC), potentially having to work with the existing Scottish regulator, working to the devolved requirements of the Scottish Government;
 - b) the CMA itself, to the extent it has direct responsibility for monitoring compliance with an Order made as a consequence of the report, for example in relation to information and transparency remedies;
 - c) (potentially) a body with responsibility for governance of a platform or hub for information on funerals (although as set out in our response to the Working Paper on Information and Transparency Remedies) we believe that a proportionate simple platform could be governed by the quality regulator mentioned at (a) above;
 - d) (potentially), a body responsible for price control, as this is task that is unlikely to be appropriate either for the CQC or for the CMA on an ongoing basis.
- 2.8 From a customer perspective and from the perspective of funeral directors seeking to comply, a multiplicity of different bodies with different responsibilities and priorities could be complex and confusing to understand. We do not believe any of these elements can operate in an isolated and separate way and that may well be best managed within as few organisations as possible. To the extent having more than one oversight body is unavoidable, any package of remedies ultimately introduced by the CMA will need to ensure that each body has a clear and distinct remit, but is working effectively with the others.
- 2.9 We are concerned about divergence of practice between the Scottish regulator and a regulator for the rest of the UK. Any new regulator should work closely with the existing Scottish regulator to minimise inconsistency and duplication which would increase funeral directors' costs.

Regulation: outcomes based or rules based?

- 2.10 An outcomes based regulatory regime has material advantages in that it focusses on what matters and is able to adapt to innovations in how funerals are delivered. An outcomes based approach does however carry a risk of uncertainty and poor compliance if providers do not have a clear sense of what such compliance requires.
- 2.11 A successful outcomes based regime requires an activist regulator who is prepared to engage with the sector and give published guidance (which adapts flexibly to market developments) on

its expectations of what is needed to meet the required outcomes. Flexibility is key; however, excessive flexibility will create uncertainty.

- 2.12 The Groceries Code has partially addressed this with presumptions as to the burden of proof so that questions such as whether a retailer has acted reasonably, or has required a supplier to act in a particular way are for the retailer, not the supplier, to show. This strikes a sensible balance between commercial flexibility which benefits all parties and consumers and the risks of under enforcement/use of a code which is insufficiently clear or certain.
- 2.13 Similarly, the Financial Conduct Authority has made public statements that it intends to focus more on outcomes than narrow compliance with rules.¹

Potential unintended consequences

- 2.14 We believe that with appropriate remedies design, potential unintended consequences can be mitigated. In particular, we do not consider that a regulatory regime will impose disproportionate costs or lead to increased prices. Many aspects of securing good quality relate to good governance and process, which any funeral director should be able to implement proportionately to the size of its business. There is no inherent need for significant investment in capital or people costs in order to achieve compliance.
- 2.15 We agree that a reasonable transition period would mitigate the risks identified in paragraphs 80 and 84 of the Paper and would consider a period of 12 - 24 months to be an appropriate minimum.

Service quality information

- 2.16 See comments at paragraph 2.2 above. In response to paragraph 37 (e) of the Paper, we would suggest that in relation the unobservable aspects of the funeral, published quality information should relate to the quality regulator's assessment of compliance with each of the standards set out in Table 1.
- 2.17 A regulator collecting data on service quality for the unobservable aspects of the funeral could also efficiently collect and publish information on front of house standards. The aspects of service highlighted at paragraph 89 of the Working Paper are a reasonable starting point.
- 2.18 Particularly for back of house standards, we think this is likely to require more than simply reporting particular items of data (for example in relation to vehicles or refrigeration). Any information collected will need to be analysed and interpreted for customers in some way, as substantial quantities of raw data for aspects of service that are not necessarily clear to a customer may be challenging to take in or assess. How that is best achieved requires further consideration, with the ratings systems referenced in paragraphs 93-98 being one possible approach.

3 Remedy implementation

- 3.1 While we do not believe that any price regulation remedy is justified, if it were ultimately introduced, measures to safeguard quality and promote transparency, would be required at the same time. Market distortions and real consumer detriment are likely if there is a significant gap in the implementation of remedies.

¹ <https://www.cityam.com/fca-radical-plan-for-uk-regulation/>

4 Minimum standards to be incorporated into regulation

Back of House Standard 1 – Collection and transport of the deceased

4.1 We agree with the Principle and Desired Outcomes for this standard as set out in the Paper.

Back of House Standard 2 – Care, storage and preparation of the deceased

4.2 We agree with the Principle and Desired Outcomes for this standard as set out in the Paper.

4.3 Co-op believes that refrigeration facilities (either on-site or offsite) are essential for the following reasons:

- (a) to improve the level of service provided to customers – for example, in instances where families do not choose embalming, then refrigeration allows for the deceased to rest at the local funeral home for a longer period than would otherwise be possible; and
- (b) to ensure the deceased are cared for in an appropriate manner and reduce the number of occasions that the deceased may need to be transferred to/from the care centre.

4.4 We believe that making access to refrigeration a requirement for every funeral director business should be an essential goal, which would drive improvements for care of deceased across the industry. Single operators should have refrigeration on site. Funeral directors that have a number of funeral homes should ensure each home has access to a reasonable number of spaces per deceased within a short distance and be transparent to customers about where the deceased is resting. Larger operators should ensure that funeral homes have access to a larger availability of refrigeration and capability of spaces i.e. bariatric capability within a 45 minute drive time.

4.5 Where a Funeral Director uses a third party refrigeration provider, we believe it is appropriate that such services should be fully disclosed to the client to ensure that the client is aware of where the deceased will be cared for and kept. Co-op considers that all third party refrigeration providers should provide evidence of robust disease control and management processes to ensure correct identification of the deceased throughout their journey in care. We believe it is appropriate that a written agreement between the Funeral Director and any third party refrigeration provider incorporating SLAs should be mandatory.

Back of House Standard 3 – Premises, facilities and equipment

4.6 We agree with the Principle and Desired Outcomes for this standard as set out in the Paper.

Back of House Standard 4 – Education and Training

4.7 We agree with the Principle and Desired Outcomes for this standard as set out in the Paper.

4.8 Training and education should be mandatory to ensure that all staff in the funerals sector are trained to deal with the most important aspects of the job including client care, care of the deceased, compliance, safety and well-being. Good quality training benefits customers, colleagues and businesses and the remedy would be ineffective if businesses were permitted to 'opt out'.

4.9 Experience or other forms of training could enhance a common 'basic training level across the sector. We consider the quality of our funeral directors and staff to be an important driver to ensure that we are providing a consistently high standard of care and quality of service to our

customers and their loved ones. Although we do not limit our recruitment to those with qualifications, we do emphasise the importance of obtaining qualifications, as set out further below. [✂].

- 4.10 We offer two industry leading and innovative vocational apprenticeship routes to our frontline colleagues aiming to give them the skills, knowledge and behaviours required in their new role.² All colleagues are assessed over the period of 12 - 18 months to demonstrate their competency.
- 4.11 Accredited training stands as a mark of quality and can bring about benefits to colleagues, the wider business and most importantly the customer. By accrediting all qualifications and training we have the opportunity to build customer confidence across the industry portraying funeral directors as being reputable and reliable while driving improvements in working practices and standards/quality of service. First class training is a vital part of any business' journey toward consistent good quality, 'low service failures' ways of working. We appreciate that accreditation may come with additional costs and time implications with which small providers may not be able to comply immediately and this should be reflected in the transition period for any such obligations.
- 4.12 Given the high touch nature of the Funeralcare business and the need to be able to act with dignity, respect and empathy at all times in all roles, simply knowing how to carry out tasks is not enough. Any qualification or training offered within the funeral industry needs to cover knowledge, skills and behaviours meaning that colleagues working with the deceased and the bereaved know not only what to do, but understand 'the why' and 'the how'.
- 4.13 While there are activities that can be carried out during training sessions such as role play that can help colleagues understand 'the why' and 'the how' and give them the opportunity to put skills into practice, this is within a safe environment where the variables are controlled and cannot replicate the complexities of grief and grieving clients. Classroom based training has a place in terms of setting the expectations, introducing tools and techniques and sharing best practice/experiences, but it is the constant practice and experience in a live environment that truly builds these skills. This can only be gained via vocational experience. Co-op follows the British Institute of Embalmers (B.I.E.) qualification route - an in depth and highly academic as well as practical qualification - requiring potential embalmers to gain significant knowledge of human anatomy and physiology. This qualification is always taken by an accredited B.I.E. tutor.
- 4.14 CPD is essential if colleagues are to deliver exceptional service for customers and therefore in designing an effective remedy. We suggest that for funeral directors and funeral arrangers, the CPD requirements should be 15 hours per year and 10 hours per year for funeral operatives. These are appropriate in comparison to other industries (such as the legal industry). To be effective, we would advocate compulsory CPD, enforced through spot checks or scrutiny of (concise) regulatory submissions.

Back of House Standard 5 – Governance processes and procedures

- 4.15 We agree with the Principle and Desired Outcomes for this standard as set out in the Paper.

Back of House Standard 6 – Complaint handling and customer redress

- 4.16 We agree with the Principle and Desired Outcomes for this standard as set out in the Paper.

² Referred to in para 131 of the Quality of 'back of house' funeral director services working paper.

- 4.17 We believe in the importance of a clear complaint handling process which complies with the Desired Outcomes as set out in the paper. We also believe that an independent alternative dispute resolution (ADR) scheme (by a statutory regulator, the financial ombudsman service or an empowered trade body) would be an effective arbitrator in cases where customers disagreed with the funeral director's decision on their complaint.
- 4.18 In order to be effective, such a mechanism should be free for consumers to use, mandatory for funeral directors to join and with the power to make binding decisions. In order for consumers to be well informed, funeral directors should be obliged to display information about the ADR in their materials. Enforcement would be relatively simple (through mandatory registration and spot checks of customer materials). One example of ADR is the NAFD Resolve scheme which is independent and free for consumers.³

³ Covering services which cost over £1,000 and which were purchased within the preceding twelve months: see <https://nafd.org.uk/nafdresolve/>

Schedule

Consultation Questions from Quality Regulation Remedies

Remedy selection

108. Do you agree with our proposal to focus quality regulation on the services provided by funeral directors or do you think we should also regulate the quality of services provided by crematoria operators? Please explain your answer.

Co-op Response: We think that quality regulation should apply to third party suppliers of elements of a funeral. From a consumer perspective it would be a material omission if crematoria were not included in a quality regulation regime. As submitted in our response to the Issues Statement, we believe that the regime should extend to elements of funerals that are sourced from third parties since they are integral to the funeral.

109. Do you agree with our proposal to focus quality regulation on back of house standards? Please explain your answer.

Co-op Response: We agree with the focus on 'back of house' standards since these are important elements which are not visible to customers.

110. What are your views on the likely effectiveness and proportionality of the remedies outlined in this working paper in addressing our initial concerns?

Co-op Response: Please see paragraph 1.2 above. We believe that any remedies consulted must be part of a package of proportionate and effective remedies that work as a whole. Remedies that increase the quality of services must be implemented alongside and to a large extent, at the same time as remedies to increase information and transparency so that customers can clearly see the links between quality and price. Our view is that it is right to do more to secure quality standards and that some form of regulatory regime may be needed to do so effectively and proportionately.

111. Are there any other potential remedies that we have not considered in this working paper that may address our initial concerns (as set out in our working paper on the quality of back of house funeral director services)? Please explain what those remedies are and why they would be more effective than, or suitable in addition to, our proposed remedies.

Co-op Response: Not at this stage, but we reserve the right to reconsider this once we have a fuller understanding of any AEC the CMA may believe arises and how it may interact with other remedies.

Remedy design

112. Would a predominantly outcomes-based or a rules-based regulatory model (see paragraphs 39 to 40) be more appropriate for monitoring and upholding the back of house standards of funeral directors? Please explain your answer.

Co-op Response: See paragraphs 2.10 – 2.13 above

113. Which of the services provided by funeral directors should be included under the scope of any quality regulatory regime, including statutory minimum standards, and why? We are particularly interested in your views on the regulatory standards set out in Table 1 and the following specific issues:

(a) Is refrigeration necessary for the appropriate care of the deceased?

Co-op Response: We believe that refrigeration (on-site or off-site) is essential. See paragraphs 4.3 – 4.5 above.

(b) Is the ratio of one refrigeration space for every 50 deceased persons taken into the care of the funeral director on average per year (as proposed in the draft Code of Practice for Funeral Directors in Scotland) an appropriate ratio? If not, what is?

Co-op Response: No, 1:50 is an insufficient ratio. We would consider 1:25 to be more appropriate.

All of our care centres offer full on-site mortuary facilities including refrigeration and embalming theatres. Refrigeration is an internal requirement of Co-op's to ensure that we care for the deceased in a dignified way and to slow the process of decomposition.

The period of time over which we measure "time in care" of the deceased is from the date of death up to the date of the funeral. The deceased will not be in our care from the date of death, instead it can often be a further 24 to 48 hours from date of death until the deceased is in our care.

We have planned for refrigeration capacity to meet the time we have the deceased in our care and anticipated increase in death rate over the next decade, therefore we believe a lower ratio of 1:25 is a more appropriate metric to ensure quality.

(c) Is it appropriate to require that each deceased must be stored individually in separate compartments within the unit (as proposed in the draft Code of Practice for Funeral Directors in Scotland)?

Co-op Response: Our view is that dignity of the deceased is paramount and storage of the deceased must always respect this. Where an enclosed temperature controlled unit is used then each deceased should be stored individually in a separate tray within that unit. Practices such as "topping and tailing" referenced at paragraph 76(b) of the CMA's quality of "back of house" funeral director services working paper cannot be acceptable. However there are other forms of respectful refrigeration in use which may not include use of compartment or trays – for example, a cold room where encoffined deceased may be placed, as the CMA observed in our Reading mortuary. These options (or other innovations) should not be inadvertently excluded by an inappropriately broad restriction.

(d) Should training and/or education be mandatory? Please explain your answer. In the event that training and/or education was made mandatory, please comment on:

Co-op Response: See comments above relating to Back of House Standard 4 – Education and Training

- (i) Which members of staff require formal education and to what level (i.e. A Levels (or equivalent) or a degree or professional qualification) and to what extent can formal education be substituted by experience or other forms of training?

Co-op Response: **We believe that anyone who has contact with bereaved families or the deceased should receive a level of formal training appropriate to their role. In many cases this may be CPD training delivered as part of their work rather than formal education.**

- (ii) Is it necessary to create a nationally accredited professional education programme or allow funeral directors to choose from the currently available qualifications?

Co-op Response: **Accreditation of all qualifications and training by an official body will drive improvements in quality of service and we consider the existing accreditation bodies to provide an acceptable service.**

- (iii) Should there be a number of specified hours of training, and any other form of CPD, that staff should be required to complete each year, or should staff or their employers self-assess their professional development needs?

Co-op Response: **See comments above relating to Back of House Standard 4 – Education and Training.**

- (iv) Are there any other requirements that should be imposed on staff, owners and controllers of funeral directors to ensure their technical and professional competence (e.g. age, conduct or experience restrictions)?

Co-op Response: **Other requirements would be difficult to monitor and enforce uniformly. The Co-op encourages new people into the profession and the apprenticeship schemes referred to above relating to Back of House Standard 4 – Education and Training ensure that new starters receive the very best training.**

- (e) Is there a need to establish an independent ADR scheme and/or complaints adjudicator in addition to the funeral directors' own complaint handling and customer redress?

Co-op Response: **See comments above re Back of House Standard 6 – Complaint handling and customer redress.**

114. Who is best placed to monitor and enforce compliance with quality regulation? (a) Is a single UK-wide body or a different body in each part of the UK more appropriate, and how should either arrangement take account of the emerging regulatory regime in Scotland? Please explain your answer. (b) What role, if any, should the existing trade associations (i.e. NAFD and SAIF) and other relevant organisations, such as the Good Funeral Guide, play in relation to the quality regulatory regime? Please explain your answer.

Co-op Response: (a) **See paragraphs 2.6 – 2.9 above.**

(b) **We do not believe that the existing trade associations (i.e. NAFD and SAIF) and other relevant organisations, such as the Good Funeral Guide, should have any part to play in relation to the quality regulatory regime other than a limited role in any transition**

period. While we recognise that the NAFD plays an important role in dispute resolution, we do not believe that any existing bodies will be seen as sufficiently independent to succeed as a quality regulator.

115. Should a licensing and inspection regime (see paragraphs 52 to 73) apply to individuals or businesses or both, and why? If both, what should be the respective obligations of individuals and businesses?

Co-op Response: See paragraph 2.4 above

116. What considerations should be taken into account when designing any quality regulatory regime to enable providers of all sizes to comply with that regime, and without deterring innovation, entry and expansion?

- (a) What would be the likely costs of quality regulation to funeral directors? This includes the costs of implementing any changes necessary to comply with the regulation and the costs of demonstrating ongoing compliance with the regime.

Co-op Response: This is difficult to quantify at this stage, as much will turn on the specific requirements of a new regime and in particular on reporting and monitoring obligations associated with it. For Co-op, we believe that we are well equipped to comply with a new quality regime with limited additional incremental costs. An outcomes based regime should be flexible enough to ensure that the steps taken for compliance are proportionate to the nature of the funeral director. To take one example, capital investment may not be necessary if a small funeral home can secure access to the facilities of another nearby facility for refrigeration.

- (b) What would be the likely costs of implementing and running the regime and how should this be funded?

Co-op Response: We would anticipate a regulatory regime to be funded by the industry proportionate to the size of the business e.g. based on the number of premises/personnel that might be captured in licence fees. The funding model could also include an element of incentives for compliance e.g. with additional costs sought from businesses that do not meet standards and require closer monitoring (as is the case for other regulators such as the Groceries Code Adjudicator – see below). Most analogous regimes are funded by levies on industry. For example:

The Financial Conduct Authority ('FCA')

The Financial Services and Markets Act 2000 gives the FCA powers to raise income to cover its budgeted ongoing regulatory activity from the financial services firms it regulates. This represents the bulk of its income (£521.3m for the year to 31 March 2019). It receives further fee income from the firms it regulates (£76.7m in year ended 31 March 2019) in the form of scope change (set up costs of new responsibilities) recoveries, special project fees, other regulatory income (Register extract services), application fees and fees to support EU Withdrawal activities. A small proportion of its overall income is from other (non-fee) sources, such as

publications and training services, interest on bank deposits, and levying and collecting fees for other regulatory authorities. This amounted to £16.3m in the year to 31 March 2019⁴.

The Groceries Code Adjudicator ('GCA')

Using powers in the Groceries Code Adjudicator Act 2013⁵, the GCA imposes an annual levy on the retailers regulated by the code. Each retailer is charged a variable amount, with the variable percentage based on criteria broadly intended to reflect the expense and time that the Adjudicator, in the light of previous experience, expected to spend in dealing with matters relating to the different retailers. Levy funds unspent at the end of the financial year are returned to the regulated retailers in the proportions in which they contributed to the levy. The GCA also recovers the costs of arbitrations, and of investigations where one or more retailers are found to have breached the Code.

The GCA budget for the year ended 3 March 2019 was set at £2,000,000: 60% of the levy was split in equal shares between each retailer; 20% was split in different shares based on a methodology reflecting the complexity and size of the retailer's business and of practices falling within the GCA's 2 "Top Issues"; and the final 20% of the levy was split in different shares between retailers that were the subject of investigations, compliance monitoring, chargeable arbitration or case studies⁶.

The Care Quality Commission ('CQC')

The Health and Social Care Act 2008 makes provision for the CQC to charge providers of regulated activities fees related to its registration, reviews and performance assessment functions. These annual fees are its main source of revenue, with the balance in the form of grant-in-aid from the Department of Health. In line with government policy, the CQC is moving to fully recover the chargeable costs of regulating health and adult social care from service providers.

The fee charges vary according to the type and scale of the services provided. The fee scheme from 1 April 2019⁷ provides the following examples of how the fees are determined:

- (i) **NHS Trusts - by the provider's turnover**

⁴ page 83, FCA Annual Report and Accounts 2018/19 <https://www.fca.org.uk/publication/annual-reports/annual-report-2018-19.pdf>

⁵ S19, Groceries Code Adjudicator Act 2013 <http://www.legislation.gov.uk/ukpga/2013/19/section/19/enacted>

⁶ See p56-57, GCA Annual Report and Accounts https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/809384/Final_GCA_AR_2018_Web_Accessible.pdf

⁷ see <https://www.cqc.org.uk/news/stories/cqc-announces-its-regulatory-fees-providers-201819>

- (ii) **Health care hospital services - by the number of locations from which the services are provided**
- (iii) **NHS GPs with a core contract - by the number of registered patients at that location (out-of-hours services and/or walk-in centres - by reference to the number of locations)**
- (iv) **Dental services - by the number of dental chairs at a single location; if more than one location, by the number of locations; domiciliary services a flat fee of £598**
- (v) **Residential care – determined for each location where services provided by the maximum number of service users who can be accommodated at the site.⁸**

The Office of Communications ('Ofcom')

Ofcom is funded from a mix of sources. It is required by the Communications Act 2003 and Postal Services Act 2011 to raise income from each of the sectors it regulates, to cover the costs it incurs in regulating that sector. It must also apportion its common operating costs (those which do not relate directly to any one sector) in a proportionate manner across each of those sectors. Its sector stakeholder funding comes from broadcast licence fees and administrative charges for electronic networks and services and associated facilities, and postal services regulation. It retains amounts from Wireless Telegraphy Act 2006 (WTA) licence fees to fund its spectrum management work and other statutory functions for which there is no matching revenue stream and receives grant-in-aid to cover costs of spectrum clearance and awards. Ofcom's 2018/19 operating income covering its core responsibilities (excluding spectrum clearance and awards) was £124.3m.⁹

117. Are there any elements of quality that require immediate attention prior to the establishment of a quality regulatory regime?

Co-op Response: Taken in isolation, we believe that if progress to a regulatory regime is timely, there is no particular aspect that requires immediate attention. However, this needs to be considered together with the implementation of other remedies, including potential transparency and price regulation remedies which may well change funeral director incentives and put further pressure on quality of service currently being delivered.

118. Do you think we should tailor any aspects of quality regulation to reflect any differences in funeral service provision (and the current statutory regimes) across England, Wales, Northern Ireland and Scotland?

⁸ see https://www.cqc.org.uk/sites/default/files/20190326%20Fees_scheme_201920%20fees_FINAL.pdf

⁹ see pages 57-58, The Office of Communications Annual Report and Accounts 2019/2019
https://www.ofcom.org.uk/data/assets/pdf_file/0024/156156/annual-report-18-19.pdf

Co-op Response: A new regulator should work closely with the Scottish Regulator and seek, wherever possible, close alignment to reduce the regulatory burden for businesses operating across the UK.

119. What information on the quality of services provided by funeral directors should be collected and disseminated to customers to enable them to assess and compare funeral directors?

Co-op Response: Quality of care must be given prominence to protect against the risk of quality being hollowed out (there is evidence of this in the insurance market¹⁰ and given the 'hidden' aspects of quality in the funerals sector, those could be a significant risk). In addition to information that sets out the specific details that relate to elements of the service being provided, we would suggest that information set out in paragraphs 2.17 above should also be collected and provided, relating to front of house quality, in addition to any regulatory assessment of back of house quality that is being carried out by a regulator.

¹⁰ See for example, Fairer Finance (February 2018), <https://www.fairerfinance.com/insights/blog/misbuying-insurance>