

## **Funerals Market Investigation**

### **Summary of Provisional Decision report**

**Notified: 13 August 2020**

1. Funerals provide an opportunity for people to pay tribute to their loved one and they fulfil critical social, psychological and (for many) religious functions. Because of the crucial role funerals play in society; the distressing circumstances in which they occur, and the fact that funerals are one of the largest purchases many people will make in the course of their lives, it is important that those who purchase funeral services can be confident that prices are reasonable and the quality of service they receive is appropriate. It is this that our inquiry has sought to investigate.
2. The later stages of our inquiry have been conducted in the midst of the coronavirus (COVID-19) pandemic which has unfortunately caused a significant increase in death rates and materially changed the circumstances in which funerals can be conducted with immediate, and possibly long-term implications for the behaviour, economics and structure of the sector. It has also had a major impact on the running of our investigation, the provisional conclusions that we are able to reach and the timing of the actions that we propose to take.
3. Our investigation has centred on how people approach the purchase of a funeral under the extremely difficult circumstances that precede and follow the death of a loved one, and on competition between funeral directors at this point of need<sup>1</sup> and between crematoria operators. We have also considered how concentrated the supply of funeral director services and of crematoria services is, how prices have increased over time and the levels of profits suppliers are making, among other things.
4. At the root of our provisional conclusions is the observation that most customers, unsurprisingly, find it extremely difficult to engage with the process of purchasing a funeral. This is not only because of the emotional vulnerability

<sup>1</sup> This includes the provision of services when a funeral plan is redeemed but not funeral plans themselves.

that will affect many in the period before and following the death of a loved one, but also because of numerous other factors that conspire against their ability to exercise choices in the way they would normally do when faced with such an important purchase: social pressures and seeking to do the right thing for the deceased (when often they do not know what the deceased would have wanted); conflicting demands on their time and energy, when they are short of both; lack of basic understanding or practical experience of what organising a funeral entails, having to do so very seldom in their lives.

5. As a result, when choosing a funeral director, people largely follow a personal recommendation (which often provides only scant information as to why it is made) or simply go back to the funeral director that they or their family have previously used, even though this may have been in the distant past and the ownership of the business may have changed in the meantime. None of this should be portrayed as a failure on the part of customers. The approach they take is a reflection of the circumstances that people face when someone close to them dies.<sup>2</sup>
6. The bereaved typically place their trust in the funeral director to guide them to the most suitable option for them. When it comes to choosing a funeral, customers (including the least well off) are insensitive to price, although in recent years affordability has become a significant issue for some. They do value the quality of the service they receive throughout the funeral arrangement and delivery process, but they cannot easily judge this until after they have made the purchase and sometimes not even then. They care about how their loved one is being looked after but are not able to check how well this requirement is met in practice. Most people believe, incorrectly, that funeral directors are regulated.
7. Over 78% of the deceased are cremated. When it comes to choosing a crematorium, customers do so overwhelmingly on the basis of location (how close the crematorium is to where the deceased lived) or familiarity (whether they have been there before). Again, price is rarely a relevant factor in their choice, and, although quality matters both in general and for those customers who compare the provision of alternative crematoria, very few carry out such comparisons.
8. The way customers go about choosing a funeral director has significant implications for how funeral directors compete. In the absence of clear market pressures from customers, they largely rely on their own judgement to gauge what their customers need. This manifests itself most noticeably in the way

<sup>2</sup> Our provisional conclusions on the way people choose a funeral are at paragraphs 3.186 to 3.193.

they impart pricing information, which is often provided late in the sales process. Prices often cannot be obtained in a comparable format on-line or on the telephone and, once customers meet the funeral director to make the funeral arrangements, they are highly unlikely to switch to another provider.

9. Day-to-day competition between funeral directors is particularly muted: they monitor each other's activities but largely focus on their own service provision (and in particular aspects of quality that can be observed by customers such as the condition of their premises and vehicles and staff training) and making sure that they are well known and visible in their local community, rather than responding to changes to the offerings of their competitors.
10. We have seen evidence that, recently, some funeral directors have sought to establish relationships with palliative care services, with a view to channelling dying patients, or their relatives, towards their services, thus by-passing competition for those customers altogether.
11. The two largest suppliers, Co-op and Dignity, account for 30% of branches and are often significantly more expensive (which we estimate to be by approximately £800 and £1,400 respectively)<sup>3</sup> than many of the small, typically family-owned, businesses that operate the majority of branches in the UK. In recent years, Co-op and Dignity have been competing more actively in the supply of lower-cost funeral options (direct cremation and simple funerals), but this trend has not been significant among other funeral directors, and has not had a material impact on competition more broadly in relation to the types of (mainly higher cost) funerals that most people have continued to purchase.<sup>4</sup>
12. On the crematoria side, in addition to lack of competitive constraints arising from customers' tendency to choose a crematorium on the basis of location or familiarity, there are two significant barriers to entry by new crematoria, which have contributed to the high level of concentration of the sector: the planning regime, and the high sunk and fixed costs associated with the opening and operation of a crematorium. Historically, crematoria were opened by local authorities seeking to serve their local population, and 61% of crematoria are still operated by local authorities today. Since the 1980s private companies have opened many new crematoria but, faced with high barriers to entry, they have tended to focus on areas where there was no, or limited, supply within a reasonable distance and to simply keep up with growing demand.

<sup>3</sup> Based on our analysis of pricing data gathered by SunLife from a sample of 100 funeral director branches. We calculated that the funeral director fees quoted by Dignity and Co-op were respectively £1,428 and £802 higher than those of the other funeral directors on average.

<sup>4</sup> Our provisional conclusions on the way funeral directors compete are at paragraphs 5.173 to 5.188.

13. As a result, today, crematoria are generally few and far between. Many people have ready access to only one local crematorium, and few have access to more than three. We have therefore found that competition is very muted here as well. To the extent that some crematoria seek to attract some customers on the basis of the quality of their offering, which normally means the underlying standard and maintenance of the buildings and grounds and the duration of the funeral service, there are not enough customers choosing a crematorium on this basis for it to drive an effective competitive process.<sup>5</sup>
14. We therefore provisionally conclude that the markets for funeral director services at the point of need and crematoria services<sup>6</sup> are not functioning well. We have provisionally found that a number of features restrict or distort competition:
  - (a) Low level of customer engagement caused by the intrinsically challenging circumstances surrounding the purchase of a funeral
  - (b) Lack of easily accessible and clearly comparable information on the products and services provided by funeral directors, including their prices and levels of quality
  - (c) Lack of visibility to customers of the level of quality of care given to the deceased by funeral directors
  - (d) High barriers to entry in the supply of crematoria services
  - (e) High levels of local concentration in the supply of crematoria services.<sup>7</sup>
15. Because customers are so insensitive to price, it is not surprising that lack of effective competition has resulted in higher prices than we would expect to see in a well-functioning market. With average annual rates of increase of 5% over 13 years for funeral directors and 6% over 10 years for crematoria, price rises have been well in excess of general inflation for a considerable period of time. There are also significant price differentials between funeral directors within local areas. The persistent level of excess profits that we have seen amongst a wide variety of suppliers indicates that cost drivers or quality differentials cannot explain the pricing issues that we have identified.<sup>8</sup>
16. We estimate that the consumer detriment arising from lack of effective competition between funeral directors is at least £400 per funeral on average

<sup>5</sup> Our provisional conclusions on the way crematoria operators compete are at paragraphs 6.187 to 6.194.

<sup>6</sup> Our provisional conclusions on market definitions are at 4.104, 4.105, 4.107 and 4.108.

<sup>7</sup> Our provisional conclusions on features are at paragraphs 8.9 to 8.24.

<sup>8</sup> Our provisional conclusions on customer outcomes are at paragraphs 7.166 to 7.175 (funeral directors markets) and 7.283 to 7.290 (crematoria markets)

across a significant proportion of the market (ie customers of both large and many small firms). This is likely to be a conservative figure because it does not take into account potential inefficiencies (for which we have found some evidence), meaning that the total detriment figure is likely to be higher than our estimate implies, potentially significantly so.

17. With respect to crematoria, while the prices of private sector crematoria are often significantly higher than those operated by local authorities, our profitability analysis indicates that customers of both private and local authority facilities have been paying too much, with the former overpaying by around £215 per cremation on average, while the latter are overpaying by approximately £175 per cremation on average.<sup>9</sup>
18. When it comes to the way the deceased are cared for by funeral directors between the time of death and the funeral, we have received concerning evidence from a range of industry participants and observers of problems that they have witnessed personally. Many funeral directors, and the two trade associations, acknowledged that, while in their view quality of care in the sector was generally good, there were instances of poor quality. We have therefore provisionally found that there are likely to be some funeral directors who are not providing acceptable levels of quality in this respect. Where this occurs, it is deeply detrimental to customers, who expect their loved ones to be treated with respect and dignity.
19. We have considered what remedies are necessary and appropriate to address our concerns about high prices and poor quality. Our preference is normally to seek to ensure that the competitive process can be improved, thus generating acceptable levels of price and quality. However, in the context of the funeral sector, this is unlikely to be sufficient because: consumers' circumstances following a bereavement mean they have significant difficulty in engaging with the purchasing process in general (and the issue of price in particular); there is strong evidence of high prices, while important aspects of quality are not observable to purchasers. We therefore consider that price regulation and a quality inspection regime are appropriate remedies to consider among others.
20. COVID-19, and the essential public health response to it, have severely restricted our ability to develop the remedies we consider will be needed to achieve a full solution to the problems we have found, at this time. The exceptionally high death rates and the particularly distressing and unusual circumstances in which funerals have had to be arranged since March 2020

<sup>9</sup> The estimates of customer detriment in the supply of funeral director services and crematoria are at paragraphs 8.25 to 8.40.

have resulted in extreme pressures for funeral directors and other key stakeholders, such as local authorities. This has made it very challenging to engage with key parties, collect data and design potential interventions in detail.

21. Government-imposed restrictions, including on the number of people who could attend a funeral service and other social distancing measures, have changed dramatically the economics of funeral directors and crematoria alike, impacting both the cost of operation and average revenue per funeral because of the increased prevalence of simpler funerals during this period. Under such circumstances, and with ongoing uncertainty as to the future path of the pandemic during the remainder of our inquiry, it would not be feasible to calibrate the price controls that we would have been likely to seek to impose on both funeral directors and crematoria under more normal circumstances.
22. We have no power to suspend, or further extend, our inquiry to reflect these factors but we think it important to keep on the agenda the possibility of price control remedies as a means of protecting funeral customers. We are therefore proposing that the CMA should come back to the option of a price control remedy when the circumstances of the funerals industry have returned to a steady state, which may well be different from that existing before the onset of COVID-19. This is likely to require a supplementary market investigation focused on resolving the pricing issues that we have identified in this inquiry.
23. In the meantime, we propose to take forward a set of remedies that we describe as ‘sunlight’ remedies – shining a light on the pricing and back of house practices of the sector. The objective is to ensure that the pricing and commercial activities of funeral directors and crematoria, as well as the quality of the service that funeral directors provide, are exposed to greater public and regulatory scrutiny. A set of remedies that will cast further light on the behaviour of the sector until more fundamental remedies can be taken forward.
24. We are proposing that a number of such measures would be implemented by the CMA as soon as possible after publication of our final report. Under these proposals:
  - (a) The CMA would actively monitor firms’ revenues and sales volumes in the funerals sector, in order to identify, and where possible, address, any harmful behaviour. The CMA would also publish an annual review of its monitoring activity. To support these activities, we would require certain funeral directors and all crematoria operators to provide specific financial information to the CMA.

- (b) We would require funeral directors and crematorium operators to publish price information to support customers in accessing and assessing the price of funeral services. In addition, we would require funeral directors to disclose to customers, information relating to the ownership of the business, any business or financial interests in a price comparison website for the sector and payments or donations to hospitals, care homes and any other similar institutions.
  - (c) We would prohibit certain arrangements, payments and inducements made by funeral directors with/to third parties such as care homes as well as the solicitation of business through coroner and police contracts, in order to protect vulnerable customers from being channelled towards a given funeral director that may not fully meet their needs.
- 25. We propose to make a recommendation to the UK government and the devolved administrations in Northern Ireland and Wales relating to the regulation of the quality provided by funeral directors. This would involve, in the first instance, the establishment of an independent inspection regime and registration of all funeral directors in England, Wales and Northern Ireland. As Scotland already has such a regime in place, we are not proposing to make such a recommendation to the Scottish Government.<sup>10</sup>
- 26. Our proposed package would subject the behaviour of the sector to increased scrutiny, and more effectively empower customers when choosing a funeral director or crematorium, while holding open the door to price controls when circumstances created by the pandemic change sufficiently to permit these to be considered.

<sup>10</sup> Our provisional decision on remedies is at paragraphs 9.241 to 9.261.