

**Response to the CMA's Working Papers published on 30 January 2020**  
**Memoria Ltd**

1) **Executive summary**

- There are fundamental failures in the CMA's cremation market analysis laid out in its working papers published on 30 January 2020. This includes, but is not limited to, (i) the use of two measures of concentration that are unsuitable to assess competition between crematoria; (ii) a faulty interpretation of the CMA's own empirical evidence; and (iii) the assumption that quality and innovative offerings do not matter to consumers.
- Memoria believes that the CMA has erred in its approach to the assessment of local competition between crematoria, and has continued to rely on a flawed methodology for drawing its conclusions, whilst ignoring all evidence to the contrary that Memoria has provided. In doing so, the CMA also erred by failing to recognise that actual competition has delivered significant benefits to consumers in recent years, as evidenced by increased capacity, improved quality, and a wider choice of services (including low-cost services).
- Memoria is of the view that the concentration measures used by the CMA for crematoria are erroneous. Memoria believes that both the 80% catchments and the 30-minute cortege speed drive time catchments are unduly narrow. Based on the evidence it provided to the CMA, and on its own pricing behaviour, Memoria believes that competition in the cremation sector generally operates at least a 30-minute **normal** drive time (i.e. 50-minute cortege drive time), and at farther distances in some instances.
- Memoria disagrees with the CMA's assumption that crematoria that have few (if any) rivals within their catchment do not face competition. Memoria believes that there is evidence before the CMA that its own crematoria face substantial competition, including from more distant rivals. This is also apparent in its profitability, which on the CMA's own figures shows that [✂]. Thus, the CMA should base its analysis on a measure of concentration that is not limited to customers choosing their crematorium based on location only, but also on those customers who could readily switch crematorium based on quality and/or price.
- The CMA's dismissal of existing competitive interaction in the market is factually wrong. Memoria rejects the CMA's assessment of crematoria competition as being largely based on location and family history, as opposed to quality and/or price. Memoria has submitted evidence showing how it sets its prices to compete with rivals, which the CMA has ignored, misinterpreted and/or distorted. Further, the CMA's own evidence and analysis neither excludes nor denies the existence of competition between crematoria on price and/or quality.
- The CMA's dismissal of quality as an important driver of customer choice is factually wrong and misleading. The evidence shows that crematoria vary in the quality of service that they offer, and that families do value quality. The CMA's own customer survey indicates that quality, in one form or another, is a fundamental factor for families when choosing a crematorium (equally important to location). Further, well over half of respondents listed one form of quality as the main reason for recommending their choice of crematorium to others, over twice as many as those who listed location factors. Memoria would expect to lose material business if it did not maintain high quality standards across its sites, in the same way as if it priced its services uncompetitively.
- The CMA's lack of consideration of crematoria's innovative and "non-standard" offerings throughout the working papers is a critical oversight. The CMA's own consumer survey and the experience of the entire cremation sector indicate that increasing differentiation (e.g. off-peak discounts; Low Cost Funerals; and Direct Cremations) has a huge value in enabling families to find the best way to remember their departed in a way that best meets their specific needs and wishes. The CMA should not ignore how alternative pricing structures and service offering have begun to provide valuable choice to families at a time when diversity and choice is high on the agenda for consumers. Fundamentally, consumers should have the right to choose a service that is right for them.

- Finally, the CMA’s interpretation of the cremation sector’s historical development and market background is both factually incorrect and misleading. The long period of low prices between the 1970s and the late 1990s was not good for consumers, as it was both the cause and the consequence of systemic underinvestment over time, which brought high rates of customer dissatisfaction with run-down facilities and poor quality of service.
- In light of the above, it is therefore paramount that the CMA’s proposed remedies do not stifle current investment into improving and maintaining crematoria. Equally, any imposed remedies should not limit consumer choice by re-introducing a homogenous cremation product that was the norm in the “tragic conveyor-belt” approach to services of the 1970s-1990s.

## 2) Overview

With this paper, Memoria Ltd (“**Memoria**”) responds to the CMA Working Papers published as part of its Funerals Market Investigation on 30 January 2020.

Specifically, this response comprehensively addresses issues identified in (i) *Crematoria: background and market structure*; (ii) *Crematoria: evidence on competition between crematoria*; (iii) *Crematoria: outcomes*; and (iv) *International comparisons* (collectively the “**Crematoria Papers**”).

The Crematoria Papers suggest that most crematoria are local monopolies, with customers selecting their nearest and most familiar site, apparently regardless of quality, price, or any other competitive factor. Further, innovative services and offerings are deemed of marginal importance in the analysis.

Memoria does not recognise this representation of the cremation sector.

Memoria’s entire business model relies on being able to generate and then increase demand for a crematorium over existing local options, by offering an improved quality of service and location at an attractive price relative to its rivals. In Memoria’s experience, customers will switch away from familiar sites based on quality, price and other competitive factors once such choice is available.

Contrary to the Crematoria Papers’ contention, Memoria has found that customers do care passionately about funeral quality, and crematoria that provide poor service or facilities will lose customers over time unless they bring their offer up to competitors’ levels and offer customers a variety of service options to meet their needs. This is evidenced by the substantial investment made in recent years by crematoria in both the private and public sector, and by the introduction of newly differentiated services, predominantly led by Memoria (e.g. discounts for off-peak slots; Low Cost Funerals; Direct attended and unattended Cremation) to meet the differing requirements and needs of different families.<sup>1</sup>

It is critical that the CMA recognises that the cremation sector is rapidly evolving in ways that have transformed customer choice. Newly available choice includes access to high quality cremation services at a low cost when a simpler approach is desired, or when families are able to be flexible over the time of day at which they hold their service. This is largely due to the efforts made by Memoria and certain other private and public operators to take a flexible and family-focused approach.

It is fundamental that any CMA intervention in the cremation sector does not inadvertently extinguish the significant consumer benefits that recent investment and innovations have brought, or prevent similar investment from being made in the future. The CMA must ensure that supply continues to meet demand and that customers are offered an ever-increasing range of options.

Should the CMA feel that the sector’s trend toward increased consumer choice (including choices at lower price points) is not yielding results with sufficient speed, the CMA’s remedies proposals should focus on accelerating

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<sup>1</sup> See Appendix 2 to this response for examples of recent investments in the cremation sector.

existing moves towards competition and innovation rather than introducing a new and onerous regulated pricing regime which could hinder future investment not to mention return crematoria to the low-quality and low investment vicious cycle of the 1970s-1990s.

The CMA's own consumer survey responses (the "Survey"), as well as Memoria's own reviews, confirm that customer satisfaction is overwhelming.

This response will now address what Memoria considers to be the core failings contained in the Crematoria Papers namely:

- both of the CMA's catchment analyses (i.e. the 30-minute cortege drive time analysis, and the 80% catchment areas analysis);
- the CMA's interpretation of the Survey results and its empirical analyses as depictions of crematoria and customer behaviour; and
- the Crematoria Papers' underlying assumption that quality and innovative offerings do not matter to consumers.

In doing so, this paper will reference one or more of the Crematoria Papers where appropriate.

Memoria has also carried out a critical assessment of the CMA's interpretation of the cremation sector's historical and future development, which can be found in Appendix 1 to this response.

### 3) Local concentration does not equate to absence of competition

#### a) The CMA's approach to measuring concentration is wrong and does not reflect competition in the cremation sector

Memoria notes that, in analysing local competition between crematoria, the CMA has departed from its standard measure of concentration in local competition cases (i.e. 80% catchments). Instead, it has based much of its analysis on an ad-hoc approach: the 30-minute cortege speed drive distance, which translates to an 18-minute normal drive distance.<sup>2</sup> In Memoria's view both approaches are in fact unduly narrow as a matter of principle and as a matter of fact.

- i) Standard (and narrower) approaches to catchment will not identify competitive constraints in a capital-intensive market such as crematoria

The CMA's standard 80% catchment, which the CMA has applied in retail markets, works well as a way to capture competitive constraints in markets with relatively limited capital intensity where any given local population centre can be served by a number of rivals located in that area. The CMA's proposed 30-minute cortege speed drive catchment (18 minutes at normal speed) is entirely ad hoc but, in fact, not very different to the results that the CMA obtains using an 80% catchment approach (a 33-minute cortege speed drive, approximately equivalent to a 20-minute normal drive).

The cremation market is fundamentally different to a standard retail market. This is due to the significant minimum efficient scale of a crematorium relative to the typical size of local population centres. A typical crematorium in the UK will undertake between 1,400 and 1,800 cremations per annum.<sup>3</sup> Given that the UK death rate is currently around 1%, and cremation rates around 78%, this implies that a typical crematorium will have to serve a local population of around 180,000-210,000 people.<sup>4</sup> Planning appeals often refer to a local

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<sup>2</sup> CMA Funerals Market Investigation, *Crematoria: background and market structure*, paras 16-47.

<sup>3</sup> *ibid*, Figure 3.

<sup>4</sup> E.g., a population of 180,000 with a death rate of just under 1% per annum (1,763), and a cremation rate of 78%, would generate a need for around 1,379 cremations per annum.

population of 150,000 as a basis for establishing quantitative need.<sup>5</sup> One hundred and fifty thousand people is around the size of a population centre like Gloucester, Telford, Ipswich, Slough and Cambridge, while 200,000 is around the size of a population centre like Bournemouth, Norwich, Swindon, Swansea, Milton Keynes or Southend on Sea.<sup>6</sup> In order to justify the presence of two crematoria locally, a population centre (and its hinterland) would need to have a population roughly double that size. Two such examples are:

- Cardiff (with a population of around 350,000), where Memoria competes with a very popular rival crematorium located in the city, as well as others located near smaller population centres nearby (Newport and Bridgend); and
- Leicester (with a population a little over 400,000), where Memoria competes with one rival located in Leicester and others addressing both Leicester and other surrounding population centres and rural areas relatively nearby.

Crematoria will naturally try to locate in areas that are currently under-served. This is due to both the need to find sufficient demand to offer a return on capital investments, and the nature of needs assessments and the local planning process, which makes it difficult to locate new crematoria close to existing sites in population centres (even if they offer a poor standard of service).

This means that crematoria naturally tend not to locate right next door to each other. Therefore, customers are faced with a trade-off between location, quality and price when they select which crematorium to use. While this means that some customers consider locational advantages the decisive factor in their choice of crematoria, there will also be many others for whom location is just one factor, alongside quality and price. However, crematoria cannot set a different price or different quality of service for customers that have a strong preference for their services due to location (“**Inframarginal Customers**”) and those who could readily switch to an alternative (“**Marginal Customers**”). In order to understand how competition is working, the CMA cannot focus on the mere existence of Inframarginal Customers but, instead, it needs to interrogate the extent to which crematorium pricing and quality decisions are constrained by the willingness of Marginal Customers to switch.

As set out section 4(a) of this response (*below*), given the need for any new crematorium to win business from existing sites, Memoria’s pre-entry P&L modelling clearly shows that [✂]. Indeed, even within Memoria’s “core” customers there will be many whose decision is also driven by other factors and for whom the locational advantage is rather marginal.

[✂].

- **Cardiff and Glamorgan (CGM)** will be a similar drive time away as Thornhill Crematorium for many families in Cardiff; and to Coychurch for residents of towns between Bridgend and Cardiff.<sup>7</sup>
- **Kirkleatham (KMC)** will be a similar drive time away as Stranton Grange Crematorium or Teeside Crematorium for many residents in Middlesborough, and to Scarborough for families in and around Whitby.<sup>8</sup>
- **Amber Valley (AVM)** will be a similar drive time as Markeaton for families in Ripley or Belper; to Bramcote for families in Heanor, Langley Mill and Eastwood, to Mansfield for families in Sutton-in-Ashfield and South Normanton, and Chesterfield for families in numerous villages off the A61 south of Chesterfield, as well as those living in and towards Matlock to the West.<sup>9</sup>

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<sup>5</sup> See, e.g., [https://digital.flintshire.gov.uk/FCC\\_Planning/Home/NewDocView/64005](https://digital.flintshire.gov.uk/FCC_Planning/Home/NewDocView/64005), which notes that “local authorities with a population in excess of 150,000 can expect to erect and control a crematorium, operating on a sound financial basis after loan repayments”.

<sup>6</sup> Based on 2016 data provided by the ONS:

<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/adhocs/008264midyearpopulationestimatesformajortownsandcities2016>

<sup>7</sup> See Appendix 5, slide 3.

<sup>8</sup> See Appendix 5, slide 10.

<sup>9</sup> See Appendix 5 slide 19.

- **South Oxfordshire** (SOCM) will be a similar drive time away as Oxford Crematorium for families in southern and western Oxford, to Reading Crematorium for families in towns like Wallingford, to Swindon Crematorium in towns like Farringdon, Carterton and Witney.<sup>10</sup>
- **South Leicester** (SLM) will be a similar drive time away as Leicester Crematorium for families in southern Leicester; to Kettering Crematorium for families in Market Harborough; and to Nuneaton Crematorium for families in Hinckley (which will soon have its own crematorium, providing another alternative).<sup>11</sup>
- **Waveney** (WMC) will be a similar drive time away as Great Yarmouth Crematorium for families in southern Great Yarmouth and Gorleston; and to Ipswich for many families along the Suffolk Coast.<sup>12</sup>

[redacted] rather than focusing down even more narrowly than it would in a standard retail case, the CMA needs to broaden its scope if it really seeks to understand how competition works in the market for crematoria. That includes understanding the extent to which crematorium profits are sensitive to switching by Marginal Customers,<sup>13</sup> and which rivals those Marginal Customers would switch to.

Memoria notes that this recognition of broader competition has been made in previous market investigations. In the Private Healthcare Investigation (2014), for instance, the CMA made reference to its guidelines that “the [CMA] may consider information on catchment areas from which the bulk of a hospital’s patients are **drawn and which hospitals customers (i.e. patients and PMIs) consider to be substitutes for each other**”<sup>14</sup> (emphasis added). It went on to note that catchment area analysis “has a number of limitations”, and in particular that “geographic markets defined on the basis of catchment areas” may be “too narrow in some instances” and therefore that “we have considered in our local competitive assessment the constraints on each hospital, whether arising within or outside the hospital’s catchment area”.<sup>15</sup> The study concluded that:

*“In particular, we have looked at any overlap with other private hospitals’ catchment areas, including hospitals inside and outside the hospital’s catchment area, to identify, for each hospital, the set of private hospitals/PPUs which the assessment of competitive constraints should focus on.”<sup>16</sup>*

In Memoria’s view a similarly realistic view needs to be taken in relation to crematoria.

ii) Evidence of Memoria’s actual behaviour is not consistent with narrow catchments

Evidence from Memoria’s internal documents shows that Memoria does not consider that it only competes with rivals within either an 80% catchment area (defined by the CMA as a 33-minute drive at cortege speeds, or 20 minutes at normal speed) and/or a 30-minute cortege speed drive time catchment (18 minutes at normal speed).<sup>17</sup> As part of its response to the CMA’s RFI of 8 May 2019, Memoria submitted documents which set out which rivals it monitored in terms of pricing and quality when making its own price and quality decisions. Table 1 (*below*) lists the rivals (including their distance and drive time) that are tracked by each of Memoria’s sites when setting prices and considering investments in refurbishments/improved quality. It can be seen that, consistent with this response’s definition of critical Marginal Customers (section 3(a)(i), *above*) and contrary to the CMA’s cortege-based catchments, Memoria monitors the prices and quantities of rivals much farther than a 18-20-minute normal drive away. The average drive time to the rivals that Memoria tracks is [redacted] minutes and the median is [redacted] minutes, with an interquartile range from [redacted] to [redacted] minutes at normal driving

<sup>10</sup> See Appendix 5, slides 28 and 34, which notes that the introduction of a new longer 40-minute slot at Swindon indeed had an impact on Memoria bookings from Farringdon and Carterton.

<sup>11</sup> See Appendix 5, slide 36.

<sup>12</sup> See Appendix 5, slide 46.

<sup>13</sup> See § 4(a)(iii) of this response for further detail.

<sup>14</sup> CMA Private Healthcare Market Investigation, *Final Report*, para 5.58; CC, *Guidelines for market investigations: Their role, procedures, assessment and remedies* (CC3 Revised), para 148.

<sup>15</sup> CMA, Private Healthcare Market Investigation, *Final Report*, para 5.64.

<sup>16</sup> *ibid*, para 5.68.

<sup>17</sup> CMA Funerals Market Investigation, *Crematoria: background and market structure*, para 18 and Footnote 11. On the basis of the CMA’s analysis 80% catchment areas covered 33-minute cortege speeds (at 60% of nominal driving speed, this translates to a 20-minute normal drive time, while the CMA’s preferred 30-minute cortege speed translates to an 18-minute drive time).

speeds. Based on cortege driving speeds, [X]. This is strong factual evidence that the CMA will need to consider.

Table 1: Distances and drive times to rivals monitored by Memoria

Memoria Site		Rival	Drive distance (miles)	Drive time (minutes)
AVM	Amber Valley	[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
BMC	Barnby Moor	[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
CGM	Cardiff & Glamorgan	[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
DMC	Denbighshire	[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
FMC	Flintshire	[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
KMC	Kirkleatham	[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
NHM	North Hertfordshire	[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
SLM	South Leicestershire	[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]
SOCM	South Oxfordshire	[X]	[X]	[X]
		[X]	[X]	[X]
		[X]	[X]	[X]

Memoria Site		Rival	Drive distance (miles)	Drive time (minutes)
		[✂]	[✂]	[✂]
		[✂]	[✂]	[✂]
WMC	Waveney	[✂]	[✂]	[✂]
		[✂]	[✂]	[✂]
		[✂]	[✂]	[✂]
		[✂]	[✂]	[✂]
Average			[✂]	[✂]
25th Centile			[✂]	[✂]
Median			[✂]	[✂]
75th Centile			[✂]	[✂]

Source: CRA analysis based on Memoria Competitor Price Comparison documents, submitted in Memoria’s response to the CMA RFI of 8 May 2019, Schedule 2, Annex A, Question 12. Distances and drive times have been taken from the CMA’s calculations where provided – but otherwise using ArcGIS, and may differ from the distances recorded in Memoria’s internal documents.

*Italics indicate cases where Memoria compares prices with its own sites.*

\* Indicates new sites that have recently opened or soon to open ([✂]).

# Indicates sites that have been added to the list monitored by Memoria since previous submissions were made due to shifts in demand (i.e. increases in demand or potential demand in areas where the newly listed rival is a key alternative).

Therefore, for the factual reasons set out above, Memoria believes that competition in the crematoria market generally operates over at least a 30-minute normal speed drive (equivalent to a 50-minute cortege speed drive), and in certain cases even farther.

**b) The CMA’s dismissal of competitive interactions in the market is incorrect**

The CMA’s summary of the nature of competition in *Crematoria: evidence on competition between crematoria* (the “**Competition Paper**”) sets out a picture of a world in which customers choose their crematorium primarily on the basis of “family connections and location/proximity”; where prices are not set competitively (regardless of whether crematoria benchmark rivals’ prices); and where the few customers who choose a crematorium other than their closest do so for reasons unrelated to quality (or price).

This characterisation does not fit with Memoria’s factual experience of the market whereby:

- its price benchmarking exercise is a key driver of its own prices, and when prices get “out of line” (i.e. when Memoria does not offer good value for money relative to its rivals) it loses volumes as a result—Memoria has already submitted evidence to the CMA on this point, but this has not been recognised in the Working Papers; and
- in addition to setting prices at a level that offers good value for money relative to its rivals, Memoria also invests in improvements to its quality of service (even at relatively new sites) and has observed local rivals doing the same.

Additionally, Memoria does not believe that the CMA’s own evidence contradicts the presence of these competitive interactions in the cremation market.

**i) Evidence on customer responsiveness to price**

Memoria has already provided the CMA with extensive evidence on how it sets its prices, and it has explained how it aims to win at least 100% of each site’s potential “core” area customers.<sup>18</sup> To do so, Memoria sets

<sup>18</sup> CMA Summary of hearing with Memoria Limited held on Thursday, 18 July 2019, para 28-37.

different prices at every crematorium to compete most effectively in each individual market area.<sup>19</sup> Additionally, it assesses its competitors' position on pricing and quality in order to ensure that it is responsive to competitive conditions and changes in a particular local market.<sup>20</sup> This, can also be seen from the discussion of price and quality changes for each of Memoria's established sites set out in Appendix 5 to this response.

The CMA's characterisation of Memoria's internal documents discussing benchmarking and comparisons with rivals' prices is both factually wrong and misleading.<sup>21</sup> Memoria has provided extensive factual explanations to the CMA that the reference to prices being [REDACTED].<sup>22</sup> In fact, this is precisely an indication of competition whereby Memoria recognises that if its prices are "out of line" with local rivals (after taking account of quality differences) it will lose volumes and be unable to service its capital investments. Nonetheless, the CMA has persevered with its erroneous interpretation of Memoria's price increases, only noting in brackets that "other documents" made reference to remaining "competitive". Memoria has already pointed out that such reference was contained in the same document, not "other documents", and should therefore be correctly interpreted as part of that competitive process, rather than opposed to it.<sup>23</sup>

Memoria's documentation clearly stated that the proposed price increases at [REDACTED].<sup>24</sup> This clearly shows that Memoria's pricing strategy was aimed at reflecting competitive investment in improvements to facilities (relative to those offered by rivals) while also remaining competitive on price, which is precisely what should be expected in a market where Memoria's pricing and quality offer is constrained by local rivals (and vice versa).

This is consistent with the competitive dynamics at [REDACTED] set out in slides 28-35 of Appendix 5 to this response (and particularly slide 34). These show how Memoria [REDACTED].

Memoria has also already supplied the CMA with ample factual evidence on its pricing error at [REDACTED] (i.e. increasing prices in excess of what customers felt was justified by its superior quality offering). This shows the speed at which funeral directors responded to that error with both qualitative feedback that the price needed to be lowered and a reduction in funeral bookings, which together resulted in Memoria reversing its price increase less than a month after it was imposed.<sup>25</sup> Broader evidence on competitive conditions in relation to Memoria's [REDACTED] site is set out in slides 3-9 in Appendix 5 to this response.

In [REDACTED], the internal documents show Memoria cutting its prices in 2017 to improve penetration (resulting in a [REDACTED]% volume growth compared to 2016).<sup>26</sup> Therefore, although the Survey suggests that customers are not willing to list price as a relevant factor in their decision making,<sup>27</sup> the strategic decisions that Memoria makes in the normal course of business show that in reality it cannot (and does not) price independently of its rivals, as doing so would result in significant losses of volumes (which, in turn, could entirely undermine the basis on which Memoria is able to earn a return on its investments).

In light of its own experiences at [REDACTED] (among others), Memoria has provided factual evidence to the CMA that customers and funeral directors will take price into account when choosing which crematorium to use (and specifically, when better value for money can be found slightly further away). Indeed, as shown in Section 4(a)(iii) of this response (*below*), Memoria's business model serving a significant number of "out-of-area"

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<sup>19</sup> Transcript of CMA hearing with Memoria Limited held on Thursday, 18 July 2019, page 34 lines 2-6.

<sup>20</sup> CMA Summary of hearing with Memoria Limited held on Thursday, 18 July 2019, para 28; Transcript of CMA hearing with Memoria Limited held on Thursday, 18 July 2019, page 27 lines 14-24.

<sup>21</sup> CMA Funerals Market Investigation, *Crematoria: evidence on competition between crematoria*, para 34.

<sup>22</sup> CMA putback (1), *Memoria - draft extracts from the Crematoria: evidence on competition between crematoria Working Paper*, para 24.

<sup>23</sup> *ibid*

<sup>24</sup> *ibid*

<sup>25</sup> Memoria's response to the CMA's Issues Statement of 8 April 2019, pages 5-6; CMA Summary of hearing with Memoria Limited held on Thursday, 18 July 2019, para 36.

<sup>26</sup> See Appendix 5, slide 26.

<sup>27</sup> CMA Funerals Market Investigation, *Consumer survey results*, Tables 26 and 27.



families (typically around [REDACTED]% of its customers) is only viable because price is a relevant factor for families when choosing a crematorium.

#### ii) Evidence on rival quality responses

Memoria has submitted a number of documents that it uses in the normal course of business to track rival prices and quality in order to ensure that its own offering is competitive (particularly when price changes are made).<sup>28</sup> The risk of losing volumes to rivals (e.g., if prices are increased too far) is also mentioned as a constraint in other areas. For example:

- [REDACTED] is mentioned as a constraint on [REDACTED];
- [REDACTED] is mentioned as a constraint on [REDACTED];
- [REDACTED] are mentioned as constraints on [REDACTED];
- [REDACTED] are mentioned as constraints on [REDACTED];
- [REDACTED] are constraints on [REDACTED];
- [REDACTED] are mentioned as constraints on [REDACTED]; and
- References are made to the risk of losing volumes to [REDACTED].

Further discussion of these examples can be found in the slide pack provided at Appendix 5 of this response.

#### c) The CMA's own analyses do not support a lack of competition between crematoria

In the Competition Paper (and its supporting econometrics appendix) the CMA has presented a number of analyses, which it claims support its view that competition is extremely limited in the cremation sector. Appendix 4 to this response provides a more detailed discussion of the limited cases in which Memoria has been given access to the underlying data and code of the CMA analyses. Memoria's comments on these (and the CMA's empirical analyses more generally) are briefly summarised below.

#### i) Out-of-area analysis

In the Competition Paper the CMA provides various analyses relating the **proportion of customers from "out of area"** (i.e. for whom the crematorium used was not the closest) against various aspects of price and quality. Generally, the CMA's analysis found that this relationship is weak. Unfortunately, the CMA has not been prepared to share the underlying data or analysis with Memoria or its advisers, and therefore Memoria cannot comment in detail on the reliability of the CMA's analyses, which significantly impedes Memoria's right to be heard on the point. Memoria also notes that, during the putback process, the CMA's figures in relation to Memoria's "out-of-area" shares did not align with Memoria's own records. The CMA has now provided Memoria with the data it used to construct its figures.<sup>29</sup> These are raw data by district, which do not reflect the geographic classifications used by Memoria in the normal course of business, whereby Memoria also looks at narrower areas within districts to assess whether they can be considered "core" or not. Indeed, the CMA's analysis file notes Memoria's comment that "[REDACTED]". This is precisely the type of adjustment within district that is done by Memoria in preparing its own "out-of-area" figures in the normal course of business, compared with those reconstructed by the CMA based on raw data. Memoria also notes that the CMA's analysis appears to entirely ignore volumes classified in the raw data as "out of area", rather than treating them as "battleground", which would instead be appropriate given these are non-"core" customers. In Memoria's view this raw analysis is not reliable and should be replaced with the "FD by area" figures supplied by Memoria in response to the CMA's RFI of 8 May 2019, and re-supplied (in summary form) in Memoria's response to the CMA's putback process on 22

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<sup>28</sup> Memoria: Competitor Price Comparison spreadsheets used to inform annual price setting for each of its sites, supplied in the appendices to Schedule 2 Annex A Question 12 of its response to the CMA's RFI of 8 May 2019.

<sup>29</sup> "Out-of-area proportion calculations for Memoria.xlsx" provided by the CMA to Memoria on Monday 20<sup>th</sup> February 2020.

January 2020.<sup>30</sup> Therefore, reliance cannot be placed on the CMA's "out-of-area" analysis until the numbers for Memoria are corrected. At present the CMA's analysis is erroneous.

However, even without access to the full underlying data and analysis (and even without reflecting the necessary corrections to the Memoria figures), Memoria notes that the inability to find strong relationships in very simplistic models relating only "out-of-area" proportions to one factor at a time (i.e. price or slot length, but not both) is hardly surprising given the complex differentiation of cremation services. For example, if customers were prepared to pay more for a longer slot, then high price sites might attract significant "out-of-area" demand only if they also offer a longer slot. If the market were characterised by some high-priced sites with long slots, and some with short slots then, by controlling for only one aspect of the PQRS offer at a time, the CMA's analysis would simply find no effect (despite customers valuing both price and slot length). The same applies to other elements of quality/differentiation (e.g. customer satisfaction; size of crematorium; or size of cremator).

Memoria also notes that failing to find a relationship between price and quality in a sample based only on Memoria's and Westerleigh's data cannot be viewed as representative of the wider market. As described in previous submissions, Memoria makes strenuous efforts to achieve high quality across all its sites uniformly. Therefore, a lack of customer response to such generally small and temporary differences, which may apply across sites, is hardly reflective of customers failing to give weight to larger and more permanent differences in quality, which would be seen across a wider sample of suppliers.

## ii) Entry analysis

In the Competition Paper the CMA also provides an analysis of the **impact of entry** on volumes, fees, investment and slot length at existing local sites. Only the analysis of volume and price has very recently been shared with Memoria. In relation to these analyses specifically, Memoria has the following comments:

- The CMA's analysis of the relationship between entry and rival volumes appears to strictly contradict the CMA's catchment analyses, as it shows an impact of entry on volumes well outside the CMA's proposed catchment area (which translates to an 18-20-minute normal drive time). In fact, the CMA's entry analysis found that even entry events within a 20-30-minute normal drive time band (i.e. a 30-50-minute band at cortege speed) have a 7% impact on incumbent volumes across all crematoria, and a 10% impact on local authority crematoria (statistically significant at the 1% level).<sup>31</sup> Equally, just looking at the impact of entry on local authority crematoria, the CMA finds a negative 2.4% volume impact on crematoria even a 30+ minute normal drive away (i.e. a 50+ minute drive at cortege speed).<sup>32</sup> When this "30+" category is split between 30-40 and 40+ minutes, and the 40+ minute category is used as a baseline/control, the volume impact on local authority crematoria increases to 11% in the 20-30-minute bracket, and to 4.5% in the 30-40-minute bracket.<sup>33</sup>
- The CMA also notes that "if there were a significant quality differential between private and local authority crematoria, and customers were willing to travel for a higher quality service, we might expect entry to affect volumes more strongly for local authority incumbents where the quality differential with a private new entrant may be greater compared to the impact on volumes at a private incumbent where any differential with a new entrant may be smaller. This does not appear to be the case."<sup>34</sup> Yet, in the only case where the private coefficient is statistically significant (the 30+ minute category), this is +5% (i.e. the impact implied at private crematoria is positive, relative to the baseline of the negative impact on local authority volumes).<sup>35</sup> Such finding is contrary to the CMA's own statement, and the CMA finds exactly the impact it would expect. As set out in Appendix 4 to this response, if instead the CMA were to look at the impact of entry on crematoria on a more aggregated basis, it would see a -15% impact of entry on volumes for local authority

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<sup>30</sup> "FD by Area" files provided as part of Memoria's response to Schedule 2, Annex A, Question 26 of the CMA's RFI of 8 May 2019; CMA putback (1), *Memoria - draft extracts from the Crematoria: evidence on competition between crematoria Working Paper*, Table 2; and e-mail attachment sent by Diana Jackson to Andy Toner on 22 January 2020 at 17.59 (which includes cell references to the underlying FD by Area data files submitted previously).

<sup>31</sup> CMA Funerals Market Investigation, *Crematoria: evidence on competition between crematoria*, para 90 and Table 6.

<sup>32</sup> *ibid*, Table 6 and Footnote 77.

<sup>33</sup> See Appendix 4.

<sup>34</sup> CMA Funerals Market Investigation, *Crematoria: evidence on competition between crematoria*, para 92.

<sup>35</sup> *ibid*, para 101.

crematoria within 30 minutes of entry, and a significantly smaller -4% impact for private crematoria within 30 minutes. This is entirely consistent with the actual hypothesis that the CMA rejects.

- The CMA's model also has poor explanatory power: partly because it includes brand new crematoria which are themselves in a fast volume increase phase (and often for whom the first year of entry reflects only a partial year's operations), regardless of new entry. If these crematoria are excluded from the analysis, then sensitivities more consistently show a significant negative impact of entry on both local authority and private crematoria – but a smaller impact on private crematoria (consistent with the CMA's hypothesis that private crematoria are higher quality).
- As presented, the CMA's analysis of the relationship between entry and standard fees is said to show statistically significant increases in fees at private crematoria in certain drive time brackets when there is entry, which is clearly counterintuitive. However, the data underlying this finding do not seem to be reliable. As set out in more detail in Appendix 4 to this response, the largest price increase observed in the data in relation to an entry event in the 20-30 minute is an alleged 32% increase in prices of a standard cremation (a £190 increase from £600 to £790) at [redacted] in 2018. However, in reality (i) [redacted] did not experience [redacted]; and (ii) [redacted] never priced standard cremations as low as £600, and in the year in question in fact increased prices by £[redacted] (or [redacted]%), from £[redacted] to £[redacted]. Therefore the data on which the CMA's findings are based are simply not accurate.
- Generally, the CMA's analysis is extremely simple, taking no account of other factors such as how cost inflation might vary by area; the interplay between local supply and demand more generally (where we might expect to see entry in areas where there has been pressure on crematorium capacity and therefore upward pressure on prices); or the impact that entry may have on quality factors (e.g. driving investment in existing facilities, or increasing slot times). Even if the dataset were corrected, without taking account of these other factors it is hardly surprising that the CMA's analysis struggles to identify a price impact from entry.

Elsewhere in the Competition Paper, the CMA appears to suggest that there is **no quality difference between local authority incumbents and private entrants** because incumbents only lose volume for about three years after entry.<sup>36</sup> Memoria rejects this inference as factually incorrect. Meaningful competition between entrants and existing suppliers is not inconsistent with local markets reaching a new competitive equilibrium at some point after entry (in this case on average around 3 years). It is entirely unclear, based on the evidence, why the CMA appears to believe that switching due to proximity should be time limited, while switching due to quality should continue in perpetuity. If the CMA wants to reach such a conclusion, it has to be underpinned by evidence. Moreover, this analysis takes no account of the fact that incumbents will be forced to respond to the higher quality offer of entrants over time, if they wish to maintain volumes and profitability.

In relation to those analyses where the CMA has not shared the underlying data or analysis with Memoria or its advisors, Memoria notes that the analysis of slot length is characterised by a relatively small sample (particularly in relation to entry events within half an hour of private crematoria). Further, as in the analysis of fees, the CMA takes no account of other factors that might be expected to influence slot lengths and/or customer responses to different slot-length options.<sup>37</sup>

The CMA's analysis of impact of entry on investment is not discussed in the econometric appendix to the Competition Paper, and it appears extremely crude. The analysis appears to compare investment over a 5 year period (2014-2018) to entry at any point during those 5 years, and therefore it fails to take account the fact that entry at the end of the 5 year period could hardly be expected to have an effect.<sup>38</sup> Indeed, given that most crematoria are run by local authorities, who will have a rather prolonged process to approve and finance new

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<sup>36</sup> *ibid*, paras 97-98, and Figure 11.

<sup>37</sup> *ibid*, paras 109-111.

<sup>38</sup> *ibid*, para 105 and 106. The analysis also takes no account of different distance bands, as was done in relation to volume and price effects, but the difference in approach has not been explained. The CMA also notes that there are likely to be inconsistencies between the approaches taken by different crematoria operators to what constitutes a significant investment.

investment, it can hardly be expected to see investment responses on such a short time frame, even if the analysis were better specified. Unfortunately, the very broad description of the analysis (e.g., entirely devoid of any discussion of statistical significance) makes it extremely difficult to provide a meaningful commentary beyond this headline point. As such, this analysis has no probative value to support the CMA's conclusions.

Memoria also factually rejects the CMA's finding that incumbent crematoria do not respond to entry by making investments or increasing slot lengths based on its **broader evidence**.<sup>39</sup> As set out above, this is inconsistent with the CMA's own findings that some local authority crematoria have explicitly linked their investments to new entry by rivals.<sup>40</sup> It is also inconsistent with internal Memoria documents that were provided to the CMA, which show how Memoria carefully tracks rival prices, slot lengths, and investment when devising its pricing strategy and investment decisions and observes how local rivals respond to its own entry by improving their facilities and offer. At Appendix 2 to this response, Memoria has set out a number of news stories relating to investments in local crematoria that have taken place in recent years. These largely took place in response to either direct competition from local entrants, or indirect competition through the rising expectations of families for quality of service as the market more broadly has improved. Several of these investments have taken place specifically in areas where Memoria's own entry and/or ongoing competitive pressure is likely to have played a role. For example, the news stories include descriptions of investments (either refurbishments or new crematoria) at:

- Thornhill (close to Memoria's **Cardiff and Glamorgan**)
- Stranton/Hartlepool and Teeside (near Memoria's **Kirkleatham**)
- Trent Valley (being built close to Memoria's **Amber Valley**)
- Hinckley (being built near Memoria's **South Leicestershire**)

Appendix 5 to this response also sets out details of smaller investments by rivals in several additional Memoria areas, and by Memoria itself.

### iii) Price and quality concentration analyses

In *Crematoria: outcomes* (the "**Outcomes paper**"), the CMA provides **price-concentration analyses ("PCA")** which it claims show that higher concentration levels drive higher prices (although this is unsupported by any statistical analysis of whether such price differences are statistically significant). Read at face value, as Memoria was not given access to the underlying data, differences in price appear to be largely explained by differences in average cost per cremation, given that no significant relationship is found between profits and competition.

Memoria also notes that the CMA itself has flagged the problems with these types of crude price-concentration studies taking no account of other local or site-specific characteristics. In fact, the CMA states that "[t]he principal concern in a PCA is that the extent of local competition (that is, the number of crematoria in a local area) is driven by factors such as local costs and characteristics of demand that also affect crematorium performance: in this case, volume or fee. This would bias the results, as we would wrongly be conflating the impact of such factors on performance with that of local competition."<sup>41</sup> Yet, despite this recognition of the limitations of a crude PCA, the CMA appears to rely on precisely such an erroneous analysis in the Outcomes Paper.

Additionally, the CMA also suggests that new entrants do not compete on price as much as they should because they tend to be on average more expensive than incumbents (despite claiming to under-charge customers in the first few years of establishment).<sup>42</sup> Memoria believes that the CMA's conclusion on this point is erroneous. It is only logical that incumbent facilities will tend to charge lower prices than newer ones given the highlighted quality differences, and the fact that new entrants are by definition new facilities whereas incumbents sites will be older. The news stories provided at Appendix 2 of this response often cite the need to update aging facilities

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<sup>39</sup> *ibid*, para 10.

<sup>40</sup> *ibid*, para 113 and Footnote 100.

<sup>41</sup> CMA Funerals Market Investigation, *Crematoria Appendix: evidence on competition between crematoria*, para 13.

<sup>42</sup> CMA Funerals Market Investigation, *Crematoria: evidence on competition between crematoria*, para 37.

that do not meet modern requirements as a justification for spending public money on refurbishment of local authority crematoria. Once more, the CMA's conclusion that new entrants do not compete on price stems from the same failure to control for other characteristics driving local pricing and volume outcomes that the CMA has noted in relation to price-concentration analyses.<sup>43</sup>

A similar analysis of **quality-concentration**, which again is not subject to any statistical reporting, suffers from the same bias set out above and does not yield material results. However, this is likely also due to the complex nature of differentiation on quality and the fact that the CMA's analysis is simplistic in only controlling for one aspect of quality at a time, and not for price. In reality, as the Survey results show, there are many different aspects of quality that customers care about.<sup>44</sup> Moreover, Memoria notes that the CMA has erroneously based all these analysis on the unreasonably narrow catchment definitions discussed above.

#### iv) Survey results

The finding that entry has an impact on volumes over a wide area is also consistent with the Survey results, whereby 83% of respondents reported that they had chosen a crematorium located within a 35-minute drive from where the deceased had lived.<sup>45</sup> Memoria does not believe that it is credible to think that in responding to the Survey consumers stated distances in terms of cortege speed drive times. In this context it is highly relevant that the CMA itself states that it did not ask respondents whether drive time was at 'normal' or 'cortege' speeds as "[it] did not think it was a concept that could easily be understood in the context of an omnibus survey".<sup>46</sup> In the absence of an explicit reference to (and detailed explanation of) cortege speed drive times, it seems entirely unlikely that respondents were referring to cortege speed drive times rather than normal drive times in their responses.

#### v) Conclusion on empirical analyses

The overall level of detail provided by the CMA on these empirical analyses is in Memoria's view highly lacking. It is often unclear whether any econometric analysis has been done at all (e.g. in relation to price-concentration; margin-concentration; and quality-concentration analyses). Further, where it has been done, the results are largely redacted and even simple statistics, such as the explanatory power ( $R^2$ ) of the CMA's model, have not been provided (even in the econometric appendix to the Competition Paper). It also does not appear that the CMA has conducted any reasonable sensitivity testing to check the robustness of its results, despite its own guidance suggesting that parties do so in relation to their submissions to the CMA.<sup>47</sup> As such, Memoria does not believe that the CMA's empirical findings can be considered to support any type of intervention.

In those exceptional cases where the detail of the analysis has been shared (i.e. in relation to the impact of entry on prices and volumes): (i) the volume analysis actually supports Memoria's factual conclusions of the breadth of geographic competitive impacts, rather than those of the CMA; and (ii) the price analysis is not able to distinguish cause and effect (given that areas with increasing prices are more likely to be have limited capacity and increasing demand that will attract entry). Further, Memoria finds that the CMA does not control for other factors, such as slot length, that will also have an important effect on price.

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<sup>43</sup> CMA Funerals Market Investigation, *Crematoria Appendix: evidence on competition between crematoria*, para 13.

<sup>44</sup> CMA Funerals Market Investigation, *Consumer survey results*, Tables 25-28.

<sup>45</sup> CMA Funerals Market Investigation, *Consumer survey results*, para 89(c). Only two thirds of respondents reported that the deceased had lived within the CMA's proposed 20-minute drive time (33-minute cortege drive time) of the crematorium.

<sup>46</sup> CMA Funerals Market Investigation, *Crematoria: evidence on competition between crematoria*, Footnote 2.

<sup>47</sup> Competition Commission, *Suggested best practice for submissions of technical economic analysis from parties to the Competition Commission* (CC2com3), paras 17 and 18: "[w]hen presenting the results of statistical and econometric modelling in written submissions, parties should always include the appropriate diagnostic test results (t-statistics,  $R^2$ , etc);" and that "[i]t is good practice to test the robustness of econometric analysis—in other words, to test whether the results are sensitive to plausible changes in the assumptions."

#### d) Conclusions on local competition

In Memoria's view the factual evidence consistently points to a far wider impact of competition than the 30-33-minute cortege drive time catchment areas that the CMA has suggested (i.e. 18-20 minutes at normal driving speed). Specifically:

- Memoria monitors and responds to the price and quality decisions of rivals (and vice versa) on average [X] minutes away in normal drive times (and at a [X]-minute interquartile range), equivalent to a [X]-minute average and a [X]-minute interquartile range at cortege speeds;
- The CMA's own entry analysis of entry impacts on volume (adapted to add an additional time bracket) indicates that volume impacts are still substantial out to 30 minutes at normal driving speeds (50 minutes at cortege speed), and exist at lower levels even beyond a 40-minute normal drive time;
- The Survey evidence suggests that an 80% catchment is only obtained at 30 minutes based on normal driving times.

By contrast, none of the analyses purporting to show a lack of responsiveness to alternatives "out of area", or more generally that customers are unresponsive to price or quality differences or that crematoria do not compete on this basis are reliable, for the reasons set out above (specifically because they do not disentangle cause and effect in terms of the relationship between entry and price, or only take account of a single aspect of quality or price, rather than the broad suite of important drivers of family choice).

Overall, the Crematoria Papers demonstrate that the CMA has taken a self-serving and erroneous approach to its assessment of local competition between crematoria, and has continued to rely on flawed methodology not supported by the facts for drawing its conclusions, Memoria finds this deeply worrying in light of the price regulation remedies which the CMA is considering imposing on the entire cremation sector as a result.

#### 4) Customers do care about quality, and innovative offerings matter

##### a) The CMA's dismissal of quality is wrong

In the Outcomes Paper, the CMA gives the impression that all crematoria offer a similarly high quality of service, with few differences from crematorium to crematorium, or between local authority and privately-owned crematoria more generally. Therefore, the CMA suggests that customers pay little attention to quality factors because all crematoria essentially offer similar facilities and services.

Memoria strongly rejects this factual characterisation. Further, Memoria finds that key aspects of the evidence before the CMA contradict the CMA's view: chiefly (i) the Survey; and (ii) evidence on the behaviour and incentives of crematorium providers.

##### i) The CMA's own Survey indicates that quality is a fundamental issue for families

One striking feature of the Survey is the level of customer satisfaction with the quality of service that crematoria currently provide, which the CMA largely ignored.<sup>48</sup> Sixty-six percent of consumers said that their expectations had been met in full, and an additional 29% said that they had been exceeded.<sup>49</sup> Memoria believes that, given the excessive number of cremations being undertaken by many crematoria in the 1990s and the poor quality of

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<sup>48</sup> CMA Funerals Market Investigation, *Consumer survey results*, para 94.

<sup>49</sup> *ibid*, para 95.

many of those facilities even into the 2010s, a similar survey carried out even 10 years ago would not have had such a positive response.<sup>50</sup>

Contrary to the CMA’s conclusion that “only a small number of customers choose a crematorium that is not their closest and, when they do so, this is often for reasons unrelated to quality,”<sup>51</sup> the Survey results present a more balanced picture between quality and location, with quality in some cases taking the primary role. In fact, when considering the most important factors for customers in choosing a crematorium, the Survey shows quality factors as playing a very important role accounting for 45% of responses, compared to 49% for location factors (and 1% for price). Further, in calculating these totals, Memoria has conservatively allocated both “liked the location” and “easy for funeral guests to find/get to” responses as being indicative of location. But, in fact, these also combine some quality aspects that are influenced by the provider (e.g., may reflect road layout; ease of parking; attractiveness of surroundings; etc., as well as pure “location” factors).<sup>52</sup> Therefore, the weight of quality as the most important factor for customers in choosing a crematorium is likely to be even higher than indicated.

Table 2: Most important factors in choosing the crematorium used

Reason	%	Category	Category %		
It is the only local crematorium	34%	Location	49%		
The distance/ journey time/ location was convenient	10%				
I/we liked the location	3%				
Easy for funeral guests to find/get to	2%				
Personal experience of using it before, or of attending a funeral there	24%	Quality	45%		
Recommendation by the funeral director	4%				
They had availability around the time we needed them/wanted	4%				
It was an attractive/ peaceful/well maintained place/ buildings/gardens	3%				
Recommendation by family member(s)/ friend(s)/ neighbour(s)/work colleague(s)	3%				
Good reputation in the area	3%				
Good customer/user reviews/ratings	1%				
Its size/capacity	1%				
Offered choice of dates/days and times for the service	1%				
Better than the alternative crematorium	0%				
What the staff are like	0%				
Its value for money	1%			Price	1%
Its prices	0%				
It belonged to the funeral director or was selected by the funeral director	2%	Other	6%		
Don't know/can't remember	1%				
Wishes of the deceased	1%				
Another reason	1%				

<sup>50</sup> As evidenced by Memoria’s *Needs Assessment* for areas where it entered or attempted to enter, supplied in the appendices to Schedule 2 Annex A Question 7 of its response to the CMA’s RFI of 8 May 2019.

<sup>51</sup> CMA Funerals Market Investigation, *Crematoria: evidence on competition between crematoria*, para 6.

<sup>52</sup> This is roughly the same proportion observed in the smaller sample of 26 respondents who explicitly compared alternative crematoria, of whom “12 said that they compared on the basis of the attractiveness of the buildings and grounds [...] whereas 11 did so on the basis of location/proximity [...] five said that they compared on the basis of the availability of booking slots, four [...] compared crematoria fees” and other aspects of quality and facilities were mentioned by “four and one respondent respectively” (Competition Paper, para 28). That is, only 11 out of 26 respondents compared on the basis of location/proximity, whereas the majority (15) compared on a wider range of aspects of quality and price.

Reason	%	Category	Category %
No single reason/ all important	1%		

Source: Calculations based on CMA Funerals Market Investigation, *Crematoria Tables published 30/1/2020*, Table 328, Sheet T45. Conservatively Memoria has assumed that “NET: Any non-FD recommendation” double-counts “Recommendation by family member(s)/friend(s)/ neighbour(s)/work colleague(s)” and removed it from the total.

In summary, although many customers may have had a strong prior view on which crematorium they preferred (and may not have “shopped around” in relation to the last cremation they arranged), that view was not formed in the abstract. Instead, according to the facts before the CMA, it was based on the experience of quality, convenience and price that they had gathered themselves or from trusted others. If Memoria did not maintain high quality standards across its crematoria, then it would fully expect to lose business, and the factual results of the Survey strongly support this view.

Moreover, while the balance between location and quality is roughly 50:50 when families choose a crematorium (many of whom may not have had a prior personal experience of the crematorium in question), this balance tilts significantly in favour of quality when families are recommending a crematorium that they have actually used to others. In the Survey, 70% of respondents said they had recommended (or would recommend) the crematorium they had used to someone else (with the others generally saying it was inappropriate to do so, or not giving a reason, rather than saying they were dissatisfied with the service received).<sup>53</sup>

The CMA highlighted that most of these respondents noted the crematorium’s location (26%) and/or its attractiveness (16%) as the main reason for recommending it.<sup>54</sup> However, this is a grossly misleading summary in relation to the importance of quality, as it completely ignores the fact that the Survey disaggregated different aspects of quality into numerous categories (e.g. quality of facilities; capability to meet faith requirements; service professionalism; reputation; size/capacity; etc.), which was not done for location or price considerations to such a great extent.<sup>55</sup> As summarised in the Table 3 (*below*), the Survey results overall found that nearly two thirds of respondents listed some form of quality assessment as the main reason for recommending their choice of crematorium. Even compared against all location-related reasons for selecting a crematorium, that implies that over twice as many respondents would make a recommendation based on quality as opposed to location factors.

Table 3: Reasons for recommending the crematorium: grouped responses

Reason	%	Category	Category %
Attractiveness of building and grounds	16%	Quality	64%
General/nonspecific positive comment or endorsement (everything went smoothly/nothing went wrong)	12%		
Capable of meeting specific requirements of my faith	6%		
Quality of facilities (e.g. modern, well maintained)	6%		
Reputation/customer ratings	6%		
Standard of customer service/professionalism	5%		
Availability/waiting times	4%		
Size/capacity	3%		
Range of facilities (disabled access, parking, etc.)	3%		
What the staff are like	3%		
Better than the alternative crematorium	0%	Location	27%
Location/proximity	25%		
It’s the “family crematorium”	1%		
Only crematorium in the area	1%	Price	0%
Cremation fees/charges/cost	0%		
Another reason/no reason/refused/don’t know	9%	Other	9%

<sup>53</sup> CMA Funerals Market Investigation, *Consumer survey results*, paras 96 and 97.

<sup>54</sup> *ibid*, para 96.

<sup>55</sup> *ibid*, Table 28.



Source: Calculations based on CMA Funerals Market Investigation, *Crematoria Tables published 30/1/2020*, Table 387 Sheet T104. Note that the raw table appears to round all non-zero responses up to 1%: but in fact “Cremation fees/charges/costs” and “Better than the Alternative” only obtained 1 response each, which is less than 0.5% of responses, so should correctly round to zero. Memoria notes that the raw percentages reported in Table T104 sum to 103%: this has been renormalized to 100% in the percentages reported above.

Those who have recent experience of using a crematorium therefore focus very much on quality factors when thinking about why they would recommend that crematorium to somebody else. A family who has a disappointing experience of a crematorium will not recommend it to others, significantly damaging that crematorium’s chances of future success. This is why Memoria places such emphasis on obtaining a consistently high quality of service across all its sites (as reflected in its uniformly high Trustpilot ratings).

In order to test the extent to which quality is an important metric for customers, Memoria has reviewed the Google reviews available for its own crematoria and those of its local rivals in each area. These results are set out at a site-by-site level in Appendix 3 to this response, but the overall findings across all Memoria and rival sites are summarised in Table 4 (*below*).

*Table 4: Summary of Google reviews for Memoria and rival crematoria*

Crematorium	Reviews with comments	Reviews mentioning quality	% of total	Reviews mentioning poor quality	% of total
Memoria (10)	210	172	82%	10	5%
Rivals (38)	187	122	65%	29	16%
<b>Total (48)</b>	<b>397</b>	<b>294</b>	<b>74%</b>	<b>39</b>	<b>10%</b>

It can be seen that, contrary to the impression given by the Crematoria Papers, a large majority of reviews mention quality (particularly for Memoria for whom where this is true 83% of the time, but also for rivals for whom quality is mentioned 65% of the time). There is also a significant number of cases where customers mention poor quality (16% of entries across all rivals, though only 5% of entries for Memoria). This suggests that, while quality is clearly particularly important for Memoria, it is also an important consideration for customers in general, and customers are more than willing to voice their complaints in feedback after the event. Those are the relevant facts.

ii) Slot length is clearly of value to families and funeral directors

Memoria notes that the CMA has recognised the value that many customers place on slot length, and that some local authorities have increased the length of their slots in response to local demand.<sup>56</sup> Slot lengths have increased considerably in recent years (see Figure 1, *below*). In particular, the proportion of sites offering 30-minute slots has fallen from 42% to 11% between 2007 and 2019, whereas the proportion of 40-45-minute slots has increased from 44% to 50%, and the proportion of 50-60-minute slots has increased from 7% to 31%.

This reflects an increasing number of families who want to undertake a full memorial service together with the cremation, rather than holding a separate service in church earlier in the day (as was traditionally the case). It also reflects the increasing emphasis that many customers place on having significant time and space around their service to ensure a private event for their family, without crossing paths with other grieving families using the same facilities before and after their service (the so-called “tragic conveyor-belt”).

<sup>56</sup> CMA Funerals Market Investigation, *Crematoria: outcomes*, para 55 and Footnote 37.

Figure 1: Changes in crematoria booking slot times between 2007 and 2019



Source: Survey of Crematoria in the British Islands 2019, The Cremation Society.

This slot length increase has allowed families more and more to hold a single service at the crematorium to remember their loved ones, rather than holding a short crematorium committal preceded by a longer church service. Memoria is of course aware that a mix of preferences still exists. In 2019, over 80% of Memoria's bookings were for a full service rather than only a committal. By contrast, this figure was only 60% just 5 years ago in 2014.

However, Memoria believes that this increase in slot lengths has not arisen simply due to crematoria behaving independently of their rivals and responding to local demand, but it can be linked directly to competitive interaction between crematoria in many cases. This type of competitive interaction can be seen in the slide pack provided at Appendix 5 to this response, which summarises local competitive conditions at Memoria's six longest established sites (i.e. those with an established history of competitor comparisons and price changes). The slides (which include information that Memoria presented to the CMA at the Hearing of 10 July 2019) show several instances of rivals increasing slot lengths after Memoria's entry, including:

- Thornhill (competing with Memoria at Cardiff & Glamorgan) increased slot times from 30 to 45 minutes in 2013;
- Kettering (competing with Memoria at South Leicestershire) increased slot times from 40 to 60 minutes in 2020;
- Markeaton (competing with Memoria at Amber Valley) increased slot length from 40 to 60 minutes in 2019;
- Banbury (competing with Memoria at South Oxfordshire) increased slot times to 60 minutes in 2019; and
- Swindon (also competing with Memoria at South Oxfordshire) introduced 40-minute slots (rather than just 30 minutes) in 2019.

iii) Memoria's business strategy (based on high quality attracting "battleground" customers)

Memoria's success as a cremation services provider is evidence that many customers do place a priority on quality. Although Memoria accepts that some families in specific circumstances will choose a crematorium with

which they have an existing relationship, this will only give such facility a competitive advantage if it continues to provide a good quality of service.<sup>57</sup>

Moreover, if the only important factors driving choice of crematorium were (i) which crematorium is closest and (ii) which crematorium the family has used before, then Memoria would have not been able to convert:

- high (and increasing) shares of “core” area cremations; and
- significant shares of “battleground” cremations soon after entry (on average 40% across its sites).

The fact that Memoria is usually successful in winning a significant share of these “battleground” cremations, where not only was it the family’s “historic” crematorium but is also not the closest available crematorium, clearly shows that location is not always the determining factor in families’ choice of crematorium. This is particularly true over time as a new facility builds a reputation. Table 5 (*below*) summarises Memoria’s “core” and “battleground” shares of overall cremations at each of its sites in 2018. It can be seen that on average across all sites its “battleground” percentage is high, at 40% (i.e. a substantial proportion of demand comes from outside those areas where Memoria has a locational advantage). Given how recently Memoria entered in many of these areas, these high proportions of “battleground” sales are irreconcilable with the CMA’s assertion that quality is unimportant, and that families choose crematoria primarily based on family history/connections and location. In fact, neither family history/connections nor location would sway significant numbers of “out-of-area” families towards Memoria sites. Memoria does not recognise the CMA’s factual characterisation on this point.

Table 5: “Core” versus “Battleground” cremation ratios by area (2018)

Site	Entry	Core	Core %	Battleground	Battleground %
South Oxfordshire (SOCM)	2015	639	46%	750	54%
Waveney (WMC)	2015	585	51%	573	49%
Amber Valley (AVM)	2014	631	51%	615	49%
South Leicester (SLM)	2015	704	57%	529	43%
Denbighshire (DMC)	2016	718	60%	483	40%
North Hertfordshire (NHM)	2017	695	72%	271	28%
Cardiff & Glamorgan (CGM)	2011	775	73%	291	27%
Kirkleatham (KMC)	2014	968	80%	240	20%

Source: FD by Area files submitted by Memoria in response to the CMA’s RFI of 8 May 2019.

N.B. Flintshire is excluded as it opened in summer 2018, and therefore does not have a full year of data. As noted above, these figures take account of a sub-district level assessment, and include all non-“core” customers as “battleground”, and therefore are more reliable than the CMA’s alternative processing of Memoria’s raw figures.

Based on its experience of the facts, Memoria expects that private operators (with their generally higher quality offer) would tend to have a higher proportion of customers from out of area. Therefore, Memoria believes that private operators having approximately 33% of “out-of-area” customers at their facilities (and a higher proportion for Memoria, at around 40%) is not necessarily inconsistent with the Survey results, where only 14% of respondents stated that they did not use the closest crematorium.<sup>58</sup> Unfortunately, given that the Survey did

<sup>57</sup> Memoria notes that, although families may have a stronger tie to an existing crematorium if they have interred remains or installed a memorial there, this is in fact a relatively small proportion of families. Most families choose to take their loved ones’ remains away to be scattered elsewhere. Memoria notes that FBCA estimates that “for around three-quarters of those cremated their ashes will be collected by family members” (CMA Funerals Market Study, *Final Report*, para 5.6). This is consistent with Memoria’s experience (at around 20-25% including scatterings without any memorial)

<sup>58</sup> CMA Funerals Market Investigation, *Crematoria: evidence on competition between crematoria*, para 46 and Footnote 59; and CMA Funerals Market Investigation, *Consumer survey results*, Question C11: “So far as you are aware, is this the closest crematorium to where the deceased person lived?”

not even ask respondents which crematorium they used, it is not possible to distinguish between private and local authority sites in interpreting the Survey results.

As shown earlier in section 3(a) of this response (*above*), there are generally significant centres of population (and funeral directors serving those populations) served by more than one crematorium, with no obvious locational advantage for one or the other, even among customers who would be defined as “core” (e.g., where Memoria’s crematorium is a 20-minute drive away, but another rival is 30 minutes away). [REDACTED].

Table 6 (*below*) creates a hypothetical model of Memoria’s P&L based on forecast models created for two of its sites with typical proportions of “core” and “battleground” customers at around the group average.<sup>59</sup> In each case, Memoria presents both the modelled P&L for 2019 and for the first year in which the site was forecast to reach [REDACTED] ([REDACTED] at North Herts; and [REDACTED] at Waveney). It also presents the synthesised P&L in a situation where Memoria lost its “battleground” customers and was only able to attract “core” customers.

Table 6 shows for each site 2019 and [REDACTED] revenue and cost line items. For simplicity, the calculation assumes that income and direct costs (including the cost of memorials) are to fall proportionately with the number of cremations ([REDACTED]), while other costs would remain fixed. These are:

- **Payroll:** This covers the cost of a manager; operational salaries of three full time members of staff (i.e. an administrator; a chapel attendant/cremator operator; and a head of grounds maintenance, all of whom have the skills to interchange, plus any cover requirements); employers National Insurance; and a contribution to central administration staff costs. It also includes sales commission, though this is small.
- **Administration costs:** travel; advertising and PR; printing; postage and stationery (“PP & Staty”), telephone; bad debts; irrecoverable VAT; Rockpool fees (to cover the costs of Rockpool sitting on Memoria’s board and providing strategic guidance); and miscellaneous.
- **Property costs:** rates; insurance; cremator maintenance; property repairs; water and electricity; refuse collection and gardening services; and depreciation. Note: Memoria depreciates buildings over a 50-year period, rather than over a 100-year period assumed by the CMA (which Memoria does not consider credible).

Table 6: Impact of loss of “battleground” customers on viability of Memoria crematoria

	North Herts Memorial				Waveney			
	Forecast		Core only		Forecast		Core only	
	2019	2021	2019	2021	2019	2020	2019	2020
Cremations	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Total Income	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Income/cremation	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Direct Costs	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
D.Cost/cremation	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Payroll	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Cost of Memorials	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Administration Costs	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Property Expenses	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
<b>Gross margin</b>	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
<b>% reduction</b>			[REDACTED]%	[REDACTED]%			[REDACTED]%	[REDACTED]%

Source: sensitivities to files submitted to the CMA, S1 AA Q4 App 9\_Waveney Model 2014 09 16.xlsx and S1 AA Q4 App 7-North Herts Memorial Model 2016 04 29 AGREED MODEL.xlsx, supplied in response to CMA RFI of 8 May 2019

<sup>59</sup> Memoria would be happy to provide equivalent calculations for its other sites on request if the CMA would find that helpful.

It can be seen that, at both crematoria, this approach would [REDACTED], even at gross margin level (i.e. prior to financing costs and taxation). Moreover, [REDACTED] (in [REDACTED] and [REDACTED] respectively), a [REDACTED]% would [REDACTED]% for North Herts Memorial, and by [REDACTED]% for Waveney. [REDACTED]. For example, even if [REDACTED]% for North Herts and [REDACTED]% for Waveney. Even if, [REDACTED]% and [REDACTED]% respectively. [REDACTED].

It can therefore be seen that in both cases these marginal “battleground” customers are absolutely critical to earning a return that can start to compensate investors for the high levels of capital employed (bearing in mind that according to the CMA’s own analysis, [REDACTED]).<sup>60</sup> Even on the assumption that some staff costs and investment costs could also be saved, if Memoria were not attempting to attract customers from outside its “core” area, the amounts involved would be minimal given that land costs would be unchanged, and building costs would only be reduced by a modest amount.

If Memoria did not offer a quality of service and price combination that allowed it to draw customers from beyond its “core” area, and if customer decisions were primarily driven by location and family history rather than also by quality and price, Memoria would simply not have been able to create a successful business. An alternative strategy of providing worse service and facilities, and simply relying on “core” customers, would be bound to fail.

Finally, Memoria has already made multiple references in this response to the documents it uses internally to monitor the price and quality of the offering of local rivals to each of its crematoria.<sup>61</sup> The CMA will have seen from these documents that Memoria includes a detailed review of the quality of rival facilities and service offerings (including any changes they have made in the last year), and discusses these in the context of setting its own prices. If quality were not important to the decision made by families about which crematorium to use, then this information tracking exercise and these discussions in pricing documents would be unnecessary.

iv) Conclusion: all the factual evidence confirms that quality is a critical driver of family choice

In light of these considerations, Memoria believes that the CMA and the Crematoria Papers are fundamentally misleading insofar as they dismiss the critical importance of quality to families.

b) The CMA’s lack of attention to innovative offerings is a critical oversight

In light of the Survey results, which found overwhelming customer satisfaction with crematoria, Memoria finds it remarkable that the Crematoria Papers pay little factual attention to new developments in “non-standard” services.

Both the Survey, and the cremation sector’s experience in the UK and abroad, shows that the increasing differentiation of the offer made to families has a huge value in enabling customers to find the best way to remember their loved ones in a way that reflects their own personal circumstances. This, in addition to the quality improvements set out above, has at least three aspects:

- the offer of a **discount for off peak services** (e.g. early-morning slots, where Memoria discounts for 9am and 10am starts), which were introduced across all Memoria sites in 2014, and are increasingly being also offered by rivals;
- the introduction of Memoria’s **Low Cost Funeral** service in 2016, whereby families can arrange a funeral directly with Memoria, without incurring additional costs associated with a funeral director; and
- the increasing popularity of **Direct Cremations** (arranged directly with the crematorium), including **unattended** Direct Cremations.

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<sup>60</sup> [REDACTED].

<sup>61</sup> Memoria: competitor price comparison, Schedule 2 Annex A Question 15 Appendices 1-22, supplied in response to CMA RFI of 8 May 2019.

All these offers have been driven by competition (particularly from new entrants attempting to achieve sufficient utilisation for their sites to cover the substantial capital investments involved in setting up a new crematorium). Further, all of these represent trends that continue to grow. While the CMA appears to dismiss these alternative offerings as minor in volume terms (making up 8% of cremations in 2018),<sup>62</sup> these offerings are relatively new to the UK market and are growing in take-up. The provision of these innovative offerings will keep expanding in the future and the CMA must therefore be mindful of not imposing a pricing remedy that has the unintended consequence of deterring the development of those innovative offerings that increase consumer benefits, choice and quality.

i) Discounts for off-peak services

Memoria started to offer lower prices for off-peak slots (i.e. early morning) in 2015. The practice has since been increasingly adopted across the industry, although it is not yet ubiquitous (as can be seen from the local area summaries provided in Appendix 5 of this response). The discounting of early slots provides a clear benefit to consumers: it provides those who are willing to accept somewhat less popular slots with the same high quality of service and facilities available at all other times at a reduced price.

ii) Low Cost Funerals

Memoria has already explained to the CMA how it identified the need of families wanting a simpler and lower cost funeral that would allow them to attend a simple pre-planned service without the costs associated with a funeral director. This was behind the launch of its Low Cost Funeral service in 2016, whereby consumers can arrange the entire funeral including an attended service at either a Memoria or alternative crematorium, with collection of the body and delivery of the remains, at a price of £1,850. This is significantly below the supposed average cost of a funeral of £4,300 reported by the CMA.<sup>63</sup>

iii) Attended and unattended Direct Cremations

Memoria has also explained to the CMA its different offerings of Direct Cremation, both attended and unattended. With attended Direct Cremation families can opt not to use a funeral director, and plan the funeral themselves by electing to purchase services from the full menu offered by a Memoria crematorium (e.g. music; eulogies; etc.).<sup>64</sup> With unattended Direct Cremation instead, families can opt to celebrate the life of their loved ones somewhere different than the crematorium, privately, or not at all. This allows them to pay an even smaller price as the cremation can be carried out at off-peak times, without the presence of family and friends, and not necessarily at a local facility.<sup>65</sup>

Memoria believes that the CMA has significantly underestimated the trend towards Direct Cremation. In fact, Memoria has been trying to bring this fact to the CMA's attention since Phase 1 of this Funerals Market Investigation.<sup>66</sup> As there were very few non-standard cremations prior to 2016, Direct Cremations have shown a fast rate of growth, and Memoria would expect this growth to continue and accelerate as customers become more aware of alternative options.

Memoria understands that Direct Cremations account for around 20-30% of cremations in both Australia and the United States, where these services have been available for closer to 10 years, rather than only three in the UK. There is evidence before the CMA that their popularity in the UK continues to grow.<sup>67</sup> Despite this fast increase in take up, the CMA has largely ignored the trend in uptake of Direct Cremations, and only considered

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<sup>62</sup> CMA Funerals Market Investigation, *Crematoria: background and market structure*, para 7. In its definition of "non-standard" services, the CMA appears not to include low cost funerals (i.e. conducted without an intermediary funeral director).

<sup>63</sup> Transcript of CMA hearing with Memoria Limited held on Thursday, 18 July 2019, page 7 lines 9-25.

<sup>64</sup> *ibid*, page 36 lines 24-25 and page 37 lines 1-13.

<sup>65</sup> *ibid*, page 40 lines 8-23 and page 41 lines 9-20.

<sup>66</sup> Memoria's response to CMA Interim Report on funerals/cremation industry of 31 January 2019, page 8.

<sup>67</sup> See, e.g., <https://www.theguardian.com/money/2018/sep/08/david-bowie-direct-cremations-cost-funeral>.

non-standard cremation services in light of their current proportion of total cremations (quantified by the CMA at 8%).<sup>68</sup>

Memoria believes that the rate of Direct Cremation, in its many and cheaper forms, will continue to increase due to the deaths of the “baby boomer” generation (with their little regard for tradition), and the lack of religious faith and a higher number of people with “middle class thinking”.

As mentioned above, similar trends in Direct Cremation have already been recorded in mature cremation markets abroad. Therefore, Memoria strongly believes that Direct Cremation in the UK can only increase its share of the market (which Memoria assesses currently at 10%). The CMA’s failure to recognise and acknowledge this trend in its analysis exacerbates its serious factual misunderstanding of the cremation sector.

Memoria strongly believes that these alternative pricing structures and service offerings have begun to provide valuable choice to families for the first time. Although these services are already growing in popularity, interventions to increase the availability of such options could provide significant value to customers. The CMA should ensure not to impose any remedy, such as blanket price regulation, that may stifle the development and uptake of these innovative offerings, which have benefitted and would otherwise continue to benefit customers seeking lower prices and a service tailored to their specific circumstances.

#### iv) Conclusion: the double detriment from failing to recognise innovative offerings

Memoria has led the way in offering new and innovative services focused on meeting the changing landscape of the cremation sector, and the increasing need for differentiated, quality-based offerings. Memoria has also witnessed others, both local authority and private providers, increasingly looking to improve their offerings to meet these needs, which factually supports the conclusion that there is growing demand. The CMA must therefore acknowledge the significance and importance of these innovative offerings both in relation to the AEC and when designing any remedy package. Failure to do so (e.g., by imposing one-size-fits all pricing regulation), would result in a **double detriment**: providers such as Memoria would be disincentivised to continue investing and other providers in the market would be disincentivised to start investing.

### 5) Concluding comments on the Crematoria Papers

Based on the facts and analysis presented above, Memoria has significant and well-grounded reasons to believe that the CMA’s cremation market analysis laid out in the Crematoria Papers is fundamentally flawed.

Chiefly, Memoria believes that the CMA:

- has erred in its approach to assessing local competition between crematoria and has continued to rely on flawed methodology in drawing its conclusions, whilst ignoring all evidence to the contrary that Memoria has provided;
- has used unduly narrow measures of concentration, ignoring evidence showing how Memoria’s sites face competition from distant rivals, too, and has thus failed to recognise the significant benefits that actual competition has brought to consumers;
- has ignored, misinterpreted and/or distorted evidence submitted by Memoria showing how it sets its prices to compete with rivals, thereby dismissing the existing competitive interactions in the cremation market, despite its own analysis not excluding the existence of competition between crematoria on price and/or quality;

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<sup>68</sup> CMA Funerals Market Investigation, *Crematoria: background and market structure*, para 7; and CMA Funerals Market Investigation *Remedy options for regulating the price of crematoria services*, paras 51-52.

- has erroneously and misleadingly dismissed quality as an important driver of customer choice, ignoring the results of its own consumer Survey showing that families value quality, and despite evidence that crematoria vary in the quality of service that they offer;
- has overlooked crematoria's innovative and "non-standard" offerings, such as alternative pricing structures, thereby ignoring the diverse and valuable choice they provide to families, as well as families' right to choose what is right for them; and
- has erroneously interpreted the cremation sector's historical development and market background, and reached a misleading conclusion that ignores how artificially low prices can lead to a vicious cycle of underinvestment and low quality, which is always bad for consumers.

Rather than starting with the presumption that price regulation is the only solution, and then framing the problems to match that solution in a self-serving way, the CMA must instead recognise that in reality competition has delivered significant consumer benefits in recent years. These include, capacity, quality, and a wider choice of services at different price points (including lower prices). Therefore, the CMA must consider that there is scope for competition to be encouraged to deliver more benefits through market mechanism, rather than replacing it with regulated prices.

In doing so, Memoria urges the CMA to bear in mind the risks of **excessive and/or poorly devised regulation to restrict prices without taking account of quality differences or the critical need for further investment in the sector**. This would have a chilling effect on efficient investment and cause a failure to maintain the improvement in both capacity and quality levels seen in recent years, which will need to continue in the future. In such a scenario there is a risk that the sector would regress to the vicious cycle of underinvestment, poor quality, and low prices of the 1970s-1990s with the associated loss of relevant consumer benefits.

3 March 2020



## Appendix 1: Historical perspective and the importance of future investment

### 1. Substantial investments have been required to overcome significant failings in the crematoria market by the 1990s

The CMA is correct in stating that the demand for cremations has increased substantially in recent years, from 35% of deaths in 1960 to 75% by 2018.<sup>69</sup> Figure 1 of *Crematoria: background and market structure* shows that the initial historical demand was met by a wave of local authority investment in the 1950s and 60s, followed by a period of underinvestment from the 1970s to the mid 1990s. This lack of investment resulted in the number of cremations conducted per crematorium increasing from under 1,400 in 1960 to a peak of nearly 2,000 in 1993.

Memoria has already provided the CMA with evidence of how such underinvestment put pressure on crematoria and caused general consumer dissatisfaction with long waiting times and high utilisation of crematoria sites.<sup>70</sup> One notable example from 2011 in the Amber Valley (prior to Memoria's market entry in the area) saw local residents served by four crematoria that were marred by serious quality issues, including:

- difficulties in obtaining a preferred slot for a cremation service;
- low quality of the crematorium buildings, grounds, and memorial facilities, leading to traffic flow issues (the so-called "tragic conveyor-belt");
- low levels of service, including the inability of existing sites to accommodate larger coffins; and
- traffic and congestion issues on routes to existing facilities leading to longer journeys.<sup>71</sup>

This proves that the long period of low prices and high utilisation that ended in the late 1990s was not good for consumers. Rather, low prices were both a cause and a consequence of a lack of investment, which brought high rates of customer dissatisfaction with run-down facilities and poor quality of service.

Private sector investment picked up significantly in the 2010s in response to the introduction of new EU mercury-abatement regulation. This prompted both investment in upgrades of existing sites, and the development of new sites (e.g., where existing sites simply didn't have sufficient space to allow for the upgrade). Examples of these upgrades and new investments (and the reasons given for them at the time) are included in Appendix 2 and Appendix 5 to this response. Memoria entered the cremation market in Great Britain at that time, taking part in the wave of private investment that began to fill the gap between demand and supply. This wave of investment resulted in the average number of cremations conducted per crematorium falling from the peak of nearly 2,000 in 1993, to below 1,600 per annum in 2010-2012.

Memoria and other private sector operators were instrumental in bringing about this much needed investment. Only 4% of local authorities' sites were built in the last 10 years against 20-100% of private operators' (100% of Memoria's sites).<sup>72</sup> Notably, during the time of Memoria's investments the number of cremations per crematorium in the UK has started to increase once more. This has happened despite an increase in the number of crematoria offering longer slots (the proportion of crematoria offering a one-hour slot has increased from 7% to 31% between 2007 and 2019; conversely those offering only a half-hour slot decreased from 42% to 11% in the same period). Therefore, capacity utilisation at crematoria has increased in recent years, and did so particularly in the period of Memoria's main investments (from 2014 to 2019 inclusive). Capacity utilisation is also expected to continue to increase in the future, unless a significant number of new crematoria are built.<sup>73</sup>

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<sup>69</sup> CMA Funerals Market Investigation, *Crematoria: background and market structure*, para 4.

<sup>70</sup> Memoria: (multiple) Need Assessments supplied to the CMA in response to the CMA's RFI from 8 May 2019.

<sup>71</sup> Memoria: Amber Valley Memorial Park Qualitative Need Assessment: S2 AA Q7 App 2\_AV Memorial Park\_Qualitative Need Assessment.pdf supplied in response to CMA RFI of 8 May 2019.

<sup>72</sup> CMA Funerals Market Investigation, *Crematoria: outcomes*, para 67.

<sup>73</sup> Based on current ONS death forecasts, even with declining death rates, and even assuming that the cremation rate does not increase further, there will be on average 5,000 additional deaths per annum over the next 20 years: requiring 2-3 new crematoria to be built each year to keep up with demand.

a) The importance of investment in new capacity: historically and in the future

Figure 2 (*below*) summarises these historic trends in average numbers of cremations per crematorium over time. It also plots a forecast level of cremations per crematoria if no new crematoria were to be built in future years, and the proportion of cremations were to remain at 2019 levels (rather than continuing its historic upward trend).

Figure 2: Average number of cremations per crematorium 1960 – 2043

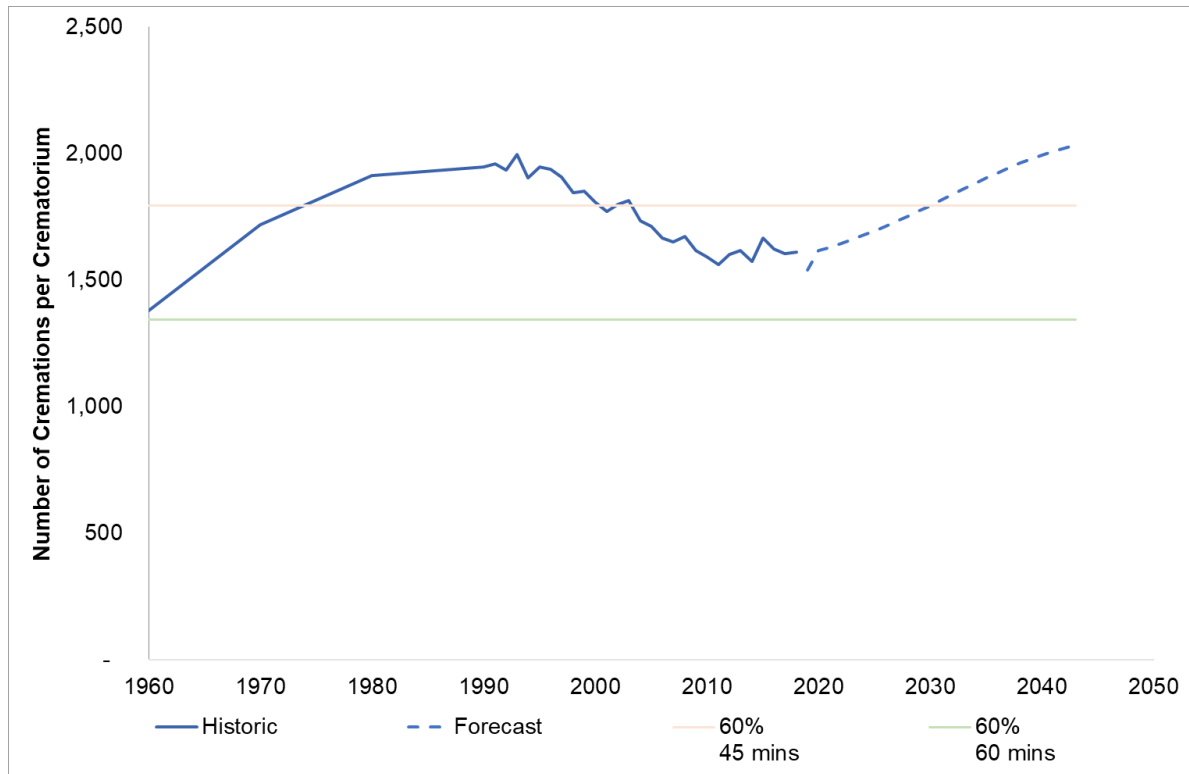


Figure 2 also overlays some capacity benchmarks based on the CMA’s statements on capacity. These range from under 1,400 per annum if a crematorium were to operate at 60% of theoretical capacity using 60-minute time slots, up to nearly 1,800 if a crematorium were to operate at 60% of theoretical capacity using 45-minute time slots.<sup>74</sup>

It is notable that the CMA’s upper range 75% figure for “practical” capacity utilisation appears to be based on an assumption that all core hours (and no non-core hours) would be used. Memoria finds this assumption unrealistic on two grounds:

- it is neither practical nor desirable for all core slots to be fully utilised. This is particularly the case if slots of 45 minutes or shorter are offered, limiting time available to clean and refresh the chapel between services, to offer visits, etc.; and
- this takes no account of the seasonality of demand and would result in substantial waiting times for core hours during the busiest time of the year.

In relation to off-peak slots, Memoria has made significant efforts in recent years to improve the utilisation of less popular time slots. This was done both by expanding its Direct Cremation operation (including the offer of highly discounted unattended services), and by offering a discount for early slots (as described in greater detail in relation to innovation in section 4(b) of the main response). However, while lower prices can encourage

<sup>74</sup> Based on the assumption that a crematorium operates from 9am-5pm Monday to Friday and 9am to 12 noon on Saturday.

greater use of these early morning slots (starting at 9am and 10am), practical reasons will likely always result in greater utilisation of peak slots (and certainly this remains the case today).

Memoria also notes that the CMA has referenced various statements from market participants (including Memoria) about the difficulty of finding commercially viable investment opportunities in this sector at present, as well as an FCBA statement suggesting that only around 10 more opportunities are left in Great Britain to introduce new crematoria with viable prospects.<sup>75</sup> However, Memoria points out that these statements only relate to the ability of current supply to meet current demand.

In reality the number of deaths in the UK each year (and the associated cremation rates) are likely to continue to climb. It can be seen from the forecast in Figure 2 (*above*) that in the absence of new investment, utilisation will continue to increase from present levels and up towards the problematic levels seen in the 1980s, 1990s and 2000s. It will be critical both that investment in new sites continues, and that existing sites continue to innovate (e.g., by offering discounted rates for early time slots and unattended funerals to make the best use of existing capacity). It is therefore incumbent upon the CMA to ensure that the proposed remedy package supports rather than hinders existing, and future investment and innovation in the cremation market.

However, the issue of entry impact does not end with investment in new crematoria. Both private and public investment in existing crematoria continue to improve the level of service that those facilities offer to families, despite the recent increase in site utilisation. The CMA's own findings support this view, as private operators invested on average £677,000 per existing crematorium in the past five years, compared with a typical £384,000 spent by local authorities.<sup>76</sup>

Despite these typically lower levels of spend, local authority crematoria have invested in improving or renewing their facilities (as can be seen from the examples set out in Appendix 2 and Appendix 5 to this response, covering both local authority and private investments), where local authority investments include both refurbishments and expansions of existing sites, and the building of new green field crematoria.

This is consistent with the CMA's own evidence, whereby some local authorities that have experienced entry (i.e. Derby City, Trafford, and Swindon Councils) have told the CMA that it made them consider their offer and pushed them to make service improvements by comparing their facilities to those offered by entrants.<sup>77</sup>

The competitive pressure that local entry brings to certain areas cannot be disregarded.

#### b) There remain problems with lack of capacity and service quality in many areas today

Finally, Memoria notes that despite all the investments and improvements made to crematoria in recent years, there remain some areas of poor provision and service. This can also be seen from the news stories listed in Appendix 2 to this response, which often cite long waiting times or poor facilities as a justification for making new investments. Therefore, it remains of critical importance to allow competition to develop and investment to continue and not be stifled, so that these remaining problems can be solved.

## 2. Conclusion: the importance of future investment

Taking account of the evidence presented above, it is paramount that current investment in improving and maintaining the existing fleet of crematoria is not stifled by rigid and excessive regulation. Any remedies imposed by the CMA should instead foster such investment.

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<sup>75</sup> CMA Funerals Market Investigation, *Crematoria: background and market structure*, para 70.

<sup>76</sup> CMA Funerals Market Investigation, *Crematoria: outcomes*, para 62.

<sup>77</sup> CMA Funerals Market Investigation, *Crematoria: evidence on competition between crematoria*, para 113 and Footnote 100.

Memoria strongly believes that only by encouraging and securing the investment needed to innovate and improve current crematoria, in addition to building new sites, can the supply of cremation services meet future demand.

Appendix 2: news stories on crematorium service provision

Location	Year	Description of investment improvement/need
Lea Fields	2020	“Opened in January 2020, Lea Fields Crematorium is situated on the hillside of Lea, just outside of Gainsborough. ... The £6.3m site is state-of-the-art and includes landscaped grounds, remembrance gardens filled with young trees and wildflower meadows, a reflection pool, well-lit car park with CCTV for 120 vehicles and ample space for further development if necessary; to include a second chapel if there is demand. ... The council took the decision to create it after statistics showed that 75% of funerals are now cremations, with reports of people having to wait for up to four weeks.” <sup>78</sup>
Barnstaple	2019	“The crematorium's original chapel, the Aspen chapel, will undergo a major refurbishment after getting approval from North Devon Crematorium Joint Committee. The committee, made up of councillors from North Devon and Torrridge councils, agreed the scheme of work, which includes replacing or refurbishing every element of the chapel, enhancing disabled access and adding infrastructure for benefits such as web casting, recording and video tributes. ... The upgrade is the second major investment in the facilities at the crematorium - the 256 seat Rowan chapel opened in 2016.” <sup>79</sup>
Bradford	2019	“The refurbishment is part of the council's £17m bereavement strategy, which will see the crematoria at Nab Wood and Scholemoor closed and replaced with two new ones at sites that are yet to be revealed.” <sup>80</sup>
Cardiff	2019	“The investment we’re making in modernising the facilities will mean that the bereaved get to say their final farewells in surroundings that are more sympathetic to the occasion. Every year almost 3000 funerals take place at Thornhill Crematorium. That adds up to a lot of people going through what can be an incredibly difficult and incredibly emotional time in our chapels. We want to do everything we can to make their experience, and that of the deceased, as dignified as possible, and the upgrades being made will go a long way to making that happen.” <sup>81</sup>
Cardross	2019	“Major work being carried out at Cardross Crematorium will lead to improved access, as well as providing better toilet facilities.” <sup>82</sup>
Cheltenham	2019	“Following major £8.5m redevelopment works, Cheltenham’s new state of the art crematorium at Bouncer’s Lane Cemetery opened to the public in March 2019. The redevelopment saw two new Cotswold stone chapels built, and sympathetic landscaping of the site which has been planted with shrubs and wildflowers to complement the tranquil spaces around the buildings and views towards the escarpment. The new chapels, just to the east of the former crematorium building, have seating for 150 people and 75 people respectively.” <sup>83</sup>

<sup>78</sup> <https://premierconstructionnews.com/2020/02/17/lea-fields-crematorium/>

<sup>79</sup> <https://www.northdevongazette.co.uk/news/barnstaple-crematorium-refurbishment-2019-1-5821499>

<sup>80</sup> <https://www.bbc.co.uk/news/uk-england-leeds-48511066>

<sup>81</sup> <https://www.cardiffnewsroom.co.uk/releases/c25/21961.html>

<sup>82</sup> <https://www.argyll-bute.gov.uk/news/2019/feb/improvement-work-cardross-crematorium>

<sup>83</sup> [https://www.cheltenham.gov.uk/info/57/deaths\\_funerals\\_and\\_cremations/1332/cemetery\\_and\\_crematorium\\_development\\_project](https://www.cheltenham.gov.uk/info/57/deaths_funerals_and_cremations/1332/cemetery_and_crematorium_development_project)

Location	Year	Description of investment improvement/need
		“Work has finally started on building Cheltenham’s new crematorium chapels as part of an £8.5 million project. ... “When I took the cabinet job three years ago I spoke to Rob about what we did about the existing facilities which were becoming not fit for purpose,”” <sup>84</sup>
Darlington	2019	“The proposed design for the new chapel will enable an increased capacity from that of the existing chapel to enable 120 people with flexibility to increase services of around 200 people with the inclusion of external covered viewing and internal waiting areas for larger services. The chapel design is proposed to provide a light modern space with natural ventilation and view out to the gardens to help provide a sensitive and natural calming environment.” <sup>85</sup>
Dewsbury	2019	“The refurbishments include a new canopy at the front entrance, installation of a covered flower terrace, a renewed pathway leading to the Book of Remembrance and resurfacing of the main car park on the site. Coun Cathy Scott, Cabinet member for Place, said: “I would like to thank the officers involved for their hard work on this project. “The refurbishments to the crematorium have significantly improved its appearance and usability, making it a fitting place to say goodbye to loved ones.” <sup>86</sup>
Distington	2019	“he overhaul features an enlarged opening between the chapel and lobby to allow for extra seating for larger funerals and a new covered entrance canopy where guests can congregate. The plans also include a covered exit walkway with a designated area for floral tributes; the refurbishment of the chapel and other public areas; the creation of a private meeting area; new toilets and improved staff areas.” <sup>87</sup>
Hinckley	2019	“With the nearest available crematorium currently located in Nuneaton, the proposed crematorium development will provide an alternative affordable cremation facility with reduced waiting times for services and reduced travelling times for Hinckley and Bosworth residents.” <sup>88</sup>
Lincoln	2019	“Lincoln’s 50-year-old crematorium will undergo a refurbishment, including building a second chapel, in an effort to breathe new life into the service. City of Lincoln councillors last night approved the plans which will see the Washingborough Road facility “become more welcoming” ... Councillors on the authority’s planning committee welcomed the plans and said that the refurbishment to the crematorium was “long needed”.” <sup>89</sup>
Oakworth	2019	“Over £2.75 million will be spent on upgrading Oakworth Crematorium, a scheme that will include installing a new, more environmentally friendly cremator, a new “winter garden” area and improved layout.” <sup>90</sup>

<sup>84</sup> <https://www.gloucestershirelive.co.uk/news/cheltenham-news/work-begins-new-crematorium-facilities-564492>

<sup>85</sup> <https://www.darlington.gov.uk/your-council/consultations/west-cemetery-crematorium-refurbishment/>

<sup>86</sup> <https://www.batleynews.co.uk/news/people/dewsbury-moor-crematorium-reopens-after-260k-revamp-1-6902580>

<sup>87</sup> <https://www.timesandstar.co.uk/news/17797470.changes-cards-crematorium/>

<sup>88</sup> <https://www.hinckley-bosworth.gov.uk/press/article/2023/plans-approved-for-new-hinckley-crematorium>

<sup>89</sup> <https://thelincolnite.co.uk/2019/07/green-light-for-lincoln-crematorium-refurb/>

<sup>90</sup> <https://www.thetelegraphandargus.co.uk/news/17857858.demolition-oakworth-crematorium-construction-modern-replacement-start-march/>

Location	Year	Description of investment improvement/need
Plymouth	2019	"The transfer of the site marks another major milestone in the £12 million scheme, which will see Plymouth's aging crematoria replaced with a state-of-the-art, modern facility." <sup>91</sup>
Stranton	2019	"The building was built in the late 19th Century and council officers said the chapel is in a 'poor condition' and has suffered 'repeated rainwater penetration over many years'." <sup>92</sup>
Teesside	2019	"Improvement works which have transformed St Hilda's Chapel by allowing light in and creating a more welcoming, accessible environment. Middlesbrough Council says the changes have been well received by visitors. New seating has also been installed in the chapel and waiting areas, while a canopy has been erected outside St Bede's Chapel to provide shelter from inclement weather." <sup>93</sup>
West Herts	2019	"Dacorum Borough Council has agreed to work with WHCJC to develop plans for the proposed crematorium development adjacent to the cemetery at Bunkers Park. "Woodwells Cemetery in Hemel Hempstead ... is expected to reach capacity in 2020/21... There is a growing need for low-cost direct crematorium services and it's important that we continue to meet the needs of our diverse communities." <sup>94</sup>
Whitley Bay	2019	"Initial consideration by NTC Bereavement Services in liaison with their current equipment provider has identified that the current two cremators can be replaced with one new machine." The council also wants to build a new vehicle exit in the cemetery to create a one-way system for traffic. Meanwhile, a new car park with 17 spaces would be built on what is currently the "groundsman's compound" with a small building to be pulled down to make space for this. The book of remembrance would be moved to an empty building near the main entrance and minor refurbishment work will be carried out on the toilets." <sup>95</sup>
Yapton	2019	"A new crematorium planned in Yapton could reduce waits families and loved ones face for funerals in the Arun district ... In November, families were waiting 18 days between death and service at Chichester Crematorium and 20 days at Worthing Crematorium". <sup>96</sup>
Yeovil	2019	"The council has been undertaking work to refurbish the facility, approving plans for more parking and a second chapel on site for mourners. Now it has committed to ensuring it complies with the highest environmental standards as part of a wider strategy to combat climate change." <sup>97</sup>

<sup>91</sup> <http://plymouthnewsroom.co.uk/new-crematorium-reaches-latest-milestone/>

<sup>92</sup> <https://www.hartlepoolmail.co.uk/news/politics/plans-approved-refurbishment-stranton-crematorium-chapel-although-new-site-needed-long-term-1256162>

<sup>93</sup> <https://www.gazettelive.co.uk/news/teesside-news/take-look-round-teesside-crematorium-15983056>

<sup>94</sup> <https://www.threerivers.gov.uk/news/new-crematorium-for-residents>

<sup>95</sup> <https://www.chroniclive.co.uk/news/north-east-news/15m-whitley-bay-crematorium-upgrade-17370051>

<sup>96</sup> <https://www.bognor.co.uk/news/new-crematorium-planned-yapton-155644>

<sup>97</sup> <https://www.somersetlive.co.uk/news/somerset-news/750000-spent-yeovil-crematorium-make-3387018>

Location	Year	Description of investment improvement/need
Aberdeen	2018	““The improvements have made a huge difference to the reception areas and both chapels, ensuring we have up-to-date facilities. This has been an important project and it has been completed with care and attention to detail.” <sup>98</sup>
Bretby	2018	“The work has included state-of-the-art audio and visual technology being installed in both chapels, which will include the ability to broadcast services over the internet. Both chapels have also been redecorated and waiting rooms now have new carpets, furniture and lighting. Visitor amenities have also been upgraded and the reception area and family room have been given a makeover.” <sup>99</sup>
Carleton	2018	“Three new cremators will be provided to replace the former equipment which was subject to breaking down, causing delays in holding services for bereaved families. Investment will also see a single storey extension added to the existing crematorium building to house the new cremators.” <sup>100</sup>
Dundee	2018	“Along with traditional refurbishments, such as lighting and decor, they have decided to add a digital enhancement to a very ritualistic and traditional service. As part of their revamp, the crematorium will have a video tribute facility installed.” <sup>101</sup>
Eastbourne	2018	“The refurbishment was much-needed as little had changed since the chapel originally opened in January 1960.” <sup>102</sup>
Honor Oak	2018	“Back in April last year, we exposed the condition of the conveniences at Honor Oak Crematorium in South East London – peeling paint, a toilet held together by chewing gum and floors covered in used tissue paper. Earlier this year, I was delighted to be invited back to Honor Oak to see, not only the newly refurbished conveniences, but the refurbished crematorium as a whole. The chapel, waiting room, memorial rooms and gardens have all been renovated.” <sup>103</sup>
Perth	2018	“It is the centre’s biggest overhaul since it opened in 1962. ... The building has been completely rewired as part of the modernisation programme and boasts a new heating system, as well as upgraded lighting throughout. A new reception and office area has been created... a new family room has also been added to allow the relatives of the deceased some privacy prior to funeral services taking place ... New large screen monitors in the entrance hall have been installed. The chapel has also received a full upgrade and a complete change of décor, as well as new lighting. A new exit hall from the service area has been created to allow better movement from the chapel and prevent mourners getting mixed up with those from the next or previous funeral service. Externally, works have been carried out to improve disabled access to the building. Car parking should also be made easier, with the addition of an overflow car park.” <sup>104</sup>
Portchester	2018	“‘Long overdue’ improvements costing more than £200,000 will bring Portchester Crematorium up to modern standards. ... The chapel was updated a few years ago, but the north chapel, which opened in 1969, is yet to be improved. ... ‘The chapel is in urgent

<sup>98</sup> <https://news.aberdeencity.gov.uk/aberdeen-crematorium-chapels-and-reception-area-re-open-after-improvement-works/>

<sup>99</sup> <https://centralengland.coop/press-and-media/central-england-co-op-funeralcare-invests-235000-in-revamping-crematorium>

<sup>100</sup> <https://www.blackpoolgazette.co.uk/news/new-cremators-blackpools-carleton-crematorium-part-investment-plan-201157>

<sup>101</sup> <https://digit.fyi/dundee-crematorium-to-live-stream-funeral-services/>

<sup>102</sup> <https://www.communityad.co.uk/eastbourne-crematorium-chapel-undergoes-transformation/>

<sup>103</sup> <https://www.goodfuneralguide.co.uk/2018/07/honour-restored-at-honor-oak-crematorium/>

<sup>104</sup> <https://www.pressreader.com/uk/the-courier-advertiser-perth-and-perthshire-edition/20180210/281633895696340>



Location	Year	Description of investment improvement/need
		need of an update. People have been consulted from undertakers to councillors, it was a joint decision" <sup>105</sup>
Rotherham	2018	"Over the past year Dignity, which operates the crematorium for Rotherham Borough Council, has completed an extensive refurbishment, which included installing a new balcony to increase seating capacity, providing new audio and video capabilities for tributes and the facility to stream funerals via the internet to family across the world." <sup>106</sup>
Trent Valley	2018	"The existing Markeaton Crematorium, run by Derby City Council, is among the busiest in the UK and the aim of Trent Valley is to reduce the time bereaved families have to wait." <sup>107</sup>
Weymouth	2018	"The improvements carried out included a new damp proof membrane for the floor, full decoration of the chapel and vestibule, refurbishment of the pews, seats and lecterns, new carpet and flooring in the chapel, enhanced lighting in the chapel and vestibule and new flooring in the crematorium public toilets. ... The second stage of improvements, which will take place in 2018/19, will include new curtains for the catafalque, a new family room, decoration of the waiting room and the office area." <sup>108</sup>
Falkirk	2017	"Councillor Paul Garner, spokesperson for Environment said: "This is the first major refurbishment of the crematorium since it opened in the 1960s. The original character and feel of the building has been retained but now offers a more modern setting and improved surroundings for grieving families and friends." <sup>109</sup>
Flintshire	2017	"it puts 140,000 people closer to a crematorium and they will no longer have to travel to Wrexham and Denbighshire for a cremation" <sup>110</sup>
Guildford	2017	"A new chapel, better parking and new gardens of remembrance will be the key focus of the project. ... Matt Furniss, deputy leader of the council and lead councillor for infrastructure and governance, said: "With changing needs we are investing in improving the facilities to offer personalisation and flexibility, in addition to providing a supportive, inclusive and caring environment for the bereaved." <sup>111</sup>
Redditch	2017	"Michael Birkinshaw, Bereavement Services Manager, said: "The new waiting area is a much needed and well overdue addition to the new building and all of the upgrades to our facilities now mean that we can provide an even higher level of service to the bereaved." Coun Debbie Chance, whose portfolio covers Bereavement Services, said: "We have taken the original 1970's design and given it a complete overhaul bringing it right up to date." <sup>112</sup>
Crewe	2016	"This project involved extension, alteration and refurbishment of the crematorium in order to: create a larger waiting area, increase seating capacity of the crematorium

<sup>105</sup> <https://www.portsmouth.co.uk/news/portchester-crematorium-set-aps200000-revamp-323639>

<sup>106</sup> [https://www.rotherhamadvertiser.co.uk/news/view,revamped-rotherham-crematorium-to-host-inaugural-christmas-service\\_29691.htm](https://www.rotherhamadvertiser.co.uk/news/view,revamped-rotherham-crematorium-to-host-inaugural-christmas-service_29691.htm)

<sup>107</sup> <https://www.derbytelegraph.co.uk/news/derby-news/take-sneak-peek-inside-derbys-1589046>

<sup>108</sup> <https://www.dorsetecho.co.uk/news/16170433.50k-refurbishment-at-weymouth-crematorium-underway/>

<sup>109</sup> <https://www.falkirk.gov.uk/news/article.aspx?aid=4274>

<sup>110</sup> <https://www.dailypost.co.uk/news/north-wales-news/first-look-new-flintshire-crematorium-14814285>

<sup>111</sup> <https://www.getsurrey.co.uk/news/surrey-news/first-images-10m-guildford-crematorium-13309279>

<sup>112</sup> <https://redditchstandard.co.uk/news/redditch-crematorium-reopens-following-400k-refurbishment/>

Location	Year	Description of investment improvement/need
		chapel, segregate arriving and dispersing mourners, provide a new area for the book of remembrance and improve auxiliary facilities including toilets and disabled parking.” <sup>113</sup>
Douglas	2016	“Douglas Borough Council has completed one of its largest schemes this financial year, the refurbishment of the Borough Crematorium and Cemetery. The crematorium now provides greater convenience and comfort for mourners and staff, central to which is a new exit from the chapel to separate departing and arriving funeral parties. There is also improved disabled access, a larger waiting area for mourners, upgraded heating and lighting, new seating, a new Book of Remembrance room and new toilets. The Committal room is now fitted with EU-compliant equipment, a new, larger cremator has been installed and the existing cremator overhauled. The building has been repainted, floodlit and fitted with CCTV, while the main driveway has been resurfaced and the pathways, boundary walls and Garden of Remembrance repaired. In total the project cost £2.9 million: some £1.8 million for the building and just over £1million for works to the paths and driveway. The cost has been part-funded from reserves, with the balance met by a 30-year loan for the chapel and a 20-year loan for upgrading the drive, paths, walls and railings. The loans will be serviced from the fees charged. Council Leader Councillor David Christian MBE JP said: ‘This was a costly but long overdue project. What the Council has provided now, though, is a future-proofed facility for the whole island.’ <sup>114</sup>
Rowley Regis	2016	“Work to upgrade the building and chapel, which first opened in 1962, started two years ago and has seen the chapel more than double its capacity for up to 120 mourners. Improvements include a new more energy-efficient cremator to replace old machines, a dedicated waiting area and reception and digital music and web broadcasting facilities for family and friends who cannot attend a funeral. There is also dedicated car parking, a new sheltered floral space, a new book of remembrance room, new entrance, improved toilet facilities and improvements to the interior and exterior of the building.” <sup>115</sup>
Slough	2016	““the chapel had served Slough well over the years but was in desperate need of refurbishment and modernisation”. The major task was the replacement of the cremators and furnaces in order to make them more environmentally friendly. This commitment to sustainability also involved changes to the building layout in order to accommodate our installation of new mercury and dioxin abatement equipment. Our work in the chapel included the creation of a new mezzanine floor giving it greater capacity and, refurbishment of shelters where mourners could congregate after cremations.” <sup>116</sup>

<sup>113</sup> <https://www.mcconstruction.co.uk/projects/crewe-crematorium/>

<sup>114</sup> <http://www.douglas.gov.im/index.php/news/council-news/item/1303-douglas-borough-crematorium-and-cemetery-refurbishment-completed>

<sup>115</sup> <https://www.expressandstar.com/news/local-news/2016/10/07/rowley-regis-crematorium-and-chapel-reopen-after-1-3-million-refurbishment-project/>

<sup>116</sup> <https://www.cfroberts.co.uk/project/virgin-active-4/>

Location	Year	Description of investment improvement/need
Clydebank	2015	"Clydebank Crematorium will be shut until September 7 as part of a £1.5 million refurbishment. ... Councillor David McBride, vice-convenor of Infrastructure and Regeneration, added: "The works at Clydebank crematorium are part of wider investment in our cemeteries to ensure that they continue to meet the needs of our communities in future. This investment will ensure families can continue to rely on this essential service when they need it most."" <sup>117</sup>
Tynemouth	2015	"Rev Emma Duff, a curate with the Wallsend-based Willington Team Ministry, said: "There has been a great improvement. The crematorium was previously small and looked a bit shabby, and there was no waiting area. Now it looks a lot better for bereaved families who will be using the chapel." As well as the extension, new multi-media equipment has been installed so families can show photographs and videos of their loved ones during the service. The scheme has also included replacing the cremators and fitting new mercury abatement equipment, which will help the council meet national targets to reduce the amount of mercury emitted into the atmosphere." <sup>118</sup>
Wrexham	2015	"Over the last year, Wrexham County Borough Council undertook work to improve the facilities at Pentrebychan Crematorium, ensuring that it remains a suitable venue to commemorate loved ones and pay last respects. Improvement works include the complete refurbishment of the waiting room, with new carpets, decoration, lighting and furniture. The reception area and toilets have all been redecorated, along with the Chapel, where the entrance hall and exit corridors have been re-carpeted." <sup>119</sup>
Salisbury	2014	"Salisbury Crematorium was opened in September 1960 to serve the Salisbury District and surrounding areas. It has recently had a 2.6 million refurbishment making it amongst the most comfortable and environmentally friendly in Europe." <sup>120</sup>
Gravesend	2013	"The nearest crematorium for Gravesend residents is 12 miles away at Blue Bell Hill near Chatham with another 17 miles away in Maidstone. Mr Rickman, former head of funerals for the south east of England for the Co-op, had a consultancy role in the development. He said:" I was trained as a funeral director, so I have managed this area. I know that the local funeral homes have an average waiting time for cremation from anything from 15-22 days from time of death, which is not nice for families."" <sup>121</sup>
Manor Park	2013	"A small chapel for up to 25 funeral mourners which closed nearly 40 years ago in an east London cemetery has reopened as part of a £1.3 million renovation scheme. It is one of two chapels refurbished at the City of London Crematorium complex (pictured) at Manor Park which had not been used since the 1970s." <sup>122</sup>
Stourbridge	2013	"Director John Cumiskey said: "The crematorium is always very popular, families do like it, but, like everywhere, it could do with a bit more sparkle and work to bring it up to modern standards.... Last October, the council completed a £1million scheme to replace outdated facilities at Gornal Wood Cemetery and Crematorium, in Chase Road." <sup>123</sup>

<sup>117</sup> <https://www.dumbartonreporter.co.uk/news/13963047.disruption-as-clydebank-crematorium-closed-for-refurbishment/>

<sup>118</sup> <https://www.chroniclive.co.uk/news/north-east-news/tynemouth-crematorium-re-opens-after-27m-8659922>

<sup>119</sup> <https://www.wrexham.gov.uk/english/council/news/pentrebychan.htm>

<sup>120</sup> <https://www.salisburycitycouncil.gov.uk/responsibilities/crematorium>

<sup>121</sup> <https://www.kentonline.co.uk/gravesend/news/new-crematorium-will-webcast-funerals-5839/>

<sup>122</sup> <https://www.eastlondonadvertiser.co.uk/news/environment/chapel-reopens-after-40-years-in-city-of-london-crematorium-revamp-1-2222864>

<sup>123</sup> <https://www.expressandstar.com/news/2013/02/13/stourbridge-crematorium-to-get-68k-facelift/>

Location	Year	Description of investment improvement/need
York	2012	<p>“The authority said the scheme would be the first major refurbishment at the crematorium since it opened in 1962. The work, starting on Monday, will allow 20 more people to use the small chapel, which will have its own entrance and exit. Other improvements include new carpets, lighting, seats and decoration, and a webcast facility so relatives who live away from York can see services in their homes. It is understood that, on rare occasions, the council has been faced with having to turn down cremation requests because the deceased was too large for the incinerators. The crematorium’s manager Gary Fewkes said: “A large cremator is being installed so we’re able to offer a service which can facilitate customers of all sizes.””<sup>124</sup></p>
Breakspear	2010	<p>“A new multi-purpose hall has been built to accommodate larger funerals at the site in Breakspear Road, Ruislip, as well as improved parking provision. The funeral of former British and European middleweight champion boxer Kevin Finnegan was held at Breakspear Crematorium in 2008, and many mourners were left outside, as the capacity was too small. Among the more advanced new features, is the inclusion of a new video system, which allows relatives who are unable to attend funerals to watch the ceremony through the internet. The crematorium originally opened in 1957, and is a popular choice of venue for funerals around the borough. The improvements also include new waiting rooms, and the refurbishment of the west chapel forecourt and flower gardens. New crematory equipment also meet the new Government emission targets.”<sup>125</sup></p>

<sup>124</sup> <https://www.yorkpress.co.uk/news/9757482.york-crematorium-to-get-17m-revamp/>

<sup>125</sup> <https://www.mylondon.news/news/local-news/refurbished-breakspear-crematorium-opens-5999191>

Appendix 3: summary of Google reviews for Memoria and local rival crematoria

Crematorium	Reviews with comments	Reviews mentioning quality	% of total	Reviews mentioning poor quality	% of total
<b>Amber Valley (AVM)</b>	93	84	90%	2	2%
Trent Valley	5	4	80%	1	20%
Chesterfield	3	3	100%	0	0%
Bramcote	12	9	75%	1	8%
Markeaton	3	1	33%	0	0%
Mansfield	5	4	80%	1	20%
<b>Cardiff &amp; Glamorgan (CGM)</b>	70	51	73%	2	3%
Bridgend (Coychurch)	8	8	100%	0	0%
Newport	1	1	100%	0	0%
Thornhill	12	6	50%	1	8%
<b>Barnby Moor (BMC)</b>	3	3	100%	0	0%
Rotherham	8	6	75%	2	25%
Lincoln	4	2	50%	2	50%
Doncaster	6	3	50%	2	33%
Babworth	4	4	100%	0	0%
Sherwood Forest	1	0	0%	1	100%
Chesterfield	3	3	100%	0	0%
<b>Kirkleatham (KMC)</b>	10	6	60%	3	30%
Teesside	3	3	100%	0	0%
Scarborough	2	0	0%	1	50%
Stockton	1	1	100%	0	0%
<b>South Oxfordshire (SOCM)</b>	3	3	100%	0	0%
Oxford	2	2	100%	0	0%
Swindon	7	1	14%	0	0%
Reading	14	8	57%	6	43%
Banbury	1	0	0%	1	100%
West Berkshire	5	4	80%	0	0%
<b>Flintshire (FMC)</b>	4	4	100%	0	0%
Wrexham	4	3	75%	1	25%
Chester	5	2	40%	3	60%
<b>Denbighshire (DMC)</b>	12	7	58%	2	17%
Colwyn Bay	1	1	100%	0	0%
<b>South Leicestershire (SLM)</b>	6	6	100%	0	0%
Gilroes	10	6	60%	0	0%
Kettering	1	1	100%	0	0%
Nuneaton	0	0	0%	0	0%
Rugby	5	5	100%	0	0%
Great Glen	5	5	100%	0	0%
<b>North Hertfordshire (NHM)</b>	5	5	100%	0	0%
Harwood Park	8	7	88%	0	0%
Cambridge	14	5	36%	0	0%

Crematorium	Reviews with comments	Reviews mentioning quality	% of total	Reviews mentioning poor quality	% of total
Bedford	0	0	0%	0	0%
Vale	9	5	56%	3	33%
<b>Waveney (WMC)</b>	4	3	75%	1	25%
Nacton	5	4	80%	1	20%
Scoulton	0	0	0%	0	0%
Bury St Edmunds	4	1	25%	1	25%
Great Yarmouth	6	4	67%	1	17%
<b>Total (48)</b>	<b>397</b>	<b>294</b>	<b>74%</b>	<b>39</b>	<b>10%</b>
Memoria (10)	210	172	82%	10	5%
Rivals (38)	187	122	65%	29	16%

## Appendix 4: review of econometric analysis of entry impact on volume and price

### 1. Impact of entry on volumes

This appendix sets out work done by economists at Charles River Associates (“CRA”) based on the code and data shared with Memoria on the evening of Monday 24<sup>th</sup> February 2020.

As the CMA Working Papers acknowledge, the entry model set out in the Working Paper and Econometric Appendix is highly simplistic, explaining volumes using only site and time fixed effects and local concentration. That means that the model will not allow for the impact of varying changes in death rates (and therefore demand) across different locations, for example, or for different developments in costs, price or quality that may drive the relative success of different crematoria. This is reflected in the very poor explanatory power of the volume model (which is not reported in the Working Papers or the econometric appendix, but suggests that the model explains only around 8% of the variation observed in volumes between sites and over time, despite the inclusion of fixed effects for both crematorium and year).

In the time available CRA has not been able to develop its own model of the CMA’s dataset, but offers the comments below which, in its view, show that in fact the CMA’s results:

- Support the case for a relatively broad geographic market, with volume impacts over a wide area; and
- Are on its own logic consistent with significant quality differentiation (on average) between private and local authority crematoria.

Moreover, we see that the results are sensitive to specification and assumptions. This is particularly so in the case of the interaction terms estimated for private crematoria – where the sample size is relatively small and includes many crematoria that are themselves rather new and are still in the growth phase of their development. The inclusion of these new crematoria disrupts the results, in many cases comparing partial-year volumes with full-year volumes – with this growth then potentially misattributed to the effect of other crematoria entering. When we drop these new crematoria and compare the coefficients on local authority crematoria and private interaction terms over broader catchment categories we find more intuitive results – consistent with new entry having a larger impact on local authority crematoria than on private (reflecting their relatively poorer quality offer, creating more opportunities for high quality new entrants to win volumes from them, even if their locations are generally less favourable), but in both cases a negative impact.

#### a) Quality and the impact of entry on local authority versus private crematoria

As set out in the main body of Memoria’s response, the CMA’s Working Paper claims that there is no evidence that private sector crematoria offer a higher quality of service and that customers are willing to travel for a higher quality service: as if that were the case, then a larger impact on local authority compared to private sector volumes would be expected and “this does not appear to be the case.”<sup>126</sup> The Econometric Appendix takes a more nuanced view, acknowledging that in fact there is a positive (but not statistically significant) effect in the 20-30-minute category, and a positive and statistically significant impact in the 30+ minute category (though the CMA notes that the 30+ minute results appear to imply a positive impact of entry on volumes at private sector crematoria 30+ minutes away, which is not intuitive).<sup>127</sup>

In our view, this analysis suffers from being overly disaggregated to answer questions in relation to private sector crematoria, given the relatively small number of private sector crematoria in the sample, and a more aggregated analysis gives more plausible results – which indicate that in fact the CMA’s hypothesis that private sector crematoria experience a smaller (but still negative) volume impact from new entry than local authority crematoria facing entry at the same distance.

The results below set out the findings if the CMA’s model is adapted to allow for broader catchment bands: capturing all entry within 30 minutes or all entry within 40 minutes (both based on a normal rather than cortege

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<sup>126</sup> CMA Funerals Market Investigation, *Crematoria: evidence on competition between crematoria*, para 92.

<sup>127</sup> CMA Funerals Market Investigation, *Crematoria Appendix: evidence on competition between crematoria*, para 21(b).

drive time, following the CMA's approach). Note that we also make two further adjustments to the CMA's analysis:

- We add a 30-40-minute drive time band (reflecting the fact that we seem to see significant impacts even at 20-30-minute normal drive times, and therefore it makes sense to check how much further these extend); and
- In order to facilitate the interpretation of results, we also do not include all categories of crematoria, but instead drop the local authority 40+ minute entry category. This means that all coefficients can then be straightforwardly interpreted as estimating the impact of entry relative to the volume of a local authority crematorium with no-entry within a 40-minute drive.

The results of this analysis (alongside those of the CMA's original model) are reported below.

<b>Ln volume</b>	<b>(1) Adjusted model</b>	<b>(2) CMA model</b>
0-10 mins (LA)	-0.288*** (0.0983)	-0.288*** (0.0864)
10-20 mins (LA)	-0.187*** (0.0372)	-0.174*** (0.0373)
20-30 mins (LA)	-0.110*** (0.0222)	-0.0965** (0.0226)
30-40 mins (LA)	-0.0446*** (0.0132)	
30+ mins (LA)		-0.0244** (0.00783)
0-10 mins (private – relative to LA)	0 (0)	0 (0)
10-20 mins (private - relative to LA)	-0.0629 (0.0739)	-0.118* (0.0712)
20-30 mins (private - relative to LA)	0.106 (0.0759)	0.0647 (0.0804)
30-40 mins (private - relative to LA)	0.0885** (0.0362)	
30+ mins (private – relative to LA)		0.0586** (0.0176)
Constant	7.783*** (0.0773)	7.798*** (0.114)
Year dummies?	Yes	Yes
Site dummies?	Yes	Yes
Observations	3,209	3,209
R-squared	0.081	0.086
Number of crematoria	296	296

N.B.: results based on fewer than 10 observations are shown in grey.

It can be seen that on this basis we get very similar results to those reported by the CMA. However, our negative volume impacts are larger for Local Authorities (i.e. entry has a larger effect on volumes). Specifically:

- An 18.7% rather than 17.4% impact at 10-20 minutes;
- An 11.0 % rather than 9.6% impact at 20-30 minutes;
- A 4.5% impact at 30-40 minutes, rather than a 2.4% impact at 30+ minutes.

The relatively softer impact on private sector crematoria is also more clearly seen (with larger positive coefficients on the private sector interaction dummies).

However, as can also be seen, the shorter drive time categories in both specifications are essentially not usable, due to having too few observations in either the local authority or private category (or both) to allow meaningful comparisons to be made. This is a problem with using very disaggregated drive time categories: which



essentially means that entry events within 20 minutes (which we might expect to be the most impactful – and making up 30 entry events for local authority crematoria and 7 for private crematoria) end up not being usable to draw inferences on the differences between local authority and private sector crematoria.

*b) Aggregating drive time bands to understand relative impact on private crematoria*

In order to see this more clearly, CRA have instead grouped entry events more broadly in order to compare results between local authority and private sector crematoria. The results are summarised below, based on a 40-minute catchment (model 1) and a 30-minute catchment (model 2): both on normal drive times. Using a 20-minute catchment, as the CMA proposes in its competitive analysis, gives insufficient private sector entry events to obtain reliable results.

It can be seen that in both cases there is a material negative impact of entry on local authority volumes (relative to volumes when there is no entry in the 40/30-minute catchments): with a negative impact of 9% on volumes for entry within versus outside 40 minutes, and 15% on volume for entry events within rather than outside 30 minutes. This is as would be expected, given the more granular results. Relative to this impact, for private sector crematoria we see a similar size positive impact (implying that new entry has effectively no impact on private sector crematoria on average across entries within 40 minutes), and a smaller positive impact within 30 minutes (implying that there is still a negative volume impact on private crematoria from local entry within 30 minutes: but that the size of the impact is significantly smaller than is the case for local authority crematoria). All coefficients are significant at the 10% level, and most also at the 1% level.

<b>Ln volume</b>	<b>(1) 40 minutes</b>	<b>(2) 30 minutes</b>
Within 40 min (LA)	-0.0913*** (0.0117)	
Within 30 min (LA)		-0.150*** (0.0194)
Within 40 mins (private relative to LA)	0.0955*** (0.0284)	
Within 30 mins (private relative to LA)		0.113* (0.0586)
Constant	7.721*** (0.0811)	7.684*** (0.0784)
Year dummies?	Yes	Yes
Site dummies?	Yes	Yes
Observations	3,209	3,209
R-squared	0.069	0.072
Number of crematoria	296	296

This version of the analysis therefore meets precisely the condition that the CMA indicates would act as evidence of a quality differential between private and local authority crematoria. Specifically, the Working Paper notes that “If there were a significant quality differential between private and local authority crematoria, and customers were willing to travel for a higher quality service, we might expect entry to affect volumes more strongly for local authority incumbents where the quality differential with a private new entrant may be greater compared to the impact on volumes at a private incumbent where any differential with a new entrant may be smaller”. However, contrary to the CMA’s simple conclusion that “this does not appear to be the case”, in reality this does appear to be the case, once the data are aggregated to a level to avoid effectively “dropping” some observations because they end up in categories that have too few observations to be reliable.<sup>128</sup>

<sup>128</sup> Indeed, it is seen even in the CMA’s own results for the 30+ minute catchment, and indeed for the 20-30-minute catchment, though to a smaller (and not statistically significant) extent, as can be seen from Table 6 of *Crematoria: evidence on competition between crematoria*, and Table 2 of *Crematoria Appendix: evidence on competition between crematoria*.

### c) Controlling for new crematoria

One of the reasons why the CMA's model does not explain volumes well (particularly for private sector crematoria) is because many of these crematoria are new, and therefore undertake significantly lower numbers of cremations at least in the first year (given that crematoria often open mid-year rather than on 1<sup>st</sup> January) and in many cases continue to grow their volumes for another year, at least. Therefore, most new crematoria will see very large percentage volume increases between their first and second year of operation (sometimes several hundred percent or more), and these large volume increases are concentrated on private sector crematoria (which account for the majority of entry events), and therefore has a particular potential to bias the results in relation to private sector crematoria if this is not controlled for/dealt with.

To deal with this effect, we drop all crematoria from the sample in their first two years of operation, to allow for the strongest period of growth to be complete, and ensure we are at least comparing full years of operation with one another, and not a full year with a partial year.

The results of the regression making both these changes is below: it is immediately noticeable that the explanatory power of the model already improves significantly (from explaining only 8% of variation to a still relatively low 17%) despite only relatively few observations being dropped. This suggests that the CMA's base model has (unsurprisingly) essentially no ability to explain the volumes of new crematoria in their first year of operation, in particular.

<b>Ln volume</b>	<b>(1) Include all</b>	<b>(2) Exclude 1<sup>st</sup> year</b>	<b>(3) Exclude 1<sup>st</sup> and 2<sup>nd</sup> year</b>
0-10 mins (LA)	-0.288*** (0.0983)	-0.255*** (0.0894)	-0.253*** (0.0890)
10-20 mins (LA)	-0.187*** (0.0372)	-0.163*** (0.0364)	-0.162*** (0.0364)
20-30 mins (LA)	-0.110*** (0.0222)	-0.0872*** (0.0207)	-0.0855*** (0.0206)
30-40 mins (LA)	-0.0446*** (0.0132)	-0.0180 (0.0111)	-0.0169 (0.0110)
0-10 mins (private – relative to LA)	0 (0)	0 (0)	0 (0)
10-20 mins (private - relative to LA)	-0.0629 (0.0739)	-0.0568 (0.0715)	-0.0546 (0.0719)
20-30 mins (private - relative to LA)	0.106 (0.0759)	0.0501 (0.0371)	0.0427 (0.0368)
30-40 mins (private - relative to LA)	0.0885** (0.0362)	0.0421* (0.0219)	0.0372* (0.0209)
Constant	7.783*** (0.0773)	7.751*** (0.0585)	7.761*** (0.0584)
Exclude 1 year old	No	Yes	Yes
Exclude 2 years old	No	No	Yes
Year dummies?	Yes	Yes	Yes
Site dummies?	Yes	Yes	Yes
Observations	3,209	3,118	3,081
R-squared	0.081	0.171	0.167
Number of crematoria	296	279	275

In addition to the improvement in explanatory power, there is also a small but noticeable reduction in the impact of entry on local authority volumes: although statistically significant effects continue to be seen out to 30 minutes based on normal drive times (i.e. around 50 minutes based on cortege drive times).

If we apply the broader categories of drive time bands in order to make use of the full set of nearby entry events and thereby gain a better insight into the differences between local authority and private sector entry effects, we continue to see a negative and statistically significant impact on the volumes of incumbent local authority

crematoria, as well as a positive and statistically significant relative impact on private sector crematoria but now – more intuitively – one that is smaller than the local authority negative effect. That is, the results once these very new crematoria still in their “growth phase” are excluded suggest that private sector crematoria facing local entry see a smaller (but still negative) impact on their volumes compared with a local authority incumbent.

Ln volume	40 mins			30 minutes		
	Full sample	Excl. 1 yr	Excl. 2yrs	Full sample	Excl. 1 yr	Excl. 2yrs
Within 40 mins (LA)	-0.0913*** (0.0117)	-0.0661*** (0.00969)	-0.0648*** (0.00968)			
Within 30 mins (LA)				-0.150*** (0.0194)	-0.123*** (0.0177)	-0.120*** (0.0177)
Within 40 mins (private rel. to LA)	0.0955*** (0.0284)	0.0497*** (0.0176)	0.0442** (0.0173)			
Within 30 mins (private rel. to LA)				0.113* (0.0586)	0.0583* (0.0313)	0.0508 (0.0310)
Constant	7.721*** (0.0811)	7.699*** (0.0600)	7.712*** (0.0601)	7.684*** (0.0784)	7.705*** (0.0551)	7.715*** (0.0551)
Exclude 1 year old	No	Yes	Yes	No	Yes	Yes
Exclude 2 years old	No	No	Yes	No	No	Yes
Year dummies?	Yes	Yes	Yes	Yes	Yes	Yes
Site dummies?	Yes	Yes	Yes	Yes	Yes	Yes
Observations	3,209	3,118	3,081	3,209	3,118	3,081
R-squared	0.069	0.123	0.119	0.072	0.152	0.148
Number of crematoria	296	279	275	296	279	275

That is, although again the magnitude of effects is smaller once new crematoria are removed, the same pattern in relation to the CMA’s quality differential hypothesis is seen: in all cases private crematoria suffer a loss of volumes post-entry – but that loss of volume is significantly smaller than for local authority crematoria experiencing entry.

## 2. Impact of entry on fees

### a) Relevant controls for a model of crematorium fees

The CMA’s model of fees has a much higher explanatory power than that of volumes: but we see a “counterintuitive” result – namely that entry appears to have a positive rather than negative impact on private sector crematoria fees.

As in relation to volume, the analysis is simplistic, excluding several explanatory variables that we might expect to help to explain price (e.g. slot-length, for which we know the CMA has data – but also factors such as refurbishments and other site improvements which are likely to make a difference to price and should be taken into account).

Moreover, the data in relation to fees appears to be unreliable, as set out below.

### b) Comments on the CMA model

One of the most striking findings of the CMA analysis is that there is a positive and statistically significant (2%) impact of entry on prices when entry takes place in the 20-30-minute normal drive time bracket, and that this is driven by a positive (and statistically significant) positive impact (5%) on standard fees at private crematoria relative to local authority sites (which see a very small and not statistically significant decrease when entry occurs in this band – resulting in the 2% net effect across all sites).

Running CRA’s initial adjustments to the CMA’s analysis (re-defining the comparison category and adding in a 30-40-minute drive time bracket) leaves this result broadly intact, as can be seen from the table below. The

negative impact of entry on local authority sites increases, but does not become statistically significant, while the relative positive impact on private sector sites also becomes larger and remains statistically significant.

<b>Ln volume</b>	<b>(1) Adjusted model</b>	<b>(2) CMA model</b>
0-10 mins (LA)	0.0529 (0.0437)	0.0507 (0.0483)
10-20 mins (LA)	-0.00708 (0.0169)	-0.00479 (0.0174)
20-30 mins (LA)	-0.00354 (0.0116)	-0.000615 (0.0120)
30-40 mins (LA)	-0.0168 (0.0139)	
30+ mins (LA)		-0.00759 (0.00495)
0-10 mins (private – relative to LA)	0 (0)	0 (0)
10-20 mins (private - relative to LA)	0.0861*** (0.0268)	0.0689** (0.0289)
20-30 mins (private - relative to LA)	0.0573*** (0.0189)	0.0482** (0.0198)
30-40 mins (private - relative to LA)	0.0513*** (0.0180)	
30+ mins (private – relative to LA)		0.0202*** (0.00746)
Constant	5.943*** (0.0429)	5.958*** (0.0533)
Year dummies?	Yes	Yes
Site dummies?	Yes	Yes
Observations	3,184	3,184
R-squared	0.903	0.903
Number of crematoria	295	295

It is notable that the explanatory power of this model is far better than the volume model at around 90%: essentially reflecting the fact that prices are more similar across crematoria and have more consistent trends over time (while volume levels and trends are both highly variable across crematoria). However, note that the concentration coefficients provide very little of this explanatory power:

- If entry effects were dropped from the fee model (leaving only fixed effects), the  $R^2$  would fall only from 90.3% to 89.9% (i.e. a 0.4% fall).
- By contrast, in the volume model above, while overall the  $R^2$  was very low, it would drop even further if entry effects were not included: from 8.1% to 4.8% (a 3.3% fall).

As with volumes, the findings for private crematoria below 20 minutes rely on a tiny number of observations, so we recut the analysis using broader catchment categories in order to more meaningfully explore the relationship between local authority and private sector fee responses to entry. These results are presented below:

Ln volume	(1) 40 minutes	(2) 30 minutes
Within 40 min (LA)	-0.0107 (0.00740)	
Within 30 min (LA)		-0.00802 (0.00931)
Within 40 mins (private relative to LA)	0.0555*** (0.0104)	
Within 30 mins (private relative to LA)		0.0737*** (0.0151)
Constant	5.953*** (0.0443)	5.945*** (0.0287)
Year dummies?	Yes	Yes
Site dummies?	Yes	Yes
Observations	3,184	3,184
R-squared	0.903	0.902
Number of crematoria	295	295

Again we see consistently negative (though small and not statistically significant) impacts on local authority crematoria fees when entry occurs. However, again we also see private crematoria putting through a relative (and absolute) increase in fees on entry, which is also statistically different to the local authority estimate. Again, this is a clearly counterintuitive finding.

#### c) Data accuracy

If we look into the detail of the data underlying this surprising finding, we find one possible explanation for these counterintuitive results. The highest price increase recorded in response to entry in the 20-30-minute drive time range, according to the CMA's dataset, is at Memoria's [redacted] site, which the CMA shows as having increased prices by 32%: from £600 in 2017 (the first year for which the CMA dataset records a price) to £790 in 2018: an increase of nearly £200.

However, Memoria does not recognise this price increase. [redacted] opened in 2016 (not 2017) with an early morning (i.e. discounted/off-peak) price of £[redacted], but a standard cremation fee of £[redacted]. This standard cremation fee increased by [redacted]% (not 32%) to £[redacted] in 2017, and then a further [redacted]% (again, not 32%, even on a cumulative basis) to £[redacted] in 2018, as the site became established.

It is notable that although the CMA's price data do not show a price in 2016, they do show over 600 cremations being undertaken at [redacted], so it appears that the dataset may have some broader gaps when it comes to price data, which would also need to be understood and taken into account in order to obtain reliable findings.

#### d) Non-rival entry


Moreover, the "rival" entry event for [redacted], and not a rival site at all. Although the CMA's Econometric Appendix notes the existence of such scenarios, it suggests that it should not "materially affect our analysis".<sup>129</sup> By contrast in our view including such "entry events" in the analysis will systematically underestimate the impact of true competitive entry, and therefore should be corrected. While new crematoria under the same ownership may well have a material volume impact on one another, we should not expect them to price independently.

Therefore the CMA's dataset clearly contains at least one major inaccuracy in relation to price, and needs to be checked before any weight can be placed on results taken from it. The analysis also needs to be updated to ensure that entry by members of the same group are not treated as rival entry events.

<sup>129</sup> CMA Funerals Market Investigation, *Crematoria Appendix: evidence on competition between crematoria*, Footnote 6.

In our view the CMA's fee-concentration analysis therefore cannot be relied upon in its present form. The underlying dataset needs to be checked and corrected, and controls for other factors that inform price (costs, slot-length and other quality metrics) would need to be included in order to obtain reliable results.

#### Appendix 5: overview of developments over time for Memoria's established sites

The  summarises the local competitive landscape and price and quality changes over time for each of Memoria's sites that has been open since 2017 or earlier.