



ASSOCIATION OF PRIVATE CREMATORIA & CEMETERIES

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APCC – Response to the CMA’S Provisional Decision Report

1. Introduction and Objectives

Given the fact that several members of the Association (APCC) have both provided large volumes of information to and had detailed engagement with the Authority (CMA), this paper attempts to take more of an overview and arguably a more holistic stance in relation to some of the key challenges and issues facing the sector as well as, where possible, identifying potential measures to improve consumers’ understanding and engagement with the sector.

Therefore, with rare exceptions, it will be noted that there are few specific references and detailed dissections of the text relating to identifiable concerns.

2. Timetable

A particular disappointment is the curtailment of the timetable for responding to the report and for engaging with the authority in respect of it. While seemingly the CMA believe that this action is justified, certainly in part, because there is no current intention at present to introduce specific legislation for price controls, there appears to be little or no recognition of the time required for the trade associations to consult with their members and come up with generally agreed plans for addressing individual subjects where practicable to do so. This is seen as being especially regrettable in the current circumstances during which, despite increased workloads, there are far more opportunities to engage with colleagues from the other trade organisations, through which it is believed both greater synergy and opportunities for progression of specific challenges can arise. (See Notes on the Death Management Advisory Group – DMAG below).

3. Engagement

While, our larger members in particular, who have spent a very considerable amount of time and incurred significant costs engaging with the CMA, are understandably wanting to concentrate on their priorities within their own businesses, they certainly expect their trade association to progress their interests and concerns, throughout the sector and especially currently, in terms of connecting and getting fully involved with central government and its relevant agencies.

To date, the funeral trade associations have had far more direct engagement with the CMA in relation to this study than those organisations representing cremation interests, despite requests for contact and therefore it is to be hoped that at least a Zoom meeting or similar, can be organised in October prior to the proposed end of the consultation period at the end of the month in order that APCC can have constructive input into both the final report and the intended processes for

monitoring the sector going forward. It has been pointed out by a member of the CMA team that there will be an opportunity to comment for at least six months following the publication of the final report for comments to be received. This is regarded as being too late and not conducive to ensuring that the CMA fully understand the full nature of the challenges facing those organisations who represent the interests of the cremation sector or creating an opportunity for them to submit their thoughts in respect of the operation of the monitoring processes proposed.

4. Imbalance of the Study

APCC is concerned over the fact that less than 20% of the 185 publicly run crematoria, operated by 160 local authorities appear to have had any involvement in the study, while private sector operators and many of their sites have effectively been subjected to what amounts to a forensic examination. Also, the comments and implied criticisms made, are frequently of a far more general nature than those related to the private sector. For example, there is a statement made that some public authorities have doubled their fees in the period under consideration but no indication is given as to how many were involved, who they were or what the range of the amounts involved was. APCC is aware that members of the CMA visited crematoria, but we have no idea which sites and how many were involved, the duration of the visit or what the brief for such visits was. Therefore, APCC does not know how the CMA processed their data or indeed how influenced they were by it in relation to developing their proposals.

It is understood that there is a statutory requirement for local authorities to set fees for cremation on the basis of cost recovery but there seems to have been little effort made to discover how effective or otherwise this is in practice. There is a realisation within the report that several authorities accumulate surpluses, some of which go within the same directorate, for example to subsidise the cost of burial, while others are absorbed by other directorates. Nor does there seem to be any relationship, necessarily, between the surpluses created and the level of cremation services provided. We are reliably informed that one local authority, who transferred surpluses to an entirely different function, refused to sanction the cost of a member of staff to open the 'Book of Remembrance' room at their crematorium at the weekends.

It is thought that had a similarly intensive investigation been made of public sector crematoria then a considerable amount of information would have been gathered for remedies, which would have given the opportunity for all or a proportion of such surpluses to be applied to improving their service offering. For example, many local authority crematoria would certainly benefit from substantial investment to refurbish or even replace their current crematorium buildings.

5. Recognition of Sector Development

There should be some appreciation of how much the facilities and options available have changed and expanded over the last three decades. While mention is certainly made in respect of the increased choices in respect of the audio visual presentation aspects of the ceremony in terms of music, webinars, video recordings etc., it also needs to be appreciated that there are now more extensive facilities, especially at crematoria built after 1985, almost exclusively by the private sector, for the display of flowers, columbarium niches and the choice of both memorials and their location within gardens of remembrance. Longer service times have not only allowed greater participation by the bereaved but the availability of 'on site' television facilities allows a larger number of people effectively to be 'present' at the service.

The scope and quality of information now available to the bereaved, primarily via both local authority and private crematoria websites has increased and improved dramatically. Nevertheless, a more detailed review of their content does clearly illustrate that the private sector does overall, offer a more extensive range of services as well as explaining them in greater detail but there does not appear to be any specific reference to this in the report. The remaining challenge therefore is to encourage greater and more regular use of them by the bereaved. Covid 19 may well prove to have

had a positive impact in this regard in that nearly all crematoria have kept their websites constantly up to date with the changing requirements in relation to funeral ceremonies so hopefully mourners will become more accustomed to using them.

Things have thankfully come a long way since full ceremony times of 20 minute and the almost habitual rendering of ‘Abide with me’ some thirty years ago.

6. The Planning Regime for New Facilities

Some members of APCC and others have indicated that there seems only to be scope for a limited number of new crematoria in the foreseeable future but given the trend towards direct cremation, changing demographics and an overall forecast increase in deaths over at least the next two decades, it is difficult to predict the eventual accuracy of these claims or what form the design and layout of such facilities will take.

However, there has been some recognition of the potential shortcomings of the current planning system in relation to the development of new cremation facilities in recent years. Back in 2016, the then Department of Communities and Local Government carried out a consultation on ‘Crematoria Provision and Facilities’ and while the consultation itself was effectively concluded by the end of that calendar year the government’s response was not published by the re-titled Ministry of Housing, Communities and Local Government until April 2019.

During the consultation there was tacit agreement that centrally issued guidelines, certainly on matters of common interest to all applicants such as access to a new site by public transport could and should be progressed but sadly there does not appear to have been any noticeable progress to date. Within Section 4.70 of the report it states, “There are very few cases where the planning regime has prevented entry by a crematorium that could have otherwise been economically viable”. While there may be a basis of truth in this in the strictest sense, there are many more instances where it is has been a contributory factor to permission being refused. For example, a planning inspector claimed just a few years ago that he didn’t think that the proportion of people choosing cremation was going to increase any further which we now know is certainly not the case. Naturally, the larger organisations have the resources to challenge and frequently overcome such matters, but this is much more difficult and costly for the smaller operator or applicant in respect of a single site. It has been pointed out by one of our members that most planning applications for new crematoria are refused initially but frequently accepted on appeal. Centrally issued guidelines would hopefully reduce the number of bizarre reasons, of which there are many, given for refusal thereby hopefully reducing the number of appeals required together with their accompanying costs.

7. Price, Quality and Profitability Outcomes

While is clear that the CMA have spent considerable time and effort analysing these matters, APCC has limited its comments on these subjects because members have already submitted detailed responses. However, there are a few issues which it is thought justify clarification and these are set out below:

- APCC asserts that there is a continuing long-term trend in terms of overall polarisation of the cremation market which shows itself in different forms over time. Clause 7.192 and Figure 27 clearly illustrate how in recent years local authorities, as average service times have continued to extend, have become the most expensive when judged on a per minute basis.
- In respect of profitability, it should be noted that the period 2008 to 2018 included the introduction of the legislation relating to the requirement that at least 50% of all cremations were capable of abating emissions of mercury and other nominated substances as encapsulated in Process Guidance Note PG 5/2 (12). While there is reference to ‘Environmental Surcharges’, no breakdown of the average capital costs appear to have been

given nor does any detail seem to have been offered on the workings of CAMEO (Cremation Against Mercury Emissions Organisation) – the sector’s ‘burden sharing scheme’.

- In addition, all crematoria opened since 2006 have had to fit the necessary filtration equipment.
- On the subject of land values APCC would remind the CMA that a large proportion of crematoria opened since 1985 are situated in rural or semi-rural locations largely because the cost of land for residential or commercial use in more urban settings would have made the project non-viable.
- APCC is aware that some members are uncomfortable with the methodology used for calculating the ROCE. The level of redaction in this context effectively prevents further comment being made.
- In terms of the assessment of quality matters, as mentioned before, issue is taken over the fact that the CMA’s enquiries have not been evenly balanced between private operators and local authorities and that there is an uncomfortable level of subjectivity in the opinions expressed. There are examples of the CMA, for instance in relation to the approach to ROCE, stating that they prefer their method of assessment and / or calculation to those of the major operators but no detailed explanations as to why this is the case appear to have been provided.

8. The Impact of Direct Cremation

Estimates and forecasts in relation to the market penetration of ‘Direct Cremation’ to date and going forward vary considerably. The situation is further complicated by apparent crossovers, in terms of definitions, with other forms of discounted funerals such as ‘non-attended’ cremations and ‘simple’ funerals. Also, it really is not possible to assess what impact Covid 19 will have on the bereaved’s preferences in respect of the type of funeral they choose once the pandemic has abated. In addition, the proportion of people taking out a Pre-Paid Funeral Plan and specifying ‘Direct Cremation’ needs to be fully accounted for on a continuing basis in this somewhat confused situation.

Certainly, the importance of detailed and continuous monitoring of the trend movement in this regard cannot be overstated given its potential impact in terms of working practices, associated employment levels, revenue streams and the viability and design of new crematoria. The first crematorium primarily designed for ‘Direct Cremation’, although the planning authority demanded that a traditional chapel be included in the final building specification – Charlton Park, Nr. Andover and operated by Pure Cremation Limited, carried out 2,374 cremations in its first full year of operating in 2019, of which only about 10% were traditional services.

Some APCC members already have sophisticated systems for tracking and analysing such trends and others are being actively encouraged to do so, although the ultimate objective has to be to have a fully integrated system throughout the whole sector but it is yet to be seen if that can be achieved in the longer term.

9. The ‘Deceased Management Advisory Group’ - DMAG

Historically, the sector as a whole, has been constrained to a degree by two factors, namely, independently addressing subjects of pan sector interest and a somewhat intermittent and distant relationship with central government and its agencies.

It is really only during the last 10 ten years or so that the trade associations have started to work regularly together, on matters of common interest such as initially, ‘holding over cremations’, babies ashes and coffin accreditation schemes. Since then joint communications and activities have steadily

expanded with the cremation and burial associations organising seminars for the sector in 2018 and 2019.

The Ministry of Justice (MoJ) has been the prime central government interface with the sector trade associations and has usually held two meetings a year of the Burial and Cremation Advisory Group (BCAG) as well as heading up consultations on such matters as Cremation Codes of Practice and similar issues. Until now, involvement with other functions within central government, with the possible exception of the Department of Health and Social Care and its predecessors, has very much been on an ‘ad hoc’ basis, frequently at short notice as a result of ministerial instruction.

Covid 19 has to date had a distinct beneficial impact on both these factors. Throughout the pandemic, the group has worked together on all the priority issues, originally meeting daily. It now meets twice a week and where possible members ‘attend’ the weekly meeting held with the funeral sector by the Cabinet Office. A very positive outcome of the situation has been the opportunity to engage directly with an increased number of central government functions and the devolved administrations with representatives from both, frequently joining in DMAG meetings. In addition, the group is progressing a number of initiatives designed to improve engagement with all UK governments in the future. The decision has already been taken that the group will definitely continue after the end of the pandemic.

In relation to the CMA’s report, while individual organisations will be submitting their responses this week, the intention is that the group will discuss the issues from a pan sector viewpoint next week and will feedback comments to the CMA particularly in respect of proposed monitoring processes.

10. In Conclusion

While recognising the amount of work that has gone into the PDR and approving of the withholding of price controls for the present, there is no denying that there is considerable disappointment with elements of it, in particular a perceived imbalance between the level of investigation of the private sector compared with that for public authorities, combined with a lack of detailed findings in relation to the latter, thereby leading on occasion to somewhat subjective and unsubstantiated opinions being expressed. It is hoped that going forward the cremation sector will be able to have equal access to the Authority as that granted to the funeral associations, which is not thought to have been the case in the past.

A prime priority for APCC and fellow associations is to ensure that comprehensive monitoring processes are in place in order to quantify and qualify the changing profiles and trends throughout the sector and where possible to begin to distinguish between the temporary and more permanent impacts of the pandemic, keeping the CMA informed of progress and working co-operatively with them throughout.
