

**FUNERALS MARKET INVESTIGATION**  
**Notice of Provisional Decision Report**

**Response by A. W. Lymn The Family Funeral Service**  
**September 2020**

**A. W. Lymn comments in red below.**

1. On 28 March 2019, the Competition and Markets Authority (CMA), in exercise of its powers under sections 131 and 133 of the Enterprise Act 2002 (the Act), made a reference to the Chair of the CMA for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 (the Group) for an investigation in relation to the supply of funerals and related goods and services in the United Kingdom (the Investigation). By a Notice dated 16 March 2020 and acting under section 137(2A) of the Act, the Group extended by six months until 27 March 2021, the period within which the CMA is due to prepare and publish its report on the reference.

**Provisional findings**

2. The Group has provisionally found, pursuant to section 134(1) of the Act, that there are features of the relevant markets in the United Kingdom which alone or in combination prevent, restrict or distort competition in the supply of

(a) services by funeral directors at the point of need; and

(b) crematoria services; and accordingly that there are various adverse effects on competition (AECs) within the meaning of section 134(2) of the Act.

3. The Group has provisionally found the following features in the funerals directors markets:

(a) Low level of customer engagement caused by the intrinsically challenging circumstances surrounding the purchase of a funeral.

**Is this really so very different to the way most services are selected by the public? The purchase of a funeral cannot be compared to the purchase of a specific good the price of which can be compared on a like for like basis between various retailers / suppliers. I made the point on several occasions through my submissions that the funeral service our family company provides is in many ways different to that provided by other funeral directors. For example, at the time of a funeral several other funeral firms provide a funeral director (who also acts as a bearer) and two additional bearers, who together move the coffin on wheels, thus they only provide three staff to service the funeral ceremony. Pre-COVID we always provided a funeral directors, an usher in advance to meet and greet other mourners, and four bearers to shoulder carry the coffin, thus we provided a minimum of six staff for the funeral ceremony unless the family had elected to carry the coffin themselves. Mourners regularly say having attended an A W Lymn funeral service that it was immediately evident that it was an A W Lymn funeral “as nobody else does it like Lymn’s”.**

(b) Lack of easily accessible and clearly comparable information on the products and services provided by funeral directors, including their prices and levels of quality.

**We acknowledge that many funeral directors are reluctant to publish their prices but our full price list has been available for many years in both printed hard copy form, which families are welcome and indeed encouraged to take away at any time whether or not immediately requiring a funeral, and on the web to download should they prefer. All families that have not already downloaded or received a hard copy in advance of our first meeting are handed a hard copy at the first opportunity, which is often when collecting the deceased shortly after**

death when this has not occurred in hospital, and certainly before they enter into a contract with us.

In addition to this, in Nottinghamshire we have an agreement with our main competitor whereby should a client decide after either of us has moved a deceased into our care that they wish to use the services of the other firm, they will be free to do so and will not receive a bill for two removals. We achieve this by having set a fee for the collection of the deceased, holding and delivering to the selected funeral director. This fee is payable by the family selected funeral director to the funeral director who effected the removal on the clear understanding that the funeral director who effected the removal does not invoice the family and the funeral director that is contracted by the family only invoices the family for their usual removal fee even though the actual service of that was not provided by them.

As such a family only pays the standard charges of the selected funeral director irrespective of who carried out the initial collection and this therefore gives the family time to select their funeral director without having to make a final decision before the deceased is moved.

(c) Lack of visibility to customers of the level of quality of care given to the deceased by funeral directors.

We are happy for customers to visit both front and back of office facilities at all our premises. Most customers have no appetite to do this. On the odd accession that they do we welcome it but we have to be mindful to maintain client confidentiality of the other families we are serving.

The CMA ought to be aware the approximately 80% of funerals are cremations of which about 70% require the completion of Doctors papers. As such about 50% of all deceased persons are visited whilst they are “back of office” on funeral directors premises by independent GP’s. I appreciated that during the temporary COVID regulations this requirement is suspended, but I would suggest that the simplest way to examine the back of office facilities at funeral directors would be for the CMA to provide GP’s with the standard they should expect to see and ask them to feedback to the CMA should these standards not be met.

4. The Group has provisionally found the following features in the crematoria services markets:

(a) Low level of customer engagement caused by the intrinsically challenging circumstances surrounding the purchase of a funeral.

(b) High barriers to entry in the supply of crematoria services.

(c) High levels of local concentration in the supply of crematoria services.

The real problem with lack of crematoria is not the high barriers to entry but more the insurmountable restrictions in terms of the cremation Act requirements to obtain a licence to cremate based on distances from highways and residences, thus making most geographically appropriate sites unacceptable and planning authorities generally being local authorities that are already competing in the crematorium market and are therefore reluctant to grant planning consents. This results in applications for new crematoria being pushed into green belt and open countryside where there is a requirement to prove very special circumstances (VSC) for any planning application to be considered. In effect, if there is already a crematorium serving the area, then VSC cannot be proved as one of the requirements thereof is the proof of need and there is no need if cremations are already available within the area.

These regulations therefore mean that no planning application will be passed where a new crematorium would be in competition with an existing crematorium, in effect protecting the monopoly position of the existing crematorium.

## Provisional Remedies

5. The Group has provisionally decided the following package of remedies.

### *Price, commercial information and transparency*

6. The Group has provisionally decided to require all funeral directors to provide customers with information on the price of their:

(a) Most commonly sold funeral package;

**Our services brochure is fully itemised. We do not sell packages per se although the brochure does give examples of a Traditional Funeral, Reduced Service and Direct Cremation (p13-14) but these are merely a summation of the individual constituent elements shown elsewhere in the brochure. In essence every funeral that we conduct, with the exception of a Direct Cremation, is an individually priced bespoke funeral.**

(b) Standard funeral package (if different from (a)); and

**Please see comments in (a) above.**

(c) Simple funeral package (defined as the simplest funeral package that the funeral director offers) (if different from (a)).

**This is extremely misleading as the simplest funeral package we offer is the Direct Cremation which has no option for mourners to attend and no option for a Celebrant or Minister to take the service. If we offered this as our simple funeral package I believe it would be misleading to the bereaved as they would expect to be able to attend a funeral when buying a “simple funeral package”.**

7. For each of these packages, funeral directors would be required to provide:

(a) A description of what is included in and excluded from the package;

(b) The total price of the package as specified, which should reflect, as far as possible, the final price that customers are likely to pay for their chosen package; and

(c) A description of the main disbursements, or additional costs, that are not included in the price of the package (e.g. burial fees or cremation fees) and an indication of their likely cost to the customer.

**I believe that our standard services brochure details everything required in (a) and (b) above however I do not see how we can offer a guide on specific prices for the third party costs. This is a very complex issue and we have been unable to find any simple way of making this information public. To further explain, within our trading area there are;**

- **16 Crematoria. Each with different fees and different items and services included or excluded from the basic fee.**
- **68 Cemeteries. Each with different fees and different regulations, under the control of 44 Local Authorities.**
- **Several hundred Churches, Ministers and Celebrants, all charging different fees, some of which are statutory and others which vary dependant on the individual circumstances of the deceased and/or the funeral.**
- **Doctor’s fees in the case of cremation. These vary dependent upon the circumstances of the death and the involvement of the Coroner as to whether there is no fee, one fee or two fees, whether there is travelling expenses and whether the recommended fee by the BMA is the fee actually charged.**

To give an ideal of the complexity of this I attach a copy of the price lists for the City of Nottingham Crematorium and Cemeteries which you will note runs to 3 and 6 pages respectively and these cover just one crematorium and six cemeteries. I am also attaching a copy of the twenty nine pages of our staff handbook that cover a summary of these disbursements but which I would suggest would be impossible for a person without training to extrapolate the costs correctly, especially if that person finds themselves in intrinsically challenging circumstances following a recent bereavement.

You will note from the above that the fees for a burial in a new grave range from £176.00 to £4,514.00, and for an attended cremation from £515.00 to £1,035.00. Thus to give any specific price without knowing the detail of the clients preference in terms of location, type of grave and time of day, could be extremely misleading.

Our belief is that the disbursement element of a funeral will remain the same irrespective of the funeral director selected, therefore the simple statement to the client that the disbursements will remain the same whichever funeral director is selected enables the client to select the most appropriate service for them based purely on a comparison of the various funeral directors costs and quality of service. Be assured however that we are happy without any obligation to discuss the clients specific requirements and provide the costs of the disbursements should a family so wish and indeed when a client selects our services these are provided as a matter of course in advance of the client selecting the individual elements of our service.

8. In addition, funeral directors must also provide customers with a full price list of the disaggregated, individual products and services that they offer when those services are offered in addition to one of the funeral packages specified above, or when a customer is choosing to specify a funeral to their own personal requirements.

**Agreed, we already do this.**

9. Funeral directors must also provide customers with details of their terms of business, specifically:

- (a) The size of upfront deposit required;
- (b) When the deposit and final balance must be paid;
- (c) Any available payment options for paying the deposit and balance; and
- (d) Any charges for late payment.

**Agreed, we already do this.**

10. To meet this obligation, funeral directors must:

(a) Make their price information and terms of business available to customers at their premises and on their website (if available). The information must be made available in a clear and prominent manner;

**Agreed, we already do this.**

(b) Provide their price information, as well as the price information of crematorium operators in the local area (e.g. all crematorium operators within a 30-minute cortege drive time), to customers on request; and to customers prior to the arrangement meeting if this price information has not previously been requested by, and provided to, the customer.

**This shows a lack of understanding by the CMA of the process of arranging funerals. If a client tells a member of my staff which crematorium they are going to use I believe they would be upset if the response from us was to tell them that the other crematoria in the area are A, B & C and charge X, Y & Z. This is not the information that the family have requested.**

**We would however agree that this information should be made available to all clients and prospective clients that request it.**

11. The Group has provisionally decided to require all crematorium operators to provide customers and funeral directors in the local area (eg all funeral directors within a 30-minute cortege drive time) with information on the price of:

- (a) A standard fee attended service;
- (b) An unattended service (if offered by the crematorium operator); and
- (c) A reduced fee service (if offered by the crematorium operator).

**Is the 30-minute cortege drive time from leaving the funeral directors premises or from the point at which the family join the hearse? There needs to be clarity.**

**We do however strongly agree that the fees detailed in (a), (b) & (c) above should be made readily available.**

12. For each of these services, the crematorium operator must provide:

- (a) A description of what is included in and excluded from the service, including the slot length;
- (b) The total price of the service as specified, which should reflect, as much as possible, the final price that customers are likely to pay for their chosen service. This should include the different prices for different slots, covering day, time of day and length of slot; and
- (c) A breakdown of the total price of the service as follows:
  - (i) Core service, including use of the chapel; any mandatory fees (eg death certificate and cremation forms and environmental levies; and any other elements that are necessary for the service).
  - (ii) Additional optional services, including the purchase of additional slots, use of music facilities; webcasting; organists; visual tributes; memorials; and the storage, collection, or scattering of ashes.

**Agreed**

13. To meet this obligation, crematorium operators must:

- (a) Make their price information available to customers at their premises and on their websites (if available). The information must be made available in a clear and prominent manner;
- (b) Provide their price information to customers upon request; and
- (c) Provide their price information to funeral directors in the local area (eg all funeral directors within a 30-minute cortege drive time).

**Agreed in principle but we would suggest to make things easier the funeral directors that should be informed of the crematorium's prices should be all those funeral directors that have used the services of that crematorium within a specified period prior to any price change, perhaps six months or a year. This would avoid any discussion as to which firms should be included if the cortege drive time were used.**

14. The Group has provisionally decided to require funeral directors to disclose to customers:

(a) The ultimate owner of the business;

**Although we already open any new offices and rebrand and businesses that we purchase as A W Lymn The Family Funeral Service and we show this clearly above the door on the facia of all premises and on all brochures and literature, I am not sure that this actually gives the details of the ultimate owner. It specifies that this is a trading name of A W Lymn The Family Funeral Service Limited but makes no mention of that company being a wholly owned subsidiary of Lymn Funeral Services Ltd. Our letterheads show our registered office and company registered number and directors and officers of the business but that does not of course show the individual owners of the shares which may be the CMA's interpretation of the ultimate owner.**

**In the case of the large national firms such as Dignity PLC it would be impossible to require the names of all shareholders to be provided. Equally in terms of the Co-op the ultimate ownership may well be a trading company who's shareholding is actually owned by the Co-op group but short of looking through the veil of incorporation the ultimate owner is the limited liability company and disclosing this to the public would not disclose that the Co-op group was the owner.**

**We are very much in favour of the ownership of all funeral business being clearly displayed and transparent, but the wording and how this can be achieved in practice would need extremely careful thought. For many years the NAFD (and I am told SAIF and Selected Independent Funeral Homes (SIFH)) have wrestled with this and never been able to find a satisfactory solution.**

(b) Where a funeral director has any interest in a price comparison website; and

**As with (a) above this need extremely careful thought. If a shareholder in Dignity, being a public quoted company, is also a shareholder in a price comparison site surely that would not mean that Dignity had an interest in that price comparison site, just that one of its shareholders did.**

**Very detailed and precise information of what is meant by this and of what is required would be needed.**

(c) Where a funeral director makes a charitable donation, charitable contribution or a payment of a gratuity to a third party (such as a bereavement office in a hospital, care home or other similar institution), or another form of payment that does not relate to a cost incurred or a service provided by the third party on behalf of or to the funeral director.

**I feel this is at variance with 16 a below which prohibits such activity.**

**Section 14 does not define how the disclosure to customers should be made or indeed to which customers such disclosure would need to be made.**

15. To meet this obligation, funeral directors must make this information available to customers at their premises and on their websites (if available) in a clear and prominent manner.

**Much as I agree with this in principle I cannot see how it would work in practice or be enforceable. For example, the national Co-op conducts somewhere in excess of 100,000 funerals per year and I know is involved locally in charities and trades under a multitude of names. Without further clarity in this matter it could be deemed that all 100,000 + customers of the Co-op would need to be informed of all trading names that the Co-op operates under and of all donations made by all those within the year to all hospitals, care homes or similar institutions. This is simply impracticable.**

16. The Group has provisionally decided to prohibit funeral directors from engaging in the following activities:

(a) Arrangements or any exchange of services with, or payments to, hospices, care homes and other similar institutions which encourage or incentivise those institutions to refer customers to the funeral director;

**We agree that commissions or incentivising payments should not be paid to such institutions. However, as currently worded, it is our belief that any support given by funeral directors to these places would be deemed to be in breach and given the lack of funding from other sources this would likely have a draconian effect on the viability of many of these services who rely on fundraising for much of their income.**

(b) Soliciting for business through coroner and police contracts. To comply with this requirement, funeral directors must adhere to any non-solicitation clauses that are in their contracts with coroners and the police, and not solicit business if any such clauses are not included in the relevant contract.

**Much as we agree with the essence of this the matter needs to be more clearly defined. When attending a family's home on behalf of the Coroner it is extremely difficult to avoid telling the family which firm you are and when families ask questions about the funeral it would be impolite to decline to give information. Surely the family have right to know who they are letting into their house.**

17. To comply with this remedy, funeral directors must terminate any existing arrangements or exchange of services with, and stop making payments to, third parties as outlined in paragraph 16 (a) and (b). Funeral directors are also prohibited from establishing any new arrangements, engaging in any new exchange of services or making any new payments.

**The problem is that many contracts were traditionally offered by local authorities to funeral directors on a zero or even positive contract price. This was on the clear understanding that the funeral director could solicit for business. In fact there are known examples of funeral directors staff carrying out these contracts and facing bereaved families whilst being paid one rate for the transfer if they gain the funeral for their employer and another if they do not.**

**Although this practice is abhorrent careful thought needs to be made about how these existing contractual arrangements would be addressed when my understanding is that many of these contracts have no provision for early termination.**

**I repeat that we are very much against the type of contracts detailed above and would very much support any regulations ensuring that contracts were only awarded on the basis of realistic pricing and quality of service.**

#### ***Improving the quality of funeral directors' back of house standards***

18. The Group has provisionally decided to recommend to the UK government and the devolved administrations in Northern Ireland and Wales to establish in England, Northern Ireland and Wales an inspection and registration regime to monitor the quality of funeral director services and as a first step in the establishment of a broader regulatory regime for funeral services in England, Wales and Northern Ireland.

**Much as we are in agreement with continual improvement in standards and with the introduction of a means to regulate unscrupulous operators we would be concerned if the broader regulatory regime were handed to the local authorities to administer. We have seen the system in Scotland of the introduction of a registration scheme and Inspector of Funeral Directors and would be very much in favour of this being a national appointment to ensure national standards rather than a postcode**

lottery. We also think that compulsory membership to one of the existing trade associations would help to standardise quality measures across the board.

In 3 (c) above I suggested that 50% of funerals result in the back of office and mortuary facilities being seen by an independent person in that GP's attend to complete cremation certificates. I would suggest that the CMA could seek assistance by using the services of these GP's to act as independent agents to report any substandard facilities or practices.

### *Continuing review of the funerals sector by the CMA*

19. The Group has provisionally decided to recommend to the CMA board to:

(a) Actively monitor consumer outcomes in the funerals sector, in order to identify and, where possible, address any harmful behaviour, by tracking funeral volumes and revenue and encouraging customers or third parties to report any non-compliance with price disclosure obligations or any other harmful behaviour to the CMA;

**Agreed, we would be supportive of this provided the disclosure details were clearly defined and some of the matters outlined earlier in this response were addressed.**

(b) Publish an annual review of consumer outcomes in the funerals sector; and

**Agreed, this would be useful.**

(c) Consider consulting on a supplementary market investigation reference at the earliest opportunity once the impact and consequences of Coronavirus (COVID19) on the funerals sector are sufficiently understood and the sector is more stable.

**I find this extremely disappointing as our firm has devoted a disproportionate amount of time to providing information to the CMA and we feel that from this information the CMA should have been able to make adequate conclusions without having to revisit the funeral sector.**

20. To enable the CMA to monitor the funerals sector, the Group has provisionally decided to require funeral directors with five or more branches to provide to the CMA details of:

**I know of funeral directors with five branches carrying out 125 funerals per annum with a turnover of less than £500,000.00 and other funeral directors with four branches or less carrying out in excess of 1,000 funeral a year with a turnover in excess of £4,000,000.00.**

**What is the definition of a branch?**

**What is the reason for selecting five branches?**

(a) The total number of funerals provided each quarter; and

(b) The total revenue (excluding disbursements) during that quarter.

21. For funeral directors with ten or more branches, this information must be provided both in aggregate form and split by simple, standard and other funerals (based on the funeral director's definition of these types of funerals).

**My statement in relation to point 20 equally applies in relation to this point.**

**What is the definition of a branch and what is the reason for selecting 10 branches?**



**As already explained in point 6, we would be unable to provide details on the various package types as almost all the funerals we provide are individual bespoke services designed to ensure that we only provide and invoice the clients for the services they require and not for the services they do not require.**

**There would need to be a clear definition as to what is defined as a funeral. Does a funeral include such things as still born baby funerals for those firms that have a contract to provide these, Section 46 Public Health Funerals, repatriations, direct cremations, and for those that specialise in other funerals such as for the Jewish and Muslim communities.**

**There was also confusion in the questions asked by the CMA in the investigation about the inclusion or otherwise of third party costs / disbursements. It appears that many of the figures quoted in the press following reviews of funeral prices included disbursements and as funeral directors have no control over these, and as they vary widely from one geographic area to another, they tend to distort the published figures.**

22. To enable the CMA to monitor the crematoria sector, the Group has provisionally decided to require all crematorium operators to provide to the CMA details of:

- (a) The total number of cremations provided each quarter; and
- (b) The total revenue during that quarter.

**Agreed, but again the definition of a cremation would need to be clearly defined particularly in regard to the inclusion of still-born babies, neo-natal remains, cremations of body parts and direct cremations with no service, all of which could easily distort the averages.**

23. This information must be provided in aggregate form and split by standard services (ie peak services from 10am to 4pm), reduced fee early morning attended services (ie services at 9am or 9.30am) and unattended services. Crematorium operators must also provide an explanation of any variance if this breakdown of revenue and volumes does not equate to the aggregate numbers provided. The Group has provisionally decided to include in the Order the ability for the CMA to require this information from smaller providers if the CMA deems that this information is necessary to support its monitoring of the funerals sector.

**Agreed, but I would reiterate my comments in 22 above.**

### **The next steps**

24. The Group now invites interested parties to submit reasons in writing as to why these provisional findings and proposed remedies package should not become final (or, as the case may be, should be varied).

25. Unless otherwise specified to a party, these reasons should be received by the Group no later than 5pm on **10 September 2020**.

**Thank you for this**

26. Unless a different date is agreed with any party, the Group will have regard to any such reasons provided by this date in making its final decisions in this investigation.

MARTIN COLEMAN  
Group Chair , 13 August 2020

**Nigel Lymn Rose**  
**Company Chairman**  
**A. W. Lymn The Family Funeral Service.**  
**27<sup>th</sup> September 2020**