



Provisional Conclusions

We are delighted that the CMA has found AECs in both the funeral directors and the crematoria markets. From our experience of supporting people struggling with funeral costs over the last 10 years we wholeheartedly agree with the analysis that the markets are not functioning well, meaning that bereaved people are not getting good value for money, but are paying substantially higher prices than they would otherwise.

We are also pleased to see that the CMA has concluded that these AECs result in detriment to customers. While the main focus of the detriments described is of a financial aspect, it is positive to see the CMA recognising the deeply detrimental emotional distress that could be caused by any back of house quality problems that might occur in the care of the deceased. In a similar way, we would like to take the opportunity to reflect that the financial detriments identified are also severely detrimental to the wellbeing of bereaved people.

Proposed remedies

Price and commercial information and transparency

Design and implementation

We are very supportive of the CMA making an Order to require all funeral directors in the UK to provide pricing information and are pleased to see some form of this being included in the proposed package of remedies. However, we are disappointed that this requirement does not extend to all packages that funeral directors offer or to the actual, local cost of disbursements.

We are concerned about the use of the word 'standard' in 9.24(b) and other places to refer to a 'standard funeral package' as one of the elements for which funeral directors must provide pricing. Firstly, we question what the definition of this is. We note at paragraph 9.154, in the section on a continuing review of the sector, that the revenue data funeral directors will need to provide will be split into 'simple, standard and other funerals (based on the funeral director's definition)'. We therefore conclude that the funeral categories mentioned in this section may also be defined purely by funeral directors. If this is the case, while having access to some pricing information will be an improvement on the status quo, we question how, with potentially thousands of differing definitions, consumers will be able to draw any real comparison between companies. We also believe this could pose a real barrier to effective monitoring and enforcement as we question how it will be possible to determine if the pricing for this 'standard' package has been provided.

We are also concerned that, possibly partly in a bid to show that they are compliant, funeral directors may start to use the term 'standard' themselves. As we explained in our previous submission, the use of the word 'standard' could strengthen perceptions and feelings of what a funeral 'should' be and of what bereaved people are 'expected' to provide for their loved ones. In this way, it could end up having an impact on people's sense of choice and therefore reduce the space in which people feel able to make savings. Any language used should not include the word 'standard' or anything else that might make it sound like 'the norm'.



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We would also like to know if there will be any guidance on how the 'most commonly sold funeral package' will be identified to ensure some consistency across providers. If it is based on a period of sales then the period chosen could quite significantly impact on the package identified. Given the Covid-19 restrictions it may be that more recently this is a direct cremation or a simple funeral package, when in the past it may have been something more expensive.

We are concerned that highlighting the most commonly sold package (a) as one of the packages for which to give pricing, could potentially have baked into it years of upselling from a simple attended funeral to a more expensive one. Meanwhile the simplest package (c) could be a direct cremation. The remedy does not appear to define a 'standard' package (b) and only requires the price to be provided if it is different to the most common one (a). The combination of these three eventualities leaves open the possibility that a funeral director may only display the price of a direct cremation and a quite expensive package that is most commonly bought, with no compulsion on them to provide the price of the simplest attended package they offer.

Requiring funeral directors to provide the cost of all their packages, as well as the disaggregated list, would avoid this problem. However, at the very least, we suggest that the Order should include a requirement to provide the price of the simplest attended funeral they offer, as well as the price of an unattended package, if they provide this service.

While we are delighted to see that funeral directors will have to make a disaggregated price list available as well, and strongly believe this should be the case, we believe packages can have a tendency to draw people to them as they seem less complicated and involve less decision making at a difficult time. Equally, they have the potential to suggest what 'should' be included.

In terms of what needs to be provided for each of the packages, we believe that it should also be mentioned if anything can be removed from a package (9.25a) and, if so, what impact that has on the price. We know some packages do have this option and it has sometimes been key for our clients in enabling them to get as close as possible to what they want without paying for products or services that they don't want or need¹.

We note that 9.25(b) says that the total price of the package should only reflect 'as far as possible, the final price that customers are likely to pay for their chosen package' – if it is a package we question why it would not be possible for the price advertised to be the final price that customers will pay for that package, assuming they do not add/deduct any items.

We are very pleased to see at 9.25(c) that disbursements have been included in the transparency measures in some form, but are disappointed that the suggested requirements just ask for the 'main disbursements' and only for their 'likely cost'. We believe that actual, local prices should be provided for the main disbursements referenced by the report - burial fees and cremation fees - as well as for doctors' fees. Other common disbursements provided by that funeral director, such as a faith leader/celebrant, order of service, flowers costs etc. should also be listed, with an accurate fee as a reference point, even if it is a range or a 'from' price. Funeral directors who have signed our [Fair Funerals pledge 2020](#) were required to comply with all of this, showing that it is clearly possible.

¹ Example 8 in the appendix to [our response](#) to the 'Remedy options for regulating the price of funeral director services at the point of need' working paper.



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While we recognise that burial fees have not been included in the scope of the CMA's investigation, we do not believe this precludes requiring funeral directors to make the actual costs of those available to customers. In the case of cremation fees, as the CMA is also proposing to require all crematoria to provide price information to funeral directors within a 30-minute cortege drive time, we see no reason why funeral directors cannot be required to provide these exact costs 'at their premises and on their website (if available)', along with all their other prices, as opposed to just on request as mentioned in 9.28(b). As the CMA highlights in 9.63(a), the additional work for funeral directors "will be limited, as it will be the responsibility of the crematorium operator to provide the required price information to the funeral director".

We are aware that some funeral directors do not have a website, but do have another form of online presence, such as social media like Facebook. We believe that it should also be a requirement for these to hold the same pricing information.

We are very supportive of the requirement for funeral directors to provide price information on request and prior to the arrangement meeting. We understand and agree the concern expressed in 9.53 that some bereaved people may not feel ready to engage on price in their initial contact, however we do not feel that the only answer to this is to require nothing from the funeral director at this juncture. We suggest that it should be required for a funeral director to offer pricing information if it has not been requested – we believe this can be done sensitively, with space allowed for people to decline and return to it at another time. As the CMA have found, very few people switch funeral directors and therefore if the only requirement is to discuss pricing before the arrangement meeting, the collection of the body could have already taken place, potentially making it very unlikely a customer will change provider, even if they later find out the prices are too high for them. Even if they do change they will have incurred an additional cost in having the body transported twice.

We agree that funeral directors should be required to include their terms of business in the information they provide on their website, premises and directly to customers as at 9.27 and 9.28. However, as (c) – 'Any available payment options for paying the deposit and balance' - could include the option to pay via a payment plan/in instalments, we believe this should also specify that any associated interest has to be communicated.

We are pleased there will be a requirement for funeral directors to disclose commercial interests to customers as stated at 9.32. However, we note that declaring a connection to a crematorium or cemetery has not been included, despite originally being proposed. While we recognise high levels of concentration mean there often isn't much choice of crematoria for consumers, there are nonetheless some areas of the country where there are different options of both cemeteries and crematoria. As a result someone could visit a funeral directors that is owned by a company that also owns one of the cemeteries or crematoria nearby. The London borough of Newham is a perfect example of this. Therefore we feel the remedy should be changed to include this. Paragraph 109 of the original 'Information and transparency remedies' working paper put this forward as a potential part of the disclosure requirements "in order to address the presence of vertical integration in the funerals sector" and we cannot see any reason for excluding it, especially given that it would incur minimal additional costs for funeral directors.

Equally, while we are pleased to see the proposed prohibition of funeral directors engaging in the activities listed in 9.34, including soliciting for business through coroner contracts, we are disappointed that the disclosure of coroner contracts has been abandoned without explanation. As is stated in paragraph 50 in Appendix W, "By disclosing the



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relationship to the customer and explain [sic.] that the customer can switch funeral director, this would encourage switching where the original funeral director does not meet the needs or budget of the customer." The proposed remedy does not state that funeral directors must inform the customer that they can change provider, merely that they must not solicit for business. We believe the remedy should be amended to require a disclosure of coroner contracts or at least to include a requirement to explain that a customer can switch. As Appendix W mentions, the disclosure of coroner's contracts is expected to "impose minimum additional costs" and we can see no reason for excluding it.

We agree that price information should be provided in a standardised format as stated in 9.48.

As the proposed transparency remedy is similar to our [Fair Funerals pledge 2020 guidelines](#) and requirements, QSA would be open to a discussion about the CMA implementing the remedy by using the Fair Funerals brand and pledge guidelines in partnership with QSA. While the pandemic has affected our ability to respond to requests in recent months, we currently have 97 branches signed up to the 2020 pledge and nearly another 100 requests from interested parties.

We are also very supportive of the CMA making an Order to require all crematorium operators in the UK to provide pricing information to customers and funeral directors, and are pleased to see some form of this being included in the proposed package of remedies. However, regarding the reference to a 'standard fee attended service', we refer you to our comments about a 'standard funeral package'.

We also agree with the proposal in 9.65 regarding compliance reporting from funeral directors and crematorium operators, including making it as easy as possible for customers to report concerns about non-compliance. However, we would like to suggest that the reporting requirement, which we note is only annual, be extended to branches of 5 or more, to bring it in line with the first tier of revenue reporting.

Effectiveness and proportionality

We are disappointed that no provision has been included to require transparency from local authorities regarding any resident funeral schemes they may provide. While local authorities can carry out procurement without the demand side barriers that bereaved people experience, bereaved people on considering a resident scheme versus arranging a different funeral with a funeral director of their choosing are still subject to demand side factors like emotional distress. If the same information that is being required of funeral directors is not also required of local authorities then in these instances consumers will potentially be disadvantaged by a lack of information transparency, as we have previously evidenced².

We would also just like to take this opportunity to reflect that there is one type of funeral that has not been considered at all in relation to transparency – public health funerals. While we understand that they are not a focus of the CMA's investigation we believe it is an important point to raise. Currently, many local authorities have little, no or inaccurate information on their websites about their legal duty to conduct public health funerals, what one

² Examples 6 & 9 in the appendix to [our response](#) to the 'Local Authority tendering remedy proposal' working paper.



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consists of in that area or how to access one, including the provision of contact details. We appreciate that local authorities are struggling financially, but they have a duty under the law to dispose of a body if no one else is making arrangements. We have supported countless clients to access a public health funeral where the relevant local authority has thrown up numerous barriers and where, without our help, the likely result would have been the client taking on thousands of pounds of debt arranging the funeral themselves. Without addressing this side of funeral information transparency, many people will still experience a significant detriment in this regard. As a result, we believe it is vital that statutory requirements are brought in for local authorities around information provision and access, as well as the ability for family and friends to attend and receive the ashes, in the case of cremation.

We agree with the CMA that the proposed remedies will address the AECs to some extent, but we do not believe they go anywhere near far enough. The CMA's observation in 9.74 (and 9.53) that "not all customers would be willing or able to engage with this information following a bereavement" highlights exactly why price controls of funeral director and crematoria services (as well as cemetery services, though outside of the scope of this investigation) are also desperately needed, as without these customers will still be significantly impacted.

We are also greatly disappointed that the following remedies are not being proposed at this time. As the CMA originally concluded, we believe all of these elements are needed in order to make a significant impact on the bereaved person's experience of the funeral market:

- Independent platform for comparing providers
- Intermediaries to (more effectively) inform customers of their options and encourage shopping around
- Funeral planning awareness before the point of need
- Mandatory 'reflection period'
- Potential cap on the level of charges incurred for the collection, transportation and storage of the deceased

Improving the quality of funeral directors' back of house standards

We are pleased that some kind of regulation of funeral director services is included in the remedies, but are very disappointed that a broader regulatory regime is not being proposed. We are concerned that the process may not get beyond this first stage and believe licensing, as opposed to registration, is vital for the protection of bereaved people in the funerals market.

However, within the context of the proposed inspection and registration regime, we support the CMA's conclusion that it would be most appropriate to give these powers to a new regulatory body. We strongly agree with the CMA that this is needed to help address the AECs that have been found.

We are supportive of the inspection regime suggested at 9.120 and of information about registered funeral directors being made publicly available. However, we are disappointed that the regime will only apply to businesses at this stage, not individuals, as we have previously evidenced³ why we think this is also necessary.

³ Example 5 in the appendix to our response to the 'Quality regulation remedies' working paper.



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We also remain of the opinion that any inspection regime should involve front of house services, as is being proposed by the Scottish government. From our extensive experience working with people who are arranging a funeral, from which we have drawn evidence that we have presented to the CMA, we are baffled by the conclusion in paragraph 9.222 that:

“Although the issues we have found in relation to muted competition in funeral director services could, in principle, result in poor outcomes in relation to the front of house quality of funeral director services, we have not provisionally found any such concerns.”

We note that Appendix W suggests at paragraph 9.120(b) that “The collection and dissemination of information to customers on the quality of services provided by funeral directors should cover both front of house and back of house standards to enable customers to conduct a holistic assessment and comparison of funeral directors.” We wholeheartedly agree with this and it is greatly disappointing that this element of front of house monitoring has not been included in the main body of the report.

We agree with the suggested requirements that funeral directors will have to demonstrate (paragraph 9.116), but we note the absence of any mention of an independent ADR scheme. We agreed with the CMA in their ‘Quality regulation remedies’ working paper “that any body tasked with monitoring and enforcing quality standards could be supported by an independent complaints adjudicator, which could also administer an independent ADR scheme for customers who are unhappy with the service they receive from a funeral director.”⁴

We believe a centralised, independent complaints resolution service should be established that is free to the consumer. We have evidenced⁵ that some consumers are worried about making a complaint to their funeral director in case they, or the deceased, are treated badly. In the current system, consumers can apply to their own funeral director, or the membership body to whom they belong, such as SAIF or NAFD, if applicable. We have shown⁶ that, as the membership bodies primarily look after the interests of funeral directors, rather than consumers, and as some funeral directors will be on the board of the membership body, this represents a flawed system.

Even if funeral directors were required to be a member of an existing independent ADR scheme, this also would not be sufficient in our view.⁷ While it could be a step forward in some respects⁸, some of these bodies charge a fee to consumers. We have previously evidenced⁹ that consumers already struggling with the costs of a funeral can be deterred from pursuing a complaint because of the fees incurred. Therefore, as we have mentioned, we believe a scheme that is free to consumers should be set up to support the body responsible for monitoring and enforcing

⁴ Paragraph 77 of the ‘Quality regulation remedies’ working paper.

⁵ Example 15 in the appendix to our response to the CMA’s Interim Report.

⁶ Example 16 in the appendix to our response to the CMA’s Interim Report.

⁷ While we are aware that the detail in Appendix W does not form part of the proposed remedies package, it does reflect the CMA’s current thinking on this issue and we note that Table 1 now includes a desired outcome under ‘Complaint handling and consumer redress’ for funeral directors to be a member of an independent ADR scheme. We take this to imply that they would need to be a member of an already existing ADR scheme.

⁸ We assume that SAIF and NAFD would not be considered to qualify as independent ADR scheme as they are not approved as such by the [Chartered Trading Standards Institute](http://www.charteredtradingstandardsinstitute.org).

⁹ Example 16 in the appendix to our response to the CMA’s Interim Report. In that example, it was precisely one of the ADRs approved by the Chartered Trading Standards Institute that was being used by the trading body, resulting in a fee.



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quality standards. We believe this should be included in the recommendations to government and the devolved administrations.

Lastly, while we accept that it is for the bodies to whom the CMA makes their recommendations to establish a monitoring and enforcement framework, it is disappointing not to see any inclusion of the CMA's considerations and suggestions in the report, such as the issuing of sanctions and fines.

Continuing review of the funerals sector by the CMA

As we have already mentioned, we are firmly of the opinion that price controls of both funeral director and crematoria services are a crucial part of effecting any significant change in the funeral industry. As the CMA comments in Appendix W, both markets are currently having "a substantial and enduring detrimental effect on customers". As such we are deeply disappointed that these are not being implemented at this time.

While we do not believe the alternative remedies to be sufficient, in the absence of any price control, we are supportive of the CMA continuing their review of the funeral sector as described. Although, as we have already mentioned regarding transparency, we worry that the effectiveness of revenue reporting may also be limited if funeral directors are able to define the packages themselves.

We are pleased to see in Appendix W that the CMA's view at this time is that "price control regulation is likely to be both necessary and appropriate in order to directly and comprehensively address the harm associated" with high funeral and cremation prices. Also that the CMA considers that, "in the absence of the challenges presented by Coronavirus (COVID-19), it would be possible to implement price control regulation" of both services that is "effective and proportionate".

Given the strength of the report's conclusions and the Group's views on the need for price control regulation, we would like to see the use of stronger language in reference to a further MIR. We believe that, if it is decided price controls cannot be imposed just now, then it should be definitively recommended to the CMA board that they carry out a supplementary MIR, rather than that they should 'consider' doing so. We are pleased the report recognises, at 9.158, the value of a MIR revisiting the remedies that are currently not being pursued, 'in particular price control regulation', and we hope that this will be presented as imperative in the recommendation made to the board. We agree that it is important price control remedies are kept 'on the agenda ... as a means of protecting funeral customers', but we believe it should be as more than just 'a possibility'.

It is crucial to the wellbeing of bereaved people all over the UK that the good work the CMA has done so far and the remedies identified are not abandoned and that further measures are implemented.