

# **Funerals Market Investigation**

## **Summary of Final report**

**18 December 2020**

### **Introduction**

1. Funerals provide an opportunity for people to pay tribute to their loved one and they fulfil critical social, psychological and (for many) religious functions. Because of the crucial role funerals play in society, the distressing circumstances in which they occur, and the fact that funerals are one of the largest purchases many people will make in the course of their lives, it is important that those who purchase funeral services can be confident that prices are reasonable and the quality of service they receive is appropriate. It is this that our inquiry has sought to investigate.
2. The later stages of our inquiry have been conducted in the midst of the Coronavirus (COVID-19) pandemic which has had a significant impact on death rates with peaks much higher than average. The pandemic also materially changed the circumstances in which funerals can be conducted with immediate, and possibly long-term, implications for the behaviour, economics and structure of the sector. It has also had a major impact on the running of our investigation, the conclusions that we have reached and the timing of the actions that we shall be taking.
3. Nevertheless, we have serious concerns about the sector which we describe below. We are therefore going to put in place a number of 'sunlight' remedies which will support consumers when choosing a funeral director or crematorium and send a clear message to the sector that we consider its behaviour and activities should continue to be scrutinised.
4. These will include an obligation for all funeral directors to clearly and prominently set out the price for an Attended Funeral (a description of which we shall specify) so that those in the position of having to arrange a funeral can, if they wish, compare different funeral directors' prices before deciding which to use.

5. Our 'sunlight' remedies will also ensure that those arranging a funeral, whether or not they choose to purchase the Attended Funeral, know:
  - In advance the price that they will be paying and the terms of business, for example whether a deposit is required;
  - what services they will be getting for that price;
  - what other relevant business, financial and commercial interests the funeral director has (and we shall prohibit some practices such as payments to incentivise hospitals or hospices to refer customers to a particular funeral director); and
  - that funeral directors are formally registered, with the quality of key aspects of their activities subject to review by independent inspectors.<sup>1</sup>
6. We have also recommended that the sector should continue to be scrutinised by the CMA which will have access to information on funeral directors' and crematoria's revenues and volumes.

## **Competitive Assessment**

7. Our investigation has centred on how people approach the purchase of a funeral under the extremely difficult circumstances that precede and follow the death of a loved one, and on competition between funeral directors at this point of need<sup>2</sup> and between crematorium operators. We have also considered, among other things, how concentrated the supply of funeral director and crematoria services are, how prices have increased over time and the levels of profits suppliers are making.
8. At the root of our conclusions is the observation that most customers, unsurprisingly, find it extremely difficult to engage with the process of purchasing a funeral. This is not only because of the emotional vulnerability that will affect many in the period before and following the death of a loved one, but also because of numerous other factors that conspire against their ability to exercise choices in the way they would normally do when faced with such an important purchase: social pressures and seeking to do the right thing for the deceased (when often they do not know what the deceased would have wanted); pressure to make decisions quickly; conflicting demands on their time and energy, when they are short of both; lack of basic

<sup>1</sup> Subject to our recommendations to the UK government and devolved administrations in Northern Ireland and Wales being accepted.

<sup>2</sup> This includes the provision of services when a funeral plan is redeemed but not funeral plans themselves.

understanding or practical experience of what organising a funeral entails, having to do so very seldom in their lives.

9. As a result, when choosing a funeral director, people largely follow a personal recommendation (which often provides only scant information as to why it is made) or simply go back to the funeral director that they or their family have previously used, even though this may have been in the distant past and the ownership of the business may have changed in the meantime. None of this should be portrayed as a failure on the part of customers. The approach they take is a reflection of the circumstances that people face when someone close to them dies.<sup>3</sup>
10. The bereaved typically place their trust in the funeral director to guide them to the most suitable option for them. When it comes to choosing a funeral, customers (including the least well-off) are insensitive to price, although in recent years affordability has become a significant issue for some. They do value the quality of the service they receive throughout the funeral arrangement and delivery process, but they cannot easily judge this until after they have made the purchase and sometimes not even then. They care about how their loved one is being looked after but are not able to check how well this requirement is met in practice. Most people believe, incorrectly, that funeral directors are regulated.
11. Over 78% of the deceased are cremated. When it comes to choosing a crematorium, most customers do so on the basis of location (how close the crematorium is to where the deceased lived) or familiarity (whether they have been there before). Again, price is rarely a relevant factor in their choice, and, although quality matters to customers in general, very few customers compare alternative crematoria.
12. The way customers go about choosing a funeral director has significant implications for how funeral directors compete. In the absence of clear market pressures from customers, funeral directors largely rely on their own judgement to gauge what they think their customers need. This manifests itself most noticeably in the way they impart pricing information, which is often provided late in the sales process. Prices often cannot be obtained in a comparable format online or on the telephone and, once customers meet the funeral director to make the initial funeral arrangements, they are highly unlikely to switch to another provider.
13. Day-to-day competition between funeral directors is particularly muted: they monitor each other's activities but largely focus on their own services (and in

<sup>3</sup> Our conclusions on the way people choose a funeral are at paragraphs 3.189 to 3.196.

particular aspects of quality that can be observed by customers such as the condition of their premises and vehicles and staff training) and making sure that they are well known and visible in their local community, rather than responding to changes to the offerings of their competitors. We recognise that, in doing this, many funeral directors consider that they are acting in the best interests of their customers, often under challenging conditions. Our findings do not rely upon questioning the motives of individual funeral directors, but upon an assessment of how the market is functioning overall.

14. We have seen evidence that, recently, some funeral directors have sought to establish relationships with palliative care services, with a view to channelling dying patients, or their relatives, towards their services, thus by-passing competition for those customers altogether.
15. The two largest suppliers, the Co-operative Group Limited and Dignity plc, account for 30% of branches and are often significantly more expensive (which we estimate to be by approximately £800 and £1,400 respectively)<sup>4</sup> than many of the small, typically family-owned, businesses that operate the majority of branches in the UK. In recent years, Co-op and Dignity have been competing more actively in the supply of lower-cost funeral options (direct cremation and simple funerals), but this trend has not been significant among other funeral directors, and has not had a material impact on competition more broadly in relation to the types of (mainly higher cost) funerals that most people have continued to purchase.<sup>5</sup>
16. On the crematoria side, in addition to competitive constraints being very weak due to customers' tendency to choose a crematorium on the basis of location or familiarity, there are two significant barriers to entry by new crematoria, which have contributed to the high level of concentration of the sector: the planning regime, and the high sunk and fixed costs associated with the opening and operation of a crematorium. Historically, crematoria were opened by local authorities seeking to serve their local population, and 61% of crematoria are still operated by local authorities. Since the 1980s private companies have opened many new crematoria but, faced with high barriers to entry, they have tended to focus on areas where there was no, or limited, supply within a reasonable distance and to simply keep up with growing demand.

<sup>4</sup> Based on our analysis of pricing data gathered by SunLife from a sample of 100 funeral director branches. We calculated that the funeral director fees quoted by Dignity and Co-op were respectively £1,428 and £802 higher than those of the other funeral directors on average.

<sup>5</sup> To the extent that this has changed since the start of the pandemic, it is not clear whether this is a permanent or temporary change. Our conclusions on the way funeral directors compete are at paragraphs 5.178 to 5.193.

17. As a result, today, crematoria are generally few and far between. Many people have ready access to only one local crematorium, and few have access to more than three. To the extent that some crematoria may attract some customers on the basis of the quality of their offering, which normally means the underlying standard and maintenance of the buildings and grounds and the duration of the funeral service, there are not enough customers choosing a crematorium on this basis for it to drive an effective competitive process.<sup>6</sup> Therefore, whilst there are some differences in local competitive conditions between local areas (in terms of the number and identities of providers, and hence in the choices available in principle to customers), we have found that competition between crematorium operators is generally very muted.
18. We therefore conclude that the markets for funeral director services at the point of need and crematoria services<sup>7</sup> are not functioning well. We have found that a number of features restrict or distort competition:
- (a) Low level of customer engagement caused by the intrinsically challenging circumstances surrounding the purchase of a funeral.
  - (b) Lack of easily accessible and clearly comparable information on the products and services provided by funeral directors, including their prices and levels of quality.
  - (c) Lack of visibility to customers of the level of quality of care given to the deceased by funeral directors.
  - (d) High barriers to entry in the supply of crematoria services.
  - (e) High levels of local concentration in the supply of crematoria services.<sup>8</sup>
19. Because customers are so insensitive to price, it is not surprising that lack of effective competition has resulted in higher prices than we would expect to see in a well-functioning market. With average annual rates of increase of 5% over 13 years for funeral directors and 6% over 10 years for crematoria, price rises have been well in excess of general inflation for a considerable period of time. There are also significant price differentials between funeral directors within the same local area.
20. Between 2014 and 2018, the large national and regional funeral director firms have earned average returns that have been significantly and persistently

<sup>6</sup> Our conclusions on the way crematorium operators compete are at paragraphs 6.190 to 6.198.

<sup>7</sup> Our conclusions on market definitions are at paragraphs 4.105, 4.106, 4.108 and 4.109.

<sup>8</sup> Our conclusions on features are at paragraphs 8.9 to 8.25.

above the level one would expect in a well-functioning market. There is some evidence that returns have declined over the last two years for some, but not all, firms. For most firms, the level of return remains high. The persistent level of excess profits that we have seen amongst a wide variety of suppliers indicates that cost drivers or quality differentials cannot explain the pricing issues that we have identified.<sup>9</sup>

21. We estimate that the consumer detriment arising from lack of effective competition between funeral directors over the five-year period from 2014 to 2018 is at least £400 per funeral on average across a significant proportion of the market (ie customers of both large and many small firms). This is likely to be a conservative figure because it does not take into account potential inefficiencies (for which we have found some evidence), meaning that the total detriment figure is likely to be higher than our estimate implies, potentially significantly so. While the level of the profits earned by the largest suppliers declined over the last few years of the period, and we have some evidence to suggest that it may have fallen further for some of these firms in 2019, as of 2018 across the industry as a whole, it remained significant. Further, the decline appears to have been driven by a growth in costs, as well as reductions in prices. This suggests that the detriment suffered by customers – in the form of prices above the competitive level – may have declined to a lesser extent than our profit estimates would suggest.
22. With respect to crematoria, over the period 2014 to 2018, operators representing a substantial portion of the sector have made profits that are persistently above the level we would expect to see in a well-functioning market, some substantially so.
23. While the prices of private sector crematoria are often significantly higher than those of crematoria operated by local authorities, our profitability analysis indicates that customers of both private and local authority facilities have been paying too much, with the former overpaying by at least £115 per cremation and potentially as much as £210 on average, while the latter are overpaying by at least £80 per cremation and potentially as much as £170 per cremation on average.<sup>10</sup> We consider that the upper end of these ranges is more probable than the lower end.
24. Our detriment figures do not mean that all funeral customers ‘overpaid’ by precisely the amounts stated or that every funeral director and crematorium

<sup>9</sup> Our conclusions on customer outcomes are at paragraphs 7.171 to 7.180 (funeral directors markets) and 7.291 to 7.298 (crematoria markets).

<sup>10</sup> The estimates of customer detriment in the supply of funeral director services and crematoria are at paragraphs 8.26 to 8.44.

operator is responsible for causing detriment of this magnitude (or indeed at all). Rather, they are averages across those markets, and over time. Some customers will have overpaid by more than these figures, and some by less.

25. When it comes to the way the deceased are cared for by funeral directors between the time of death and the funeral, we have received concerning evidence from a range of industry participants and observers of problems that they have witnessed personally. Many funeral directors, and the two trade associations, acknowledged that, while in their view quality of care in the sector was generally good, there were instances of poor quality. We have therefore found that there are likely to be some funeral directors who are not providing acceptable levels of quality in this respect. Where this occurs, it is deeply detrimental to customers, who expect their loved ones to be treated with respect and dignity.

## **Remedies**

26. We have considered what remedies are necessary and appropriate to address our concerns about high prices and poor quality. Our preference is normally to seek to ensure that the competitive process can be improved to produce good outcomes for consumers in terms of price and quality. In the context of the funeral sector, while measures to improve the competitive process are valuable, they are unlikely to be sufficient because: consumers' circumstances following a bereavement mean they have significant difficulty in engaging with the purchasing process in general (and the issue of price in particular); there is strong evidence of high prices and important aspects of quality are not observable to purchasers. We have therefore been considering how far, in addition to remedies that improve competitive outcomes, there is a need for other measures including price regulation and a quality inspection regime.
27. COVID-19, and the essential public health response to it, have severely restricted our ability to fully develop all the remedies that we may otherwise have pursued in order to achieve a complete solution to the problems we have found. The exceptionally high death rates, and the particularly distressing and unusual circumstances in which funerals have had to be arranged since March 2020, have resulted in extreme pressures for funeral directors, crematoria operators and other stakeholders, such as local authorities. This has made it very challenging to engage with key parties, collect data and design potential interventions in detail.
28. COVID-19 and related government-imposed restrictions, including on the number of people who could attend a funeral service and other social distancing measures, have changed dramatically the economics of funeral

directors and crematoria alike, impacting both the cost of operation, number of funerals and types of funeral arranged during this period. Under such circumstances, and with ongoing uncertainty as to the future path of the pandemic, it has not been feasible to design and calibrate the price controls that we were considering in relation to both funeral directors and crematoria under more normal circumstances.

29. However, we consider that funeral customers may in the future require a level of protection beyond the measures that we are currently implementing. We are therefore recommending that the CMA should consider consulting on a future market investigation when the impact and consequences of COVID-19 on the funerals sector are sufficiently understood and the sector is more stable. If a future market investigation is undertaken, and competition concerns are identified as a result, any further protections funeral customers may need could then be considered. These could include, if appropriate, price regulation remedies.
30. In the meantime, we are taking forward a set of remedies that we describe as 'sunlight' remedies – shining a light on the pricing and back of house practices of the sector – to mitigate some of the concerns we have identified. The objectives are to support customers when making choices about funerals and to ensure that the pricing, business and commercial activities of funeral directors and crematoria, as well as the quality of the service that funeral directors provide, are exposed to greater public and regulatory scrutiny.
31. The measures that will be taken forward are summarised below:
  - (a) We shall require funeral directors to provide customers with price information in the form of:
    - (i) an itemised price list of frequently purchased products and services in a standardised format in line with a template provided by the CMA (the Standardised Price List);
    - (ii) the headline price (the Attended Funeral Price) of a combination of products and services, as specified by the CMA, which are provided by the funeral director and are generally considered to be sufficient to deliver an attended funeral (the Attended Funeral). The Standardised Price List will include the headline price and the disaggregated price of the Attended Funeral;
    - (iii) if the funeral director offers unattended funerals, the headline price (the Unattended Funeral Price) of a combination of products and services, as specified by the CMA, which are provided by the funeral



director and are generally considered to be sufficient to deliver an unattended funeral (the Unattended Funeral); and

- (iv) an itemised price list of all the products and services that the funeral director offers that are not included in the Standardised Price List (the Additional Options Price List).

We have provided an illustrative example of how this price disclosure requirement could be operationalised at Appendix X.

- (b) We shall require crematorium operators to provide customers and funeral directors in the local area, as well as to any funeral director upon request, with information on the price of: a standard fee attended service; an unattended service (if offered); and any available reduced fee services (if offered).
- (c) In addition, we will require funeral directors to disclose certain information about their business, financial and commercial arrangements to customers, including: the ultimate owner of the business; any business or material financial interest in a price comparison website operating in the funerals sector; and, any<sup>11</sup> gift, charitable donation or payment in kind to third parties such as hospitals, care homes and any other similar institutions.
- (d) We shall prohibit certain arrangements, including any exchange of services with, or payments, benefits or gifts to hospitals, hospices, care homes or similar institutions, as well as the solicitation of business through coroner and police contracts, in order to protect vulnerable customers from being channelled towards a funeral director that may not fully meet their needs.
- (e) We are making a recommendation 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, as a first step to the establishment of a broader regulatory regime for funeral services in these nations (Scotland already has a similar regime).
- (f) We are making a recommendation to the CMA Board to:
  - (i) actively monitor market outcomes in the funerals sector, in order to identify and, where possible, address any harmful behaviour;

<sup>11</sup> Except those that are de minimis.

- (ii) publish an annual review of market outcomes in the funerals sector; and
- (iii) consider at the earliest opportunity, when the impact and consequences of COVID-19 on the funerals sector are sufficiently understood and the sector is more stable, whether to consult on a future market investigation reference.

To assist the CMA in monitoring the funerals sector, we will require (by means of an Order) some funeral directors and all crematorium operators to provide the CMA with specific price and volume information on the goods and services that they provide to customers. In particular:

- (i) Funeral directors with five or more branches to provide to the CMA, every six months, details of a) the total number of funerals provided and b) the total revenue (excluding disbursements) in the previous six months.
- (ii) Funeral directors with ten or more branches must provide this information both in aggregate form and split by Attended Funeral, Unattended Funeral and any other types of funeral provided by the funeral director.
- (iii) All crematorium operators to provide details of a) the total number of cremations provided each quarter; and b) the total revenue during that quarter. This information must be provided in aggregate form and split by standard fee services (ie peak services from 10am to 4pm), reduced fee early morning attended services (ie services at 9am or 9.30am), unattended services and any other services provided by the crematorium operator.

32. Full details of our remedies package are set out in Section 9.