

# Funerals Market Investigation

Final report

18 December 2020



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The Competition and Markets Authority has excluded from this published version of the provisional findings report information which the inquiry group considers should be excluded having regard to the three considerations set out in section 244 of the Enterprise Act 2002 (specified information: considerations relevant to disclosure). The omissions are indicated by [X]. [Some numbers have been replaced by a range. These are shown in square brackets.] [Non-sensitive wording is also indicated in square brackets.]

## Contents

## Page

Executive Summary .....	5
Introduction .....	5
Competitive Assessment .....	6
Remedies.....	11
1. Our task .....	15
Introduction .....	15
Our statutory duty .....	15
Background to the reference.....	16
Terms of reference.....	17
Focus of the investigation .....	18
Our approach.....	19
Evidence gathering.....	19
Consulting on our emerging analysis.....	20
Engagement with stakeholders.....	21
Approach to assessment and our theories of harm.....	22
Impact of COVID-19 on the conduct of our investigation .....	23
Overview .....	23
Investigation of allegations made about Co-op's practices .....	24
The Final report .....	26
2. Industry background .....	27
What organising a funeral entails.....	27
Overview .....	27
Funeral directors' services and crematoria services .....	28
Key market statistics and trends .....	31
Growth in demand for cremation and number of crematoria .....	33
Growth in various types of services .....	36
Growth in funeral prices.....	37
How people pay for funerals .....	38
Cultural and faith differences .....	39
Funeral poverty .....	41
Funeral poverty debate.....	41
Scale and impact of funeral poverty .....	42
Government support for funeral costs .....	44
Structure of the industry.....	47
Overview .....	47
Funeral directors.....	47
Crematoria.....	53
Direct cremation providers.....	55
The role of comparison websites and online directories .....	56
Regulation.....	57
The process of registering a death and applying for cremation .....	58
Coroners and Procurator Fiscal.....	59
Regulatory and self-regulatory landscape for funeral directors .....	60
Crematoria.....	67
3. How people choose a funeral .....	71
Vulnerability .....	72
Circumstances of death and contextual factors .....	72
The circumstances in which a funeral is organised .....	72

Impact of contextual factors on decision-making .....	76
Extent of psychological vulnerability of funerals customers .....	92
Impact of grief on decision-making .....	95
Summary .....	98
How this translates into the approach taken by consumers .....	98
Limited comparisons .....	100
Reliance on short-cuts/recommendations .....	102
Importance of location .....	104
Delegation of responsibility .....	105
Committing to using a funeral director and evaluation of the offering by customers .....	106
Summary .....	115
Changing customer dynamics .....	116
Secularisation .....	116
Personalisation .....	117
Family connections and mobility .....	120
Use of the internet .....	120
The implications of COVID-19 .....	124
Conclusions on how people choose a funeral .....	127
4. Markets and their structures .....	129
Market definition .....	129
Product market definition .....	130
Geographic market definition .....	137
Local concentration in the supply of funeral director services at the point of need .....	142
Local concentration in the supply of crematoria services .....	143
Barriers to entry and expansion .....	144
Level of local concentration .....	151
Conclusions on local concentration .....	160
Conclusions on market definition and market structure .....	161
Supply of funeral director services at the point of need .....	161
Supply of crematoria services .....	161
5. How funeral directors compete .....	163
Introduction .....	163
Customers' approach to choosing a funeral director .....	164
Context .....	164
Factors that customers take into account when choosing a funeral director .....	165
Summary .....	169
The role of the funeral director in shaping customer choice of funeral .....	170
General approach .....	170
The arrangement meeting .....	172
Summary .....	176
Competitive interactions between funeral directors .....	177
Dimensions of competition .....	177
Competition/entry and performance .....	195
Summary .....	200
Implications of growth in low-cost options .....	202
Introduction .....	202
Simple funerals .....	205
Direct cremation .....	217
The impact of COVID-19 on take-up of low-cost options .....	222

Summary .....	224
How does the availability of pre-paid funerals affect funeral director behaviour? .....	225
Funeral directors' competitive incentives over back of house quality .....	227
Monitoring of back of house quality levels .....	229
Awareness of back of house quality levels of others .....	229
Summary .....	230
Conclusions on how funeral directors compete .....	230
6. How crematoria compete .....	236
The dimensions over which crematoria compete .....	237
How crematoria seek to attract customers .....	237
How customers choose a crematorium .....	240
Evidence on competition on price .....	249
Evidence on competition on quality .....	257
Conclusions on the dimensions over which crematoria compete .....	266
Assessment of local competitive constraints .....	269
Geographic closeness of rivals .....	269
Analysis of out-of-area customers .....	274
Entry analysis .....	298
Conclusions on assessment of local competitive constraints .....	315
Conclusions on how crematoria compete .....	316
7. Outcomes .....	320
Introduction .....	320
Introduction to pricing analysis .....	321
Introduction to the analysis relating to quality .....	321
Introduction to profitability analysis .....	322
Structure of section .....	323
Funeral directors .....	323
Price outcomes .....	323
Quality .....	346
Profitability .....	359
Conclusions on funeral director outcomes .....	376
Crematoria .....	379
Price outcomes .....	379
Quality outcomes .....	394
Concentration and price/quality outcomes .....	400
Profitability .....	406
Conclusions on crematoria outcomes .....	417
8. Conclusions .....	420
Overview of the competitive assessment .....	420
Decision .....	422
AECs in the funeral directors markets .....	422
AECs in the crematoria markets .....	425
Customer detriment .....	428
9. Remedies .....	434
Introduction .....	434
The COVID-19 pandemic .....	434
Framework for assessment of remedies .....	435
Our remedies package .....	437
Price and commercial information and transparency .....	439
Improving the quality of funeral directors' back of house standards .....	465

Continuing monitoring of the funerals sector by the CMA.....	482
Effectiveness and proportionality of remedies package.....	491
Relevant customer benefits .....	494
Final decision on remedies .....	494

## *Appendices*

A: Terms of reference	
B: Regulation	
C: Consumer surveys	
D: The role of intermediaries in the process of choosing a funeral director	
E: Additional evidence relating to market definition	
F: Evidence on pre-paid and at-need funeral pricing	
G: Funeral director barriers to entry and expansion and analysis of concentration	
H: Qualitative evidence from funeral directors on competition	
I: Qualitative evidence on constraint imposed on standard funerals by low-cost options	
J: Data on firm-level price and market share changes by the Largest funeral directors	
K: Analysis of Dignity price trials and quantitative submission by Co-op	
L: Evidence relating to quality differentials between local authority and private crematoria	
M: Quantitative analysis of crematoria entry	
N: Funeral directors' pricing levels and trends	
O: Price dispersion analysis	
P: The level of quality in the funeral directing sector	
Q: Profitability methodology	
R: Weighted average cost of capital	
S: Profitability of funeral directors	
T: Supporting analysis in relation to crematoria pricing and quality outcomes	
U: Profitability of crematoria	
V: Calculation of detriment	
W: Remedies	
X: Standardised price list (for illustrative purposes)	

## Glossary

# Executive Summary

## 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 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

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<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.

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 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

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

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.
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

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<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.

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 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

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<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.

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 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.

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<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.

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;
  - (ii) publish an annual review of market outcomes in the funerals sector; and

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



- (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.

# 1. Our task

## Introduction

- 1.1 On 28 March 2019 the CMA, in exercise of its power under section 131 of the Enterprise Act 2002 (EA02),<sup>12</sup> made a reference for a market investigation into the supply of services by funeral directors at the point of need and the supply of crematoria services.
- 1.2 On 28 March 2019, the CMA appointed from its panel a group of four independent members to lead the investigation (Group).<sup>13</sup>
- 1.3 On 16 March 2020 we decided to extend the statutory deadline for the investigation by six months<sup>14</sup> and suspended the deadline for responding to the working papers published on 20 and 21 February 2020 (see paragraph 1.24). On 28 May, we published a revised timetable and a new deadline for responding to these same working papers.
- 1.4 On 13 August 2020 we published our Provisional Decision Report (PDR), inviting interested parties to respond to our findings and proposed remedies. On the same date, we also published an updated timetable indicating our intention to publish our final report in December 2020.<sup>15</sup>
- 1.5 This report sets out our findings based on the evidence we have reviewed and the analysis we have carried out in the course of our investigation.

## Our statutory duty

- 1.6 The market investigation regime allows the CMA the opportunity to assess whether competition in a market is working effectively, where it is desirable to focus on the functioning of a market as a whole rather than a single aspect of it or the conduct of particular firms within it.<sup>16</sup>
- 1.7 Under this regime, we are required to decide whether ‘any feature, or combination of features, of each relevant market prevents, restricts or distorts

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<sup>12</sup> EA02, section 131.

<sup>13</sup> Details of the members of the Group are on our [website](#).

<sup>14</sup> The Group considered that an extension was necessary to facilitate input from parties, allow sufficient time to take full and proper account of such input including any comments received in response to the working papers and provisional findings, and to reach a fully reasoned final decision. In taking this decision the Group had regard to the scope and complexity of the investigation, the extent of the possible remedies package being contemplated, and the COVID-19 pandemic.

<sup>15</sup> We are required to publish our final report by 27 March 2021.

<sup>16</sup> CC3 (Revised), paragraph 18.

competition in connection with the supply or acquisition of any goods or services in the United Kingdom or a part of the United Kingdom'.<sup>17</sup> If we decide that there are such features or combination of features, then there is an adverse effect on competition (AEC).<sup>18</sup> A 'feature' of the market refers to:

- (a) the structure of the market concerned or any aspect of that structure;
- (b) any conduct (whether or not in the market concerned) of one or more than one person who supplies or acquires goods or services in the market concerned; or
- (c) any conduct relating to the market concerned of customers of any person who supplies or acquires goods or services.<sup>19</sup>

1.8 If we find that there is an AEC, we are required to decide:

- (a) whether action should be taken by us, or whether we should recommend the taking of action by others, for the purpose of remedying, mitigating or preventing the AEC concerned or any detrimental effect on customers<sup>20</sup> so far as it has resulted from, or may be expected to result from, the AEC;
- (b) and, if so, what action should be taken and what is to be remedied, mitigated or prevented.<sup>21</sup>

1.9 In deciding the above questions on remedies, we must, in particular, have regard to 'the need to achieve as comprehensive a solution as is reasonable and practicable to the [AEC] and any detrimental effects on customers so far as resulting from the [AEC]';<sup>22</sup> and we may, in particular, have regard to the effect of any action on any relevant customer benefits of the feature or features of the market(s) concerned.<sup>23</sup>

## Background to the reference

1.10 Prior to making the reference, the CMA had undertaken a market study into the supply of services by funeral directors at the point of need and the supply

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<sup>17</sup> EA02, section 134(1). For present purposes, 'relevant market' means a market in the United Kingdom for goods or services of a description specified in the reference (EA02, section 134(3)(b)).

<sup>18</sup> EA02, section 134(2).

<sup>19</sup> EA02, section 131(2).

<sup>20</sup> EA02, section 134(5): there is a detrimental effect on customers if there is a detrimental effect on customers or future customers in the form of: (a) higher prices, lower quality or less choice of goods or services in any market in the United Kingdom (whether or not the market(s) to which the feature or features concerned relate); or (b) less innovation in relation to such goods or services.

<sup>21</sup> EA02, section 134(4).

<sup>22</sup> EA02, section 134(6).

<sup>23</sup> EA02, section 134(7).

of crematoria services (the Market Study).<sup>24</sup> The Market Study considered that the markets for funeral director and crematoria services were not functioning as well as they should be.

- 1.11 In November 2018, the CMA published an interim Market Study report and consultation on the funerals market. It also published a notice of its proposal to make a market investigation reference (MIR).<sup>25</sup> In response, it received representations from interested parties across the funerals industry, and more widely. The vast majority of respondents were supportive of its proposal to make a MIR, although a small number of respondents disagreed with this proposal. In addition, some respondents made representations that the scope of the proposed MIR should be extended to include funeral services supplied by funeral directors in the United Kingdom arising from the redemption of pre-paid funeral plans.
- 1.12 In February 2019 the CMA invited interested parties to provide views on whether, if it decided to make a MIR, the terms of any reference be expanded to include the services supplied by funeral directors arising from the redemption of pre-paid funeral plans.
- 1.13 Further to its consideration of the consultation responses to the proposal to refer the funerals market for a MIR, the CMA considered that it had reasonable grounds to suspect that there were features which prevented, restricted or distorted competition in the UK. Further, it considered, amongst other factors, that there was a reasonable chance that appropriate remedies would be available, if an AEC was found. It also determined, further to its consideration of the responses to the consultation on the proposed terms of reference, that it should expand the terms of reference to include the services supplied by funeral directors at the point of need in the United Kingdom arising from the redemption of pre-paid funeral plans.
- 1.14 Consequently, in March 2019, the CMA referred the supply of services by funeral directors at the point of need and the supply of crematoria services for a market investigation.<sup>26</sup>

## Terms of reference

- 1.15 As set out in our terms of reference,<sup>27</sup> for the purposes of this reference:

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<sup>24</sup> For more details see [Funerals market study](#).

<sup>25</sup> [Notice of proposal](#), dated 29 November 2019.

<sup>26</sup> [Terms of reference](#), dated 28 March 2019 and see [Funerals - GOV.UK](#).

<sup>27</sup> [Terms of reference](#), dated 28 March 2019.

(a) 'services by funeral directors at the point of need' means:

services provided by a funeral director in connection with the arrangements for a funeral, and including, but without limitation:

- guidance and support to the family and/or persons arranging the funeral;
- collection, storage and care of the deceased;
- organisation and services carried out on the day of the funeral;
- the supply of goods and services to facilitate the arrangements, including, for example, the coffin, hearse and limousine(s);
- intermediary services between the customer and third parties, such as the crematorium or burial site, a doctor or medical practitioner, a minister or celebrant;
- discretionary services that are provided by the funeral director directly or as an intermediary between the customer and third parties, such as memorials, death notices, venue hire and catering, flowers, Order of Service etc;
- the provision of services by funeral directors in connection with the redemption of a pre-paid funeral plan,

but excluding:

- the provision of pre-paid funeral plans.

(b) 'crematoria services' means:

- the services provided by a crematorium in connection with the cremation of the deceased, including the provision of a chapel or specific place for attended cremations, the committal and the associated sales of additional products and services, such as memorials, audio-visual support and hospitality.

## **Focus of the investigation**

1.16 The CMA's updated procedural guidance on market studies and market investigations states that, where the CMA undertakes a market study leading to a market investigation, in addition to drafting the formal terms of reference for the market investigation, the CMA board may append an advisory steer to the MIR decision setting out its expectations regarding the scope of the

market investigation and the issues that could be the focus of the investigation.<sup>28</sup>

- 1.17 The CMA board advisory steer to the Group said that the central concern arising from the market study was that people were paying higher prices for funerals than could be justified.<sup>29</sup> Underlying this was the fear that people in these challenging circumstances were not in a position to make the best choices and were vulnerable to exploitation.

## **Our approach**

### ***Evidence gathering***

- 1.18 In March 2019, we published a notice setting out our approach to gathering evidence.<sup>30</sup> We said we would gather evidence in a variety of ways, including via meetings, surveys and research, questionnaires and data including through:
- Issuing of ‘First Day Letters’ to some large funeral directors and private crematorium operators and following these up with further requests for information.
  - Engaging with, and seeking information from, the main funeral director trade associations and other parties with access to a network of funeral directors.
  - Seeking to engage with a sample of independent funeral directors.
  - Seeking information from local authority crematorium operators.
  - Seeking information from a range of other parties.
- 1.19 From April 2019 onwards, we sent market and financial questionnaires to a wide range of firms and local authorities who are active in the relevant markets, and other key organisations. Throughout the duration of the investigation we sent further written requests for information to some parties as well as holding telephone calls and/or meetings. We also visited a number of funeral homes and crematoria across the UK. The evidence gathered has

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<sup>28</sup> Market studies and market investigations: supplemental guidance on the CMA’s approach ([CMA3](#), revised July 2017), paragraph 3.39.

<sup>29</sup> [CMA Board Advisory Steer](#), dated 28 March 2019, paragraph 6.

<sup>30</sup> [Notice setting out approach to evidence gathering](#).

helped us better understand the relevant markets, suppliers and services, as well as providing much of the underlying data on which this decision is based.

- 1.20 In May 2019, we published documents for comment in relation to our intention to conduct a consumer survey.<sup>31</sup> We also published alongside this the names of a number of firms identified to undertake this research, inviting comments on potential conflicts of interest or any other restriction on the firms' suitability to carry out the work. Ipsos MORI were appointed to carry out the quantitative research for the MIR. The results of this quantitative survey and accompanying mystery shopping of funeral directors were published on our case page in January 2020.<sup>32</sup>
- 1.21 In addition, we commissioned an independent research company, NatCen Social Research (NatCen),<sup>33</sup> to undertake an evidence review of academic literature relating to the impact (if any) of grief or bereavement on decision-making and/or purchasing behaviours of funeral customers and how these difficulties have been addressed. Further, a roundtable involving a number of experts in the fields of funerals research, palliative and end of life care and support for the bereaved was held at the CMA in February 2020. A summary of the roundtable and NatCen's report were published on 13 August 2020.<sup>34</sup>

### ***Consulting on our emerging analysis***

- 1.22 In April 2019, we published an issues statement<sup>35</sup> outlining our initial theories on what might be affecting competition and potential remedies, inviting parties to provide submissions commenting on the issues and possible remedies. We received 21 responses from a range of parties, and we published non-confidential versions of these on our funerals case page.<sup>36</sup>
- 1.23 In July 2019, we published a working paper on our approach to profitability and financial analysis. The purpose of this paper was to set out our proposed approach to financial and profitability analysis of funeral director services and crematoria services, to help inform our assessment of profitability.
- 1.24 On 30 January 2020, we published eleven working papers followed by another eight working papers on 20 February 2020 and a further working paper on 21 February 2020. These working papers set out our analysis and

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<sup>31</sup> [Invitation to comment on consumer survey draft questionnaire](#), dated 21 May 2019.

<sup>32</sup> See [Funerals - GOV.UK](#).

<sup>33</sup> [NatCen Social Research that works for society](#).

<sup>34</sup> See [Funerals - GOV.UK](#).

<sup>35</sup> [Issues statement](#), dated 8 April 2019.

<sup>36</sup> See [Funerals - GOV.UK](#).

emerging thinking to assist interested parties in understanding the work being carried out. The working papers also invited parties' comments and any further evidence for consideration by us. We published non-confidential versions of the responses we received to these working papers on our case page.<sup>37</sup>

- 1.25 On 13 August 2020 we published our PDR, inviting interested parties to respond to our provisional findings and proposed remedies. In addition to making written submissions responding to the PDR, some parties requested an oral hearing. These hearings took place in October 2020. We published non-confidential versions of the written responses we received to the PDR and summaries of the hearings held on our case page.<sup>38</sup>

### ***Engagement with stakeholders***

- 1.26 We engaged with many stakeholders during the investigation to seek their input and views on the issues.
- 1.27 We liaised closely with the largest relevant sector trade associations for funeral directors, The National Association of Funeral Directors (NAFD) and the National Society of Allied and Independent Funeral Directors (SAIF), as well as directly with their members, including the Co-operative Group Limited (Co-op), Dignity plc (Dignity) and Funeral Partners Limited (Funeral Partners). We also engaged directly with funeral directors that are not members of either trade association. We sought evidence from consumer bodies such as The Good Funeral Guide and Quaker Social Action. For the crematoria sector we engaged directly with all local authority providers of crematoria services and the four largest private crematoria operators, Dignity, Westerleigh WGH Limited (Westerleigh), Memoria Limited (Memoria), and the London Cremation Company plc (LCC), and engaged with a number of crematoria trade bodies.
- 1.28 We also liaised with government and the devolved administrations, particularly with the Scottish Government, Northern Ireland Executive, Welsh Government, the Treasury (HMT), the Ministry of Housing, Communities and Local Government (MHCLG), Department for Work and Pensions (DWP) and the Ministry of Justice (MoJ). The investigation has benefited from their knowledge of the sector and has taken into account their ongoing work and policy developments.

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<sup>37</sup> See [Funerals - GOV.UK](#).

<sup>38</sup> See [Funerals - GOV.UK](#).



- 1.29 We made site visits to 15 funeral director branches and 8 crematoria.
- 1.30 From June to July 2019, and then later in the year, to assist us in our investigation, we held hearings with 11 parties to discuss issues and potential remedies in the event that we were to find any AECs. We also held 5 roundtables to seek views from interested parties on the issues under investigation. We have published summaries of these hearings and roundtables on our website.<sup>39</sup> An aggregated summary of interviews with independent funeral directors was published in January 2020.<sup>40</sup>
- 1.31 We spoke to a number of people who contacted us about their experience of arranging a funeral.
- 1.32 We also reached out more broadly to providers of funeral and crematoria services and other interested parties involved in this sector to contribute views and evidence on the issues under investigation, both directly through CMA social media communications and via the two main funeral trade associations.
- 1.33 In November 2020 we explored price transparency remedy options at a roundtable with representatives from across the funerals sector, including the NAFD and SAIF, some small funeral directors and consumer bodies.
- 1.34 We would like to thank all those who have assisted in our investigation.

## **Approach to assessment and our theories of harm**

- 1.35 In our issues statement<sup>41</sup> we set out three high-level hypotheses (or ‘theories of harm’) to test in our investigation. These represented our early thinking about the issues to consider and test. These were:
- (a) The difficulties many people have in engaging with the funerals purchasing process.
  - (b) Firm behaviours in the supply of funeral director services.
  - (c) Market structure and barriers to entry in the supply of crematoria services.
- 1.36 These theories of harm provided a useful framework for our evidence gathering and early analysis, and they have evolved as we have gathered more evidence and our work has progressed. The structure of this report,

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<sup>39</sup> See [Funerals - GOV.UK](#).

<sup>40</sup> [Aggregated summary of interviews with independent funeral directors](#).

<sup>41</sup> [Issues statement](#), dated 8 April 2019.

therefore, reflects our current approach to the assessment of competition in these markets.

## **Impact of COVID-19 on the conduct of our investigation**

### **Overview**

- 1.37 Prior to the COVID-19 pandemic, we had engaged not only with funeral directors and private operators of crematoria, but also with government (including in the devolved nations) and local authorities. All these stakeholders have been considerably affected by COVID-19.
- 1.38 The COVID-19 pandemic started to have an impact on the conduct of our investigation on 16 March 2020 and impeded our progress in a very material way in all aspects of our investigation:
- (a) Our ability to obtain additional data;
  - (b) our ability to engage with stakeholders; and
  - (c) our substantive analysis.
- 1.39 On the first of these, the pressures on the funerals industry were such that between March and June 2020 we were unable to issue any substantive requests for information. This was a critical period in our investigation leading up to the formulation of our provisional findings including the development of potential remedies. It meant, for example, that our ability to update our profitability analysis and pricing analysis with 2019 figures was significantly inhibited. We were also impeded in our ability to develop further the more complex remedy options that we had been considering up to that point.
- 1.40 The ability of parties to engage with us continued to be an issue throughout the remainder of the investigation, particularly for smaller firms and local authorities. At the time of writing, a second wave of the pandemic was under way, resulting in continued pressure on all those directly involved in managing the crisis. The continued uncertainty regarding the course of the pandemic and its impact on the sector, our experience from the first wave and representations from parties indicated that many of our stakeholders would be unable to engage effectively with us for the remaining months of our statutory timetable.
- 1.41 COVID-19 itself also has the potential to change aspects of our assessment, particularly in relation to our estimate of the customer detriment arising from the AECs that we have found and the effectiveness and proportionality of some of the remedy options (and in particular price control remedies) that we

were actively considering prior to the crisis. This is because, for example, the cost and revenue profiles of the suppliers have been directly affected since mid-March 2020 and are likely to continue to be affected as long as social distancing is in place. We were unable to assess the medium to long-term effects of these impacts within our statutory timeframe.

- 1.42 The above issues had a significant impact on our ability to devise a fully effective and proportionate remedies package within our statutory timeframe and forced us to take a fresh look at our approach to remedial action in light of the prevailing exceptional circumstances. With one exception (Memoria), all those who responded to our PDR recognised that we had no choice but to adapt to the changing circumstances brought by the pandemic in our consideration of remedies. We discuss the impact of COVID-19 further where relevant throughout the report.

### ***Investigation of allegations made about Co-op's practices***

- 1.43 In late September 2020, a national newspaper published two articles making allegations about various practices adopted in certain branches of Co-op. Following the publication of these articles, we engaged extensively with Co-op, including by obtaining a large number of emails related to the allegations made by the newspaper. This research brought to light evidence of sales practices that, in our view, were not consistent with the practices described to us by Co-op in the course of the market investigation, in particular:

- (a) The instruction of staff within the South London division in summer 2019 to employ practices that encouraged higher spending for each funeral. Such sales techniques appear to us to be inconsistent with the company-wide sales policies that Co-op described to us throughout the investigation. Although Co-op brought to our attention a number of trials that it was carrying out in some of its regions, we were not made aware of this particular initiative by Co-op. When we found out about it in late 2020, Co-op told us that this had been a local experiment by a regional sales manager acting outside of Co-op's established practices, that had lasted only a few months and had not gained any traction. However, we saw evidence of senior management being aware of this initiative and supporting attempts by the team to implement it. We were not able to establish why or when it was terminated, based on the email evidence we had obtained.
- (b) From the end of 2019, an apparent increased focus within Co-op more generally on improving the average revenue earned per customer. This appears to us to have involved a drive to increase the sales of add-on services, including: limousines, embalming, floral tributes, masonry and

stationery, as well as the sales of prepaid plans during the arrangement meeting. Co-op told us that while there had been an increased focus on business performance, there was no company policy to increase the sales of add-on services, and no inconsistency with the information it had previously provided. We consider however that the email evidence that we have obtained supports our view.

- 1.44 Co-op disagreed with the above interpretation of the evidence that we have seen, noting that it exaggerates the significance of temporary, localised practices. However, it did not comment specifically on a number of the emails on which paragraph 1.43 is based. Co-op contended that it is not reasonable or right to criticise it for being inconsistent in the information that it has provided or to imply that the evidence the CMA has reviewed is representative of practices at Co-op as a whole, rather than an isolated case. Co-op also indicated that the CMA has failed to acknowledge the full and active cooperation that Co-op has engaged in throughout the inquiry. We have carefully considered these submissions. We also recognise the significant pressures Co-op's staff have faced during the pandemic. However, we do not agree with Co-op's representation of the evidence on which paragraph 1.43 is based, and we have a responsibility to ensure that our investigation gives a full and accurate account of all relevant information. More generally, Co-op has made numerous representations about its sales practices, as part of its extensive engagement with our investigation. We have published these on our website, within Co-op's submissions, and reflected Co-op's representations as appropriate in this report.
- 1.45 The above matters are very relevant to the issue of consumer vulnerability and the extent to which the sales practices adopted by funeral directors may contribute to consumers not making effective choices. Had this information come to light earlier in our investigation, we may have pursued additional lines of enquiry.
- 1.46 By the time we received and reviewed this new evidence, the second wave of COVID-19 was under way. This placed limitations on our ability to undertake a more detailed investigation, including through the broadening of our investigation to other parts of Co-op's business. However, given the particular circumstances of this inquiry and that the recent evidence regarding Co-op appeared to support our provisional conclusions rather than detract from them, we consider this would not have had a material impact on the outcome of this investigation. Despite its limitations, the evidence we have gathered at this late stage has shed new light on various aspects of the investigation, including on various submissions made by Co-op. This is reflected where appropriate throughout the Final report.

### ***The Final report***

- 1.47 This document, together with its appendices, constitutes our Final report. It refers, where appropriate, to material published separately on the CMA website. The report, however, is self-contained and is designed to provide all material necessary for an understanding of our findings.

## 2. Industry background

2.1 This Section provides background to the funerals industry. It considers the following:

- (a) What organising a funeral entails;
- (b) key market statistics and trends;
- (c) funeral poverty;
- (d) the structure of the industry; and
- (e) regulation and self-regulation of the industry.

### What organising a funeral entails

#### *Overview*

2.2 Organising and carrying out a funeral broadly involves three distinct sets of activity:

- (a) Various administrative tasks: registering the death (this is typically carried out by the family of the deceased), booking the necessary facilities and preparing the associated paperwork;
- (b) handling of the body: removing the body from the place of death, holding (including, where required, enabling the viewing of the body in the time before the funeral) and preparing the body, transporting the body to the place of committal and either burying or cremating the body;
- (c) organising and carrying out a ceremony/service.

2.3 In the UK, two authorised approaches to body disposal are currently in use:<sup>42</sup>

- (a) Cremation; and

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<sup>42</sup> Under the Law Commission's [13<sup>th</sup> Programme of Law Reform](#) which was announced in December 2017, the government said it would undertake a project: 'A modern framework for disposing of the dead'. This will seek to create a future-proof legal framework which, amongst other matters, 'enables safe and dignified new processes to be made available in England and Wales'.

(b) burial, which can be in a cemetery or in a natural burial ground.<sup>43, 44</sup>

### ***Funeral directors' services and crematoria services***

2.4 Under our terms of reference, we focus on the supply of services by funeral directors at the point of need and the supply of crematoria services. We outline the nature of these services below. Later, from paragraph 2.68, we describe the structure of the funeral directors' and crematoria services sectors.

#### ***Funeral directors' services***

2.5 Funeral directors combine a range of services:

- (a) Their professional services, typically including:
  - (i) Collection, storage and care of the deceased;
  - (ii) organisation of the funeral, and the supply of goods and services to facilitate the arrangements, for example, the coffin, hearse and limousines; and
  - (iii) guidance and support to the family and/or persons arranging the funeral.
- (b) intermediary services between the customer and third parties, such as the crematorium or burial site, the doctor and the minister/celebrant – the funeral director will pass on the cost of such services provided by third parties as 'disbursements'; and
- (c) additional optional services that are provided by the funeral director directly or as an intermediary between the customer and third parties, such as: memorials; death notices; venue hire and catering; flowers; order of service etc.

2.6 Funeral directors have adopted a range of practices in the way they sell their products and services. Many offer pre-defined packages, while some enable customers to build up a bespoke funeral package themselves.

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<sup>43</sup> A natural burial takes place in a green/woodland habitat. The first natural burial ground was established in 1993 and there are now over 270 natural burial grounds in the UK. (Source: [The Natural Death Centre](#)).

<sup>44</sup> Alkaline hydrolysis (or 'resomation'), a process by which the body is dissolved into a liquid solution, is also authorised, but we understand that this method is not currently operational in the UK and recent plans to open a facility were put on hold due to concerns over the public acceptability of the process ([Water cremation plans put on hold](#)).

2.7 Funeral packages broadly fall within three categories, as described below (the terminology used to describe each of these categories will differ between funeral directors):

(a) A 'standard funeral' is the most common type of funeral package sold by funeral directors, and typically includes:

- Collection and transport of the deceased (including out of hours): provision of staff and a suitable vehicle (eg private ambulance) to attend and collect the deceased from the place of death, and transport to the funeral director's premises/mortuary;
- storage of the deceased in mortuary/cold storage facilities;
- care of the deceased:
  - washing and dressing the deceased
  - placing the body in a coffin
  - recording of personal effects;
- viewing of the deceased in the funeral director's chapel of rest;
- provision of a 'standard' coffin;
- customer advice and support to assist with making funeral arrangements;
- legal and administrative services (including completing required documentation, liaison with third parties such as the coroner);
- managing arrangements relating to burial, cremation, cemetery, church and any ceremony officiant;
- arranging payment of third-party disbursements;
- offering a choice of date and time for the funeral service;
- provision of hearse and personnel;
- choice of route for the funeral procession (within a defined radius);
- provision of a limousine;



- embalming (sometimes): this procedure is used to preserve the body, delaying the onset of decomposition; to protect the body; and to enable the presentation of the body.
- (b) A 'simple' funeral is a more limited, lower cost funeral that will include many of the elements of a standard funeral save that it may:
- Exclude provision of limousines;
  - have no/limited choice of date and time for the funeral service;
  - have no viewing options; and
  - include a basic coffin with no/limited opportunity to upgrade.
- (c) A 'direct cremation' usually refers to an unattended service, without a funeral service (and is sometimes referred to as an 'unattended cremation' or 'cremation without ceremony'); a variant is an 'attended direct cremation' where mourners are present. Generally, people do not spend face to face time with a funeral director organising a direct cremation. The funeral director arranges for the cremation to take place at a crematorium chosen by the funeral director.<sup>45</sup>

### *Crematoria services*

- 2.8 A crematorium comprises a set of facilities including one (or sometimes more) cremators, one or more chapels/other areas for mourners and, in many cases, a garden of remembrance.
- 2.9 Crematorium operators generally allow mourners to gather for an attended service<sup>46</sup> before the deceased is cremated (although this is not the case for unattended direct cremations, as discussed above). For a typical service, mourners wait for the funeral service in a waiting room. The coffin is brought into the chapel by bearers, followed by the mourners. It is at this point that the service is conducted. Mourners may have already attended a service at another location, eg a church, in which case time at the crematorium may be shorter and involve only a brief committal. These attended services may be held at peak or off-peak times:

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<sup>45</sup> As well as being offered by funeral directors, a number of companies have been set up that specialise in the supply of such funerals and would carry out similar activities to the funeral director in relation to these types of funerals. We describe such companies in paragraph 2.101.

<sup>46</sup> As noted in paragraph 2.7(c) crematoria may also carry out '**unattended services**' on behalf of funeral directors or specialist providers.

- (a) Attended services held in peak hours (typically considered to be weekdays from 10am-4pm) are defined in this report as '**standard services**';
  - (b) Attended services held off-peak (typically at 9am or 9.30am) are defined in this report as '**reduced fee services**'.
- 2.10 When organising cremations, crematoria allow a certain amount of time, a 'booking slot', and may split this, such that a certain amount of time is permitted in the chapel, and a certain amount of time is allocated as a 'buffer' for entry to and exit from the crematorium.
- 2.11 Mourners can witness the introduction of the coffin into the cremator, if arranged with the crematorium.<sup>47</sup> There may be a viewing room available to view the coffin being inserted ('charged') into the cremator, and this is particularly important for certain religious groups such as Hindus and Sikhs.<sup>48</sup>
- 2.12 Crematoria may have gardens of remembrance which families can visit, reflect, and where they can place memorials (purchased from the crematorium or a third party associated with the crematorium).
- 2.13 After the cremation the ashes are stored and held for collection. The Federation of Burial and Cremation Authorities (FBCA) estimates that for around three-quarters of those cremated their ashes are collected by family members and taken from the crematorium and placed elsewhere. For the remainder of those cremated, their ashes are either strewn or interred at the crematorium.
- 2.14 Crematoria may offer a range of additional services on the day of the cremation, for example: the purchase of additional slots to allow for a longer service (providers tend to offer a single slot length at a crematorium, which can be extended through the purchase of additional slots or through the purchase of additional time), bearers, organists and hospitality services.

## Key market statistics and trends

- 2.15 This section sets out key statistics and trends in the funerals sector. Where appropriate, we use the latest data available to us; however, it should be noted that in some places we present 2018 information as, in general and

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<sup>47</sup> FBCA, A Guide to Cremation and Crematoria. Page 38.

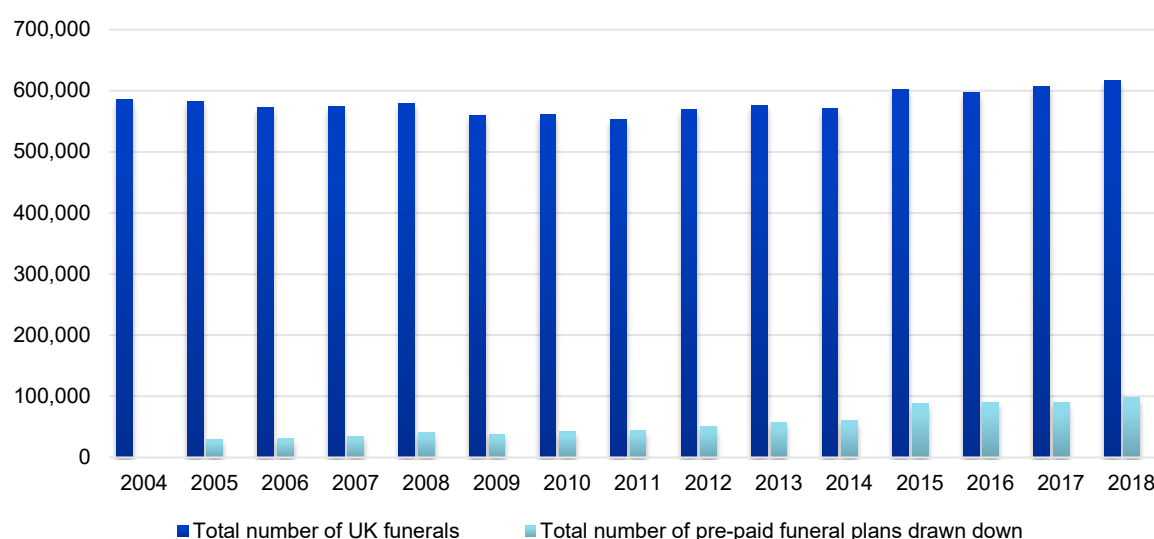
<sup>48</sup> FBCA, A Guide to Cremation and Crematoria. Page 18.

unless stated otherwise, our analysis is based on information up to and including 2018.

2.16 There were 616,014 deaths registered in the UK in 2018,<sup>49</sup> approximately 517,000<sup>50</sup> (84%) of which involved a funeral paid for at the time of bereavement, rather than through redemption of a pre-paid plan.

2.17 Figure 1 shows that since 2005 (no redemptions are reported before this), redemptions of pre-paid plans have risen gradually, but still account for a low proportion of the total number of funerals (16%) as at 2018.

**Figure 1: Total number of UK funerals and pre-paid funerals drawn down from 2004 to 2018**



Source: Office for National Statistics (UK deaths) and the Funeral Planning Authority (pre-paid funerals drawn down)

2.18 According to public sources, the total annual spend on funerals in the UK is around £2 billion.<sup>51</sup> The estimated average cost of the funeral director's professional fees is £2,501, with burial disbursements costing £2,268 and cremation disbursements costing £1,170.<sup>52</sup>

2.19 In the remainder of this report, we use the term 'funeral' to refer to 'funerals that are purchased at the point of need' as this has been the focus of our work, in line with our terms of reference.

<sup>49</sup> ONS, (22 November 2019) [Vital statistics in the UK: births deaths and marriages](#). The figures had not been updated by the time the Final report was finalised in December 2020.

<sup>50</sup> This figure has been calculated by subtracting the number of funeral plans drawn down in 2018 (ie 98,800), as recorded by the Funeral Planning Authority, from the total number of UK deaths registered. It includes public health funerals.

<sup>51</sup> [Funeral Activities UK Market Research Report](#).

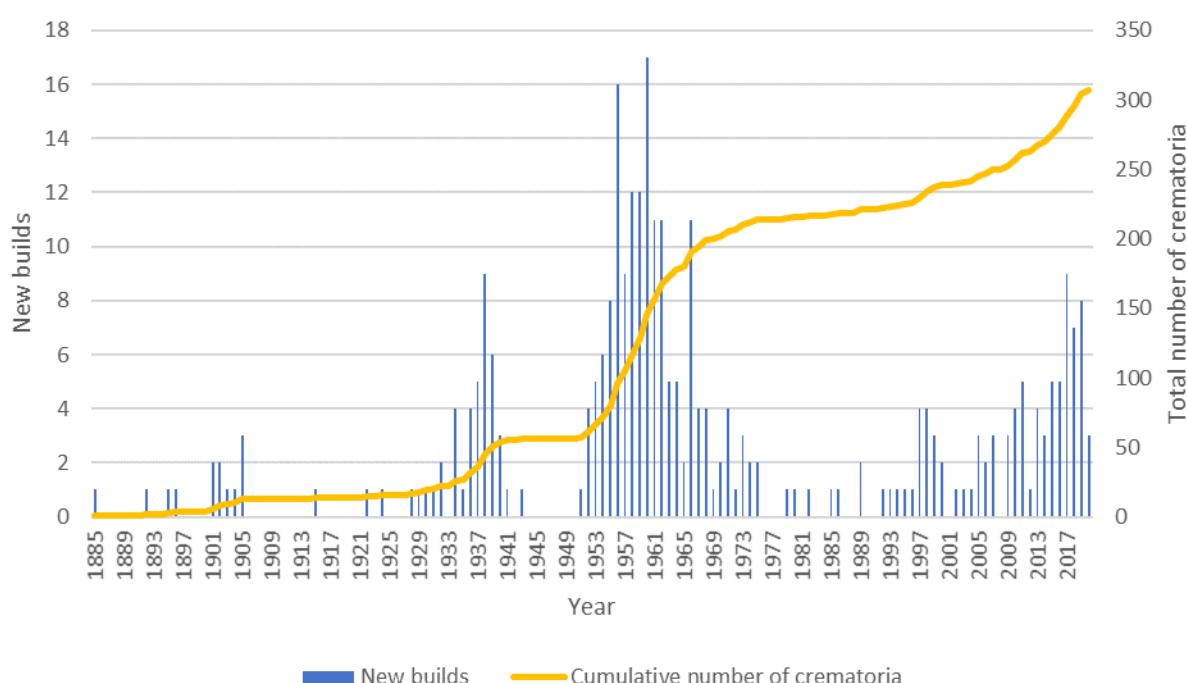
<sup>52</sup> Source: CMA analysis of SunLife 'Cost of Dying' data for 2019, re-weighted by share of supply. For further details, see Appendix N.

## Growth in demand for cremation and number of crematoria

2.20 The proportion of funerals involving a cremation has grown steadily in the past 60 years, from 35% in 1960 to over 78% in 2019.<sup>53</sup>

2.21 The number of crematoria has also increased, with significant waves of construction taking place in the 1960s and then in the last decade, as shown in Figure 2 below. As at 1 September 2019, there were 303 crematoria in the UK.<sup>54</sup> The development of the cremation sector started in the 1930s and the number of new builds reached a peak in the 1960s, driven by municipal authorities seeking to introduce an alternative to their cemeteries.<sup>55</sup> Since the 1980s, the delivery of new facilities across the UK has been driven by the private sector.

**Figure 2: Number of crematoria in operation in the UK over time**



Source: CMA analysis of the Institute of Cemetery and Cremation Management (ICCM) information. 13 new crematoria directly replacing old crematoria not counted as new builds.

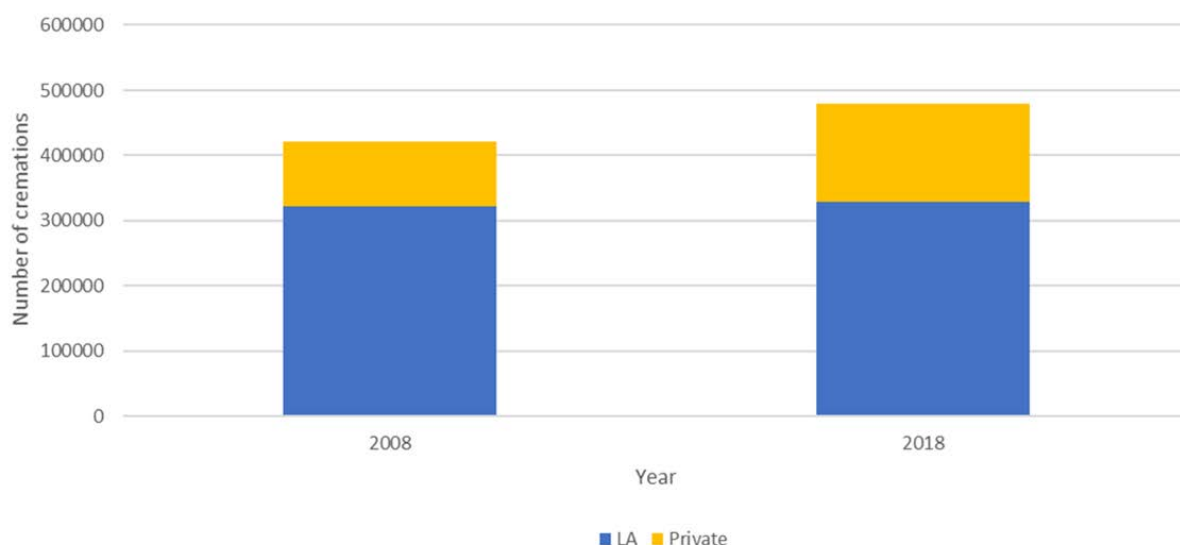
<sup>53</sup> Cremation Society, [Table of Cremations 2019](#), page 19.

<sup>54</sup> As of 12 October 2020, there were 307 crematoria in the UK. In our detailed analysis in later sections we have used information on the 303 crematoria in operation as of September 2019.

<sup>55</sup> It has also been observed that there was a major change in 1963 when the Pope lifted a ban on Roman Catholics seeking cremations, and when, 3 years later, Roman Catholic priests were allowed to conduct services in crematoria.

2.22 The total number of cremations conducted by private and local authority crematoria increased from just over 420,000 to around 480,000 between 2008 and 2018 (a percentage increase of 14%), as shown by Figure 3 below.<sup>56</sup>

**Figure 3: Number of cremations performed by type of operator in 2008 and 2018**



Source: CMA analysis of Cremation Society data.

2.23 Figure 3 shows that the increase in the number of cremations over the last 10 years has primarily been met by private providers (which, in the period between 2008 and 2018, opened 44 new crematoria, whilst local authorities opened only two new crematoria).<sup>57</sup>

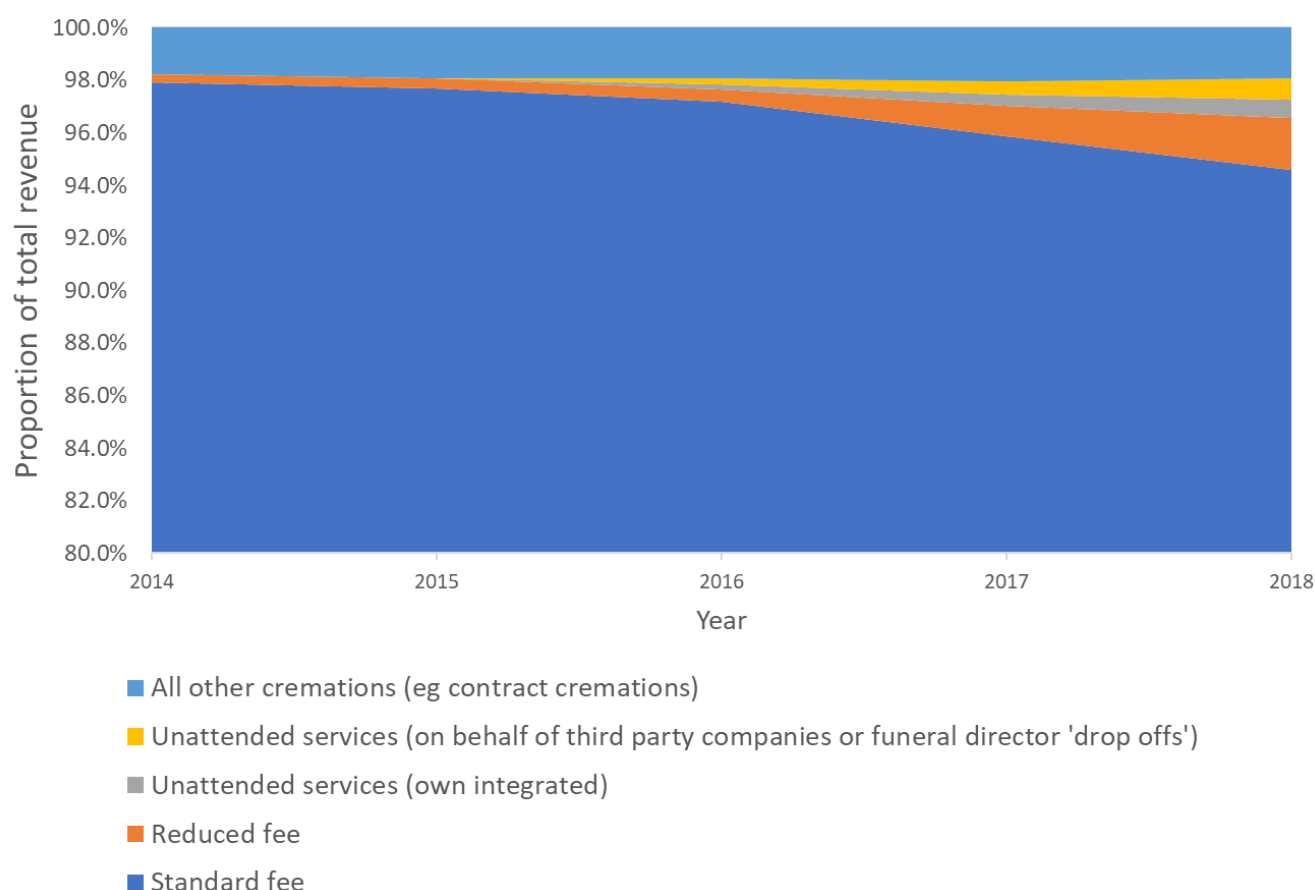
2.24 Figure 4 shows that the vast majority of crematorium fee revenue is derived from the provision of standard fee services. In 2018 the largest four crematorium operators derived 95% of their revenue from standard fee services, 2% from reduced fee services and 1% from unattended services.<sup>58</sup>

<sup>56</sup> In 2019 the total number was around 470,000.

<sup>57</sup> These figures do not include local authority crematoria that have been replaced over the stated period.

<sup>58</sup> Our estimate of unattended services may include some attended direct cremations. However, we consider this is likely to be low in the time period examined. Dignity has supplied data on the number of at need direct cremations between 2016 and 2019. We note that the proportion of direct at need cremations that are attended has been [0-5]% in the years 2016 and 2017, [10-20]% in 2018 and [10-20]% in 2019.

**Figure 4: Fee revenue, across the largest four crematorium operators, from 2014 to 2018**



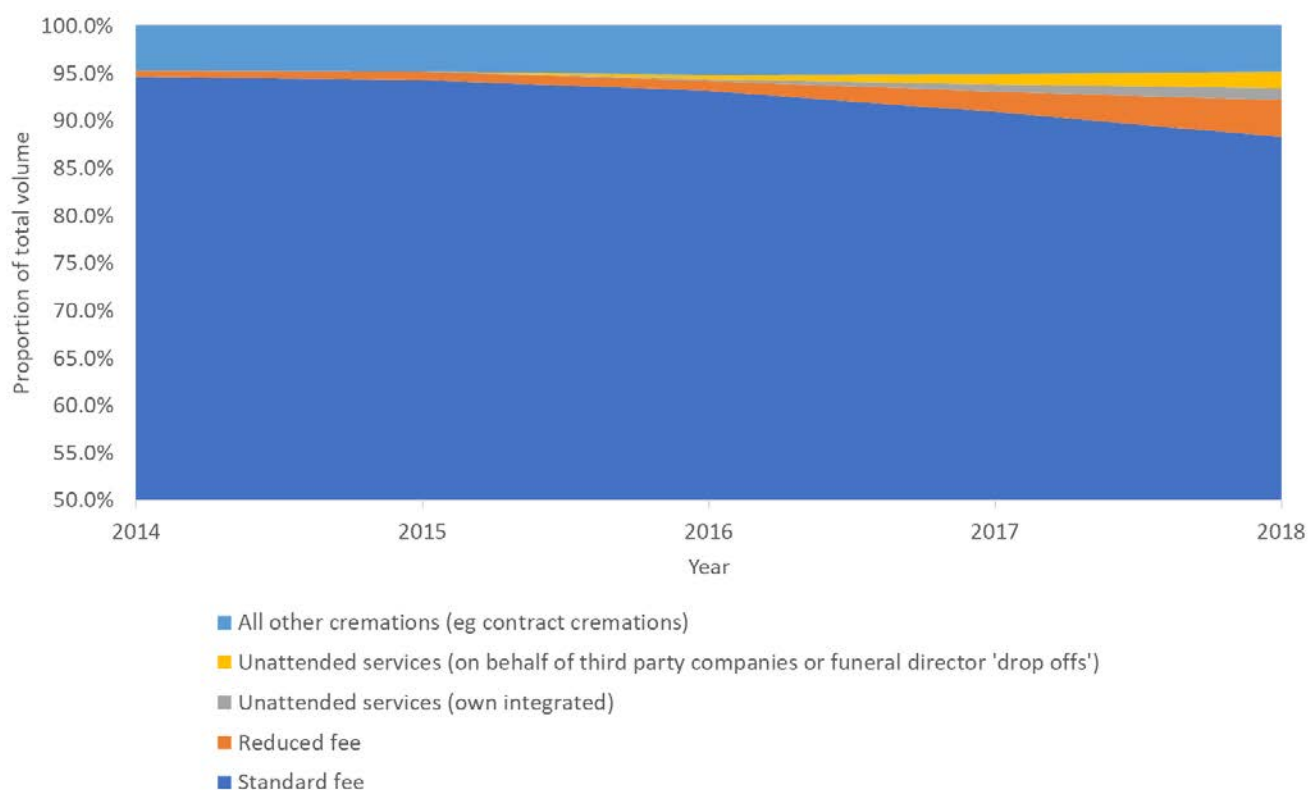
Source: CMA analysis of RFI responses from Dignity, Westerleigh, Memoria and LCC.

Notes: we requested that private crematorium operators split the unattended services they conduct to indicate whether they conduct them on behalf of third parties, or as part of their own integrated offering (eg the Dignity Simplicity brand).

2.25 Figure 5 shows that on a volume basis, the vast majority of cremation services conducted are standard fee services. In 2018 the largest four crematorium operators derived 88% of their volumes from standard fee services, 4% from reduced fee services and 3% from unattended services.<sup>59</sup>

<sup>59</sup> Volumes relating to unattended services may include some attended direct cremations.

**Figure 5: Cremation service mix, across the largest four crematorium operators, from 2014 to 2018**



Source: CMA analysis of RFI responses from Dignity, Westerleigh, Memoria and LCC.

### ***Growth in various types of services***

- 2.26 There are some signs of change in the general nature of funeral services purchased by customers. As we set out in Section 3, there has been some move away from religious funerals towards more secular, diverse and personalised services.
- 2.27 One trend which has been particularly highlighted by funeral directors is the move towards lower priced funeral options, such as simple funerals and direct cremations. The introduction and growth of direct cremation has been a relatively recent phenomenon, with industry reports noting it as a growing trend since 2016-17.<sup>60</sup>
- 2.28 Estimates for the proportion of funerals which are direct cremations vary but remain low (albeit with rapid recent growth). In 2019, SunLife Limited (SunLife) reported that 4% of cremations (3% of all funerals) were described

<sup>60</sup> Direct cremations were first mentioned in Royal London's 2016 report (Royal London (2016). [Signs of Life ... National Funeral Cost Index Report](#)) and in SunLife's 2017 report (SunLife (2017). [Cost of Dying](#)).

as direct cremations from its survey,<sup>61</sup> while Royal London's 2019 report indicates a figure closer to 10%.<sup>62</sup> This is discussed further in Section 5 of this report.

- 2.29 Simple funerals have been available for longer, with the introduction of a basic simple funeral resulting from a 1977 Price Commission report on funerals (as discussed further in paragraphs 2.136 to 2.139).<sup>63</sup> However, take-up of these funerals has increased in more recent years, with Co-op relaunching its proposition in 2016, followed by other funeral directors (as discussed further in Section 5/Appendix I).

### ***Growth in funeral prices***

- 2.30 Information on prices within the funerals industry is available from different sources, which we consider in more detail later in this report.<sup>64</sup> One long-running source of pricing data is available from SunLife, which has reported information on the cost of the core elements making up a funeral<sup>65</sup> since 2004.<sup>66</sup> We obtained the data underlying SunLife's reports from 2006 onwards and reweighted the results to take account of sampling biases. Our analysis indicates that the average cost of the funeral director's professional services<sup>67</sup> has increased by an annual rate of 4.5% (1.6% accounting for inflation) between 2006 and 2019.<sup>68</sup>
- 2.31 The amount spent on the cost of services provided by third parties<sup>69</sup> has increased by an average rate of 5.6% (2.5% accounting for inflation) for cremations and 7.4% (4.3% accounting for inflation) for burials. The average amount spent on discretionary items, which includes optional additions

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<sup>61</sup> SunLife (2020). [Cost of Dying](#).

<sup>62</sup> [Change on the Horizon? ... National Funeral Cost Index Report](#) (Royal London, 2019) states that the proportion of people having a direct cremation in its purest form – with no mourners present and no separate celebration of life or ceremony – was 3%, and the proportion of people having a direct cremation with a separate celebration of life was 6%. [The Impact of COVID-19 on Funerals. National Funeral Cost Index Report 2020](#) (Royal London, 2020) indicates that the COVID-19 pandemic led to an increase in the number of simpler funerals and direct cremations in 2020.

<sup>63</sup> [A report of the OFT inquiry into the funerals industry 2001 \(OFT346\)](#)

<sup>64</sup> See Appendix N.

<sup>65</sup> Defined by SunLife as the fees for: the funeral director (including provision of the coffin, hearse, collection and care of the deceased, and professional guidance); the cremation or burial itself; the doctor; and the minister or celebrant. See: SunLife (2020). [Cost of Dying](#).

<sup>66</sup> We have collated the available data on funeral price increases in Appendix N, including data from SunLife, Beyond, Royal London, Your Funeral Choice, and data directly received from a number of funeral directors.

<sup>67</sup> The professional fee includes collection and care of the deceased, hearse and attendants and director, one limo, use of chapel of rest, attending to all essential documentation, oak veneer coffin.

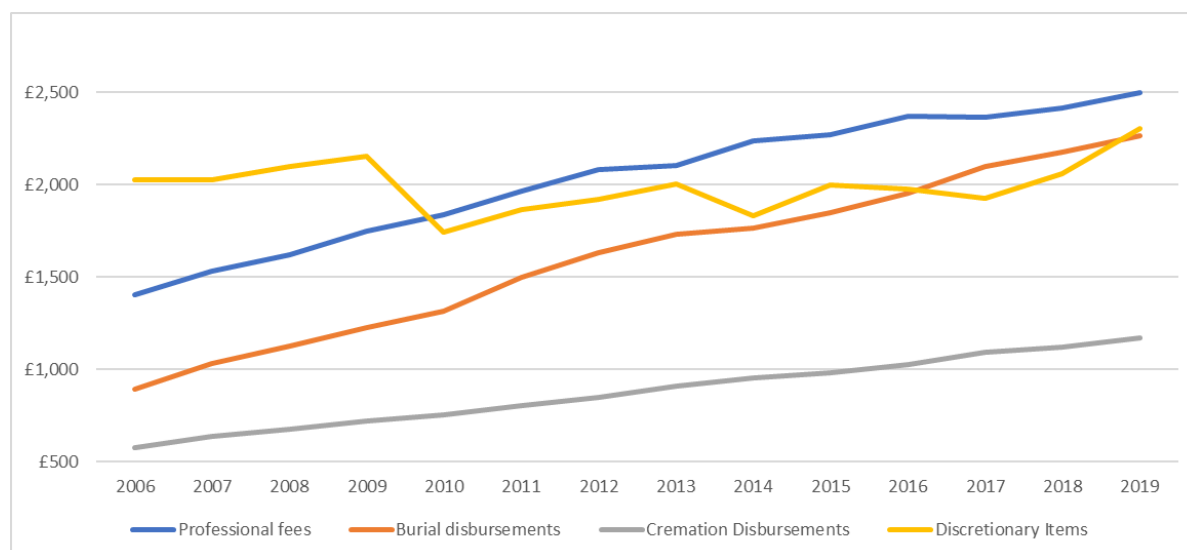
<sup>68</sup> This has been calculated by reweighting the SunLife by the share of supply of funeral directors. When the SunLife data is instead reweighted by regional death rates, the average price growth is 5.3% (2.3% in real terms), and when reweighted by the proportion of burials and cremations is 5.4% (2.3% in real terms). This is detailed further in Appendix N.

<sup>69</sup> This includes costs such as the crematorium or burial site, the doctor and the minister/celebrant.



beyond a 'basic' funeral such as flowers and catering,<sup>70</sup> is £2,306 and has grown at an average annual rate of 1.0% (therefore declining in real terms by an average rate of -1.9%).<sup>71</sup>

**Figure 6: Average professional fee, burial and cremation disbursements, and discretionary item cost, 2006-2019 (nominal)**



Source: CMA analysis of SunLife data.

Note: Professional fee, burial disbursements and cremation disbursements are weighted by funeral director share of supply. The cost of discretionary items has not been weighted by share of supply due to data availability.

## How people pay for funerals

- 2.32 Funerals are either purchased at the point of need<sup>72</sup> or through a pre-paid plan. While some insurance products will also pay out a lump sum to go towards funeral costs on a person's death, the funeral would still be arranged and paid for at the point of need.
- 2.33 A pre-paid plan is a contract under which a customer makes one or more payments to a plan provider, who subsequently arranges or pays for a funeral upon the death of the customer. Pre-paid plan providers either invest these payments in a trust fund or take out a form of insurance against the life of the customer.

<sup>70</sup> Discretionary costs mostly comprise the memorial, at an average cost of £910 (40% of the total cost), followed by catering (18% of the total cost), limousine hire (14%) and venue hire (11%). Source: SunLife (2020). [Cost of Dying](#).

<sup>71</sup> SunLife (2020) [Cost of Dying](#).

<sup>72</sup> Referred to as at-need funerals or funerals at the point of need in this document, where we seek to contrast these types of funerals with funerals purchased as part of a funeral plan. We refer to them simply as funerals elsewhere.

- 2.34 There were 46,340 sales of pre-paid plans in 2002 rising to 210,700 sales in 2016. Pre-paid plan sales declined in every subsequent year to 165,200 sales in 2019.<sup>73</sup> In 2018, redemptions of pre-paid plans accounted for around 16% of all funerals.
- 2.35 Our Market Investigation consumer survey showed that people who purchased a funeral at the point of need (rather than through a pre-paid plan) paid for it in a number of ways, as set out in Table 1 below. The most common means of payment was with money left by/inherited from the deceased person (34%) followed by personal savings (21%).

**Table 1: How the funeral was paid for**

	%
Money left behind/inherited from the deceased	34
Personal savings	21
Personal savings of another family member	12
Credit card	10
Credit card of another family member	6
Cash, cheque or insurance policy from unspecified source	4
Bank/building society/credit union loan	3
Bank/building society/credit union loan in name of another family member	3
Cash (source not specified/unclear)	2
DWP Funeral Expenses Payment	1
Cheque (source not specified/unclear)	1
Insurance policy (source not specified/unclear)	1
Grant or loan from charity	1
Crowdfunding	1
Another way	4
Prefer not to say/don't know/can't remember	9

Source: [Market Investigation consumer survey](#), Tables 193-195, Question FDadd1. Base: All UK adults 18+ involved in making at-need burial or cremation arrangements since J/A/S/O 2018 who used a funeral director (n=279). Prompted; multiple response.

## Cultural and faith differences

- 2.36 Culture and faith can have a bearing on a number of aspects of the funeral, including whether a burial or cremation is required. For example, Hindu and Sikh funerals are almost exclusively cremations, whereas some religions, such as the Muslim and Jewish faiths, only allow burial.
- 2.37 A number of faiths, eg Hindu, Sikh, Muslim, require a facility for the family to wash and dress the deceased at the funeral director's premises. Some faiths and customs require the deceased to rest in church or at home prior to the funeral service. Taking the deceased home to rest before the funeral is also more common in certain geographic areas.<sup>74</sup> A number of faiths require evening or overnight vigils.

<sup>73</sup> [Funeral Planning Authority - Statistics](#)

<sup>74</sup> One funeral director in Northern Ireland noted this is the norm there, although this is starting to change within some towns. This is also linked to a greater demand for the deceased to be viewed.

- 2.38 Some faiths require the funeral to take place within a particular time frame – for example, for Muslim and Jewish funerals it is not unusual for the deceased person to be buried within 24 hours of their death. Such time pressures are discussed further in Section 3.
- 2.39 The Catholic Bishops Conference of England and Wales submitted that, ‘We are aware that the rituals and rites of a Catholic funeral may lead to a higher cost than a non-religious funeral. For example, if one has a Reception of the body into the church the night before, there will be an additional cost from the funeral director to transport the coffin to the church.’ In contrast, internal documents from a Large funeral director indicate that, in general ‘Muslim, Hindu and Sikh funerals are the most simple to service’.
- 2.40 Many faith groups (such as Sikh, Muslim and Jewish) provide various levels of funding for funerals in their local community.
- 2.41 We were told by a funeral director that local faith leaders may have influence, to varying degrees, over the choice of funeral director which the family may choose, and that generally speaking, there may be a propensity for families to use providers who share their own faith, culture and/or country of origin.
- 2.42 In some faith groups, the community may run its own funeral services, and this is more likely in Jewish and Muslim communities. We were told that most mosques have their own facilities, including mortuaries. Similarly, it was submitted that ‘in areas of larger Muslim communities mosques will provide a lot of the funeral services or have a chosen partner for funerals or many synagogues have contracted a funeral director to provide a prescribed package for their members for a fixed fee.’ On a visit to the Gardens of Peace (the largest dedicated cemetery for Muslims in the UK) we were informed that the local Mosque will typically be involved in the funeral arrangement. Kensington and Chelsea Citizens Advice also noted that ‘procedures can be managed by the temple, synagogue or mosque, who are used to taking charge.’<sup>75</sup>
- 2.43 It has been observed by one funeral director that, particularly within Northern Ireland, funeral directors are strongly chosen along religious lines, with different funeral directors serving the Protestant and Roman Catholic communities even in small towns.
- 2.44 In Section 3, we discuss the impact of increasing secularisation on funerals.

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<sup>75</sup> [Kensington and Chelsea Citizens Advice response to the Interim Report.](#)

## Funeral poverty

### *Funeral poverty debate*

- 2.45 In 2014, Royal London Mutual Insurance Society Limited (Royal London) published its first National Funeral Cost Index,<sup>76</sup> shining a spotlight on the issue of ‘funeral poverty’. It reported that one in five respondents in its research said they had struggled to meet funeral costs, meaning that ‘across the UK there are around 110,000 people facing funeral poverty each year’ with a total level of funeral debt of £142 million, based on average debt of £1,300 faced by respondents who struggled to meet funeral costs.
- 2.46 Concerns about funeral poverty started to form part of the political agenda around 2015 and were widely reported in the media.
- 2.47 In April 2015, the BBC warned of a ‘funeral time bomb’,<sup>77</sup> following publication of a report by the International Longevity Centre<sup>78</sup> which noted that soaring funeral costs, combined with pressure on funeral services caused by rising numbers of deaths and a lack of financial planning by people for funeral costs, would lead to a growing number of families struggling with funeral bills. In November 2015, another BBC report focused on the rise of public health funerals and related cost to local authorities.<sup>79</sup>
- 2.48 In December 2015, the Work and Pensions Committee launched an inquiry into funeral poverty, Social Fund funeral payments and bereavement benefits.<sup>80</sup> It published its report on the inquiry in March 2016,<sup>81</sup> recommending (amongst other matters) that the UK government should follow the lead of the Scottish Government and conduct a cross-Departmental review of burials, cremations and funerals to ‘look to make recommendations that have a long-term impact on funeral inflation and work to reduce funeral poverty.’<sup>82</sup>
- 2.49 In June 2015 Citizens Advice Scotland (CAS) published its *Cost of Saying Goodbye* report<sup>83</sup> addressing the rising and varying cost of funerals in

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<sup>76</sup> Royal London (2014). [Are We Losing the Plot? ... National Funeral Cost Index Report](#).

<sup>77</sup> [BBC News](#) Warning of ‘funeral time bomb’ in UK as population ages.

<sup>78</sup> [The International Longevity Centre – UK: The funeral time bomb](#).

<sup>79</sup> [BBC news](#) ‘Paupers’ funerals’ cost councils £1.7m.

<sup>80</sup> [Work and Pensions Committee Bereavement benefits inquiry launched](#).

<sup>81</sup> [Work and Pensions Committee Support for the bereaved Ninth Report of Session 2015-16](#).

<sup>82</sup> The Minister for Family Support, Housing and Child Maintenance wrote to the Chair of the Work and Pensions Committee on 24 May 2018, outlining the steps government had taken to date in response: [Letter to Frank Field MP from Kit Malthouse MP, dated 24 May 2018](#).

<sup>83</sup> [The Cost of Saying Goodbye 2015](#). Citizens Advice published its first research paper the subject of funeral costs in June 2014.

Scotland, evidencing the increasing number of people who struggled to pay for basic funerals. This was followed by a further report<sup>84</sup> and, in 2016, a Scottish Government National Conference on Funeral Poverty that led to a range of policy initiatives with a focus on funeral affordability. The Scottish Government published its Funeral Costs Plan in August 2017.<sup>85</sup> This set out a range of actions that the Scottish Government was taking to tackle funeral poverty.

### ***Scale and impact of funeral poverty***

- 2.50 In its 2019 National Funeral Cost Index Report, Royal London calculated that funeral poverty across the country had risen 12% to £147 million demonstrating that ‘the scale of the problem shows no sign of slowing down.’<sup>86</sup> The report indicated that the shortfall for those who struggle to pay for a funeral has increased from £1,744 to £1,990 – ‘an all-time high’. It also recorded that 73,935 people struggled to pay for a funeral in 2018. However, in its 2020 report, Royal London reported that the amount of debt taken on by people who struggle to meet the cost of a funeral had reduced from £1,990 to £1,751. It calculated that funeral poverty had decreased by 42.7% to £82.7m.<sup>87</sup>
- 2.51 In its 2019 report, Royal London noted that ‘social pressure to give loved ones “a good send-off” (considered further in Section 3) appears to be driving lower income households to spend a disproportionate amount on funerals and reject the concept of a low-cost alternative to a traditional funeral.’<sup>88</sup> Royal London also reported that more people elect to take on debt rather than compromise on the funeral they choose. In its 2020 report, Royal London noted that only 8% of respondents chose cheaper options as a way of managing funeral debt, down from 12% the previous year.<sup>89</sup>
- 2.52 SunLife’s 2020 Cost of Dying report found that for 12% of families, finding the money to pay caused them notable financial problems. Of these, 16% paid the

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<sup>84</sup> A report was commissioned by the Cabinet Secretary for Social Justice, Communities and Pensioners’ rights in October 2015, to allow for work on funeral poverty to progress alongside the development of a new Scottish funeral payment, following the transfer of powers under the Scotland Bill. [Funeral Poverty in Scotland](#).

<sup>85</sup> [Funeral costs plan](#).

<sup>86</sup> Royal London (2019). [Change on the Horizon? ... National Funeral Cost Index Report](#).

<sup>87</sup> [The Impact of Covid-19 on Funerals. National Funeral Cost Index Report 2020](#) (Royal London, 2020), page 18. Royal London states: ‘With the combined effect of fewer people taking on debt, at a lower rate, and a lower death rate in 2019 (which we use to calculate the scale of funeral poverty) we calculate that funeral poverty has decreased by 42.7% this year to £82.7m.’

<sup>88</sup> Royal London (2019). [Change on the Horizon? ... National Funeral Cost Index Report](#)

<sup>89</sup> [The Impact of Covid-19 on Funerals. National Funeral Cost Index Report 2020](#) (Royal London, 2020), page 18.

funeral director in instalments, 15% sold their belongings, 10% got a loan, 8% applied for a government grant.<sup>90</sup>

- 2.53 At a roundtable held in Edinburgh, we were told by one attendee that funeral debt is not decreasing. The attendee described people taking out payday loans, paying for the funeral on credit cards, having to use a food bank and selling family jewellery as a consequence of paying for a funeral. It was suggested that some of the toughest situations they had seen involved people who are not eligible for funeral support payments – those on low incomes, perhaps on zero-hours contracts, with no qualifying benefits. In addition, we heard that when they are eligible for a payment, people do not necessarily know what level of payment they will receive. At the roundtable, we were also told that people eligible for a funeral payment may not, in any case, want a low-cost funeral.<sup>91</sup>
- 2.54 We were told by Quaker Social Action<sup>92</sup> that there can sometimes be a ‘poverty premium’ added, with those known by funeral directors to have restricted means sometimes asked to pay all of the deposit upfront, when their more affluent counterparts are not asked to do so.<sup>93</sup> Quaker Social Action also noted that some of the lower cost funeral packages require all of the money upfront: ‘This can sometimes leave customers with the uncomfortable choice of whether to choose a lower cost option overall, but pay it within a short timeframe, or take on a more expensive funeral, but pay less initially and more over the course of time.’ These points were also made at the Edinburgh roundtable.
- 2.55 Quaker Social Action also suggested that customers on lower incomes may not be able to pay the remaining bill within the prescribed time since they may be making Social Fund Funeral Payment or charitable application claims. Quaker Social Action noted that ‘this means they are at the mercy of the funeral director to be flexible about this, or allow a payment plan, though this is rarely discussed openly before the funeral. Unfortunately, adding interest and extra charges does not always act as an ‘incentive’ for those on low incomes to pay, but just keeps them in debt, and in poverty for longer.’

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<sup>90</sup> SunLife (2020). [Cost of Dying](#).

<sup>91</sup> [Summary of roundtable discussion held in Edinburgh on 27 June 2019](#), involving organisations whose role is to support the bereaved and/or provide advice to people in Scotland.

<sup>92</sup> Quaker Social Action is a charity that supports people on low incomes, including providing to support to people who struggle with funeral costs: [Introducing Quaker Social Action](#)

<sup>93</sup> [Quaker Social Action response to the Issues Statement](#).

## ***Government support for funeral costs***

- 2.56 In England and Wales, the government's Funeral Expenses Payment, paid from the regulated Social Fund,<sup>94</sup> helps pay for certain costs for people in receipt of qualifying benefits and who meet the eligibility criteria. Any payments made by the Department for Works and Pensions (DWP) towards funeral costs are recoverable from the estate of the deceased, if there are sufficient funds.<sup>95</sup> The payment covers: burial fees or cremation fees, including the cost of the doctor's certificate; travel to arrange or go to the funeral; the cost of moving the body within the UK, if it is being moved more than 50 miles; death certificates or other documents. In addition, people who are eligible can get up to £1,000<sup>96</sup> for any other funeral expenses, such as funeral director's fees, flowers or the coffin. In Northern Ireland, the Funeral Expenses Payment confers the same benefits.<sup>97</sup>
- 2.57 In Scotland, in 2019, the Funeral Expense Assistance, known as the 'Funeral Support Payment' replaced the Funeral Expenses Payment.<sup>98</sup> The payment will usually cover the cost of burial or cremation. In addition, people can get a payment of £1,000 to put towards any other funeral costs – such as the funeral service or funeral car. Help towards travel costs to the funeral is also included. Payment towards the cost of death certificates and medical certificates may also be made.<sup>99</sup>
- 2.58 During 2018-19, the government spent £44 million (2017-18: £37 million) on Funeral Expenses Payments, £0.1 million was recovered and £41 million was written off the total Funeral Expenses Payments debt as there was no estate to recover from.<sup>100</sup> The average payment in 2017-18 was £1,461.<sup>101</sup> In January 2019, the Scottish Government estimated that around 4,400 people

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<sup>94</sup> Section 138(1) of the Social Security Contributions and Benefits Act (SSCBA) 1992 enables payments of prescribed amounts to be made out of the Social Fund to meet, in defined circumstances, maternity and funeral expenses. The Funeral Expenses Payment is subject to the Departmental Expenditure Limit.

<sup>95</sup> [Get help with funeral costs \(Funeral Expenses Payment\)](#).

<sup>96</sup> If the person died on or after 8 April 2020. Prior to this, the cap was £700.

<sup>97</sup> [Funeral Expenses Payment](#)

<sup>98</sup> The Scotland Act 2016 devolves responsibility for funeral payments – together with all other elements of the regulated social fund – to the Scottish Parliament. In a [policy note](#) accompanying the Funeral Expense Assistance (Scotland) Regulations 2019, the Scottish Government notes that its decision to widen eligibility and make other changes to improve the benefit for Funeral Expenses Assistance compared to the DWP Funeral Expenses Payment is expected to support people who would otherwise receive no support at all under the UK government system. It notes that this will reduce the number of families facing debt as a result of arranging a funeral they cannot afford.

<sup>99</sup> [Funeral Support Payment](#)

<sup>100</sup> [Corporate report - Social Fund account 2018 to 2019](#).

<sup>101</sup> [Parliament Written Question 162525 Funeral costs](#).



would receive a Funeral Expense Payment during the first full year of operation, resulting in expenditure of over £6 million in the first year.<sup>102</sup>

- 2.59 The Social Fund Funeral Expenses Payment has been the subject of criticism over the years. Concerns centred on: the adequacy of payments (in particular the £700 cap which was in place from 2003 to April 2020); eligibility criteria; application process and processing; and unpredictability.<sup>103</sup>
- 2.60 In 2017, following a consultation, the government set out a number of changes to the scheme, including: not deducting from the funeral expenses award certain contributions received towards the cost of a funeral; extending the claim period from 3 to 6 months; allowing applicants to submit evidence electronically to speed up the processing of claims and get decisions to claimants sooner.<sup>104,105</sup> The government rejected calls to review the overall Social Fund Funeral Payment so that it more accurately reflects the increased cost of funerals.<sup>106</sup> However, the cap was raised in England and Wales in 2020 (and similarly in Northern Ireland).
- 2.61 At its hearing on 26 June 2019, the NAFD said ‘funerals would remain unaffordable for the poorest, unless there was a reform of the Social Fund Funeral Payment’. It noted that, based on a survey of its members, people who are eligible for the payment would typically have a shortfall of about £1,181 for the cost of a simple funeral, excluding third-party disbursements. The NAFD also told us that funeral directors ‘were often taking on a considerable amount of work for which they received no payment, and/or were amassing considerable amounts of debt they would never recover.’<sup>107</sup>
- 2.62 We were provided with examples of people going into debt because of a shortfall between the financial support awarded by government and the cost of a funeral; funeral directors charging higher deposits for people applying for the Funeral Expenses Payment, including asking for all payment upfront, and of someone being told that they need a funeral date before they could apply for the payment. None of the funeral directors that person went to would give a date unless he paid third-party costs first.

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<sup>102</sup> See [policy note](#) accompanying the Funeral Expense Assistance (Scotland) Regulations 2019

<sup>103</sup> See eg [Social Fund Funeral Payments](#) and [Briefing Paper Social Fund Funeral Payments](#)

<sup>104</sup> Department for Work and Pensions, November 2017, [Reforms to the Funeral Expenses Payment Scheme – consultation response](#); [Press release Claiming a Funeral Payment to be made easier](#).

<sup>105</sup> An equivalent consultation was launched in Northern Ireland by the Department for Communities in 2017.

<sup>106</sup> Regulations enabling the changes came into force on 2 April 2018.

<sup>107</sup> [Summary of hearing with the NAFD held on 26 June 2019](#). Since this hearing, the government raised the level for other funeral expenses from £700 to £1000.



- 2.63 In July 2019 the DWP changed its policy to allow claims to be submitted with an estimated funeral date, rather than a confirmed date, provided other key information is supplied.<sup>108</sup> Families are also now able to supply a funeral director contract as an indication of funeral cost in advance of a funeral, rather than a final invoice, after the funeral.<sup>109</sup> The NAFD said it remained concerned, however, that social fund applicants must commit to paying for funerals well ahead of a determination about their eligibility being made.
- 2.64 At a roundtable in Cardiff, we were told that poverty was causing an increase in the number of public health funerals.<sup>110</sup> The participant flagged increasing income poverty amongst pensioners.<sup>111</sup>
- 2.65 In 2019 it was reported that 275 local authorities spent over £5 million on public health funerals in the 12 months to April 2018. The amount spent by local authorities on public health funerals in 2017-18 increased by 3.5%, compared with the previous year, based on those councils that provided figures for both years.<sup>112</sup>
- 2.66 We are aware of a number of local authorities which have arrangements with local funeral directors to give their local residents access to funeral services at a negotiated rate below typical local prices.<sup>113</sup> A few are long established (Nottingham and Cardiff have operated schemes since the mid-1990s); others are a more recent response to concerns about funeral poverty. A number of local authorities have told us that they are actively considering whether, and how, to introduce such schemes in future.
- 2.67 We recognise the widespread concerns about funeral poverty that have been raised with us in the course of our investigation and welcome the government's recent actions to improve the process and increase the payment from £700 to £1,000 from April 2020.

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<sup>108</sup> [Press release Bereaved families to receive funeral payments quicker](#)

<sup>109</sup> Ibid.

<sup>110</sup> A Local Authority has a duty to cremate or bury a person found dead in its area where no suitable arrangements will otherwise be made. Such arrangements are typically described as 'public health funerals': s46 Public Health (Control of Disease) Act 1984 covers England & Wales; s92 Public Health etc. (Scotland) Act 2008; and s25 Welfare Services Act (Northern Ireland) 1971.

<sup>111</sup> [Summary of roundtable discussion held in Cardiff on 27 June 2019](#)

<sup>112</sup> [Paupers' funerals cost UK councils nearly £5.4m in a year](#). Report based on Freedom of Information request.

<sup>113</sup> We understand that eligibility requirements for schemes are typically that the deceased was a current (or recent) local authority resident.

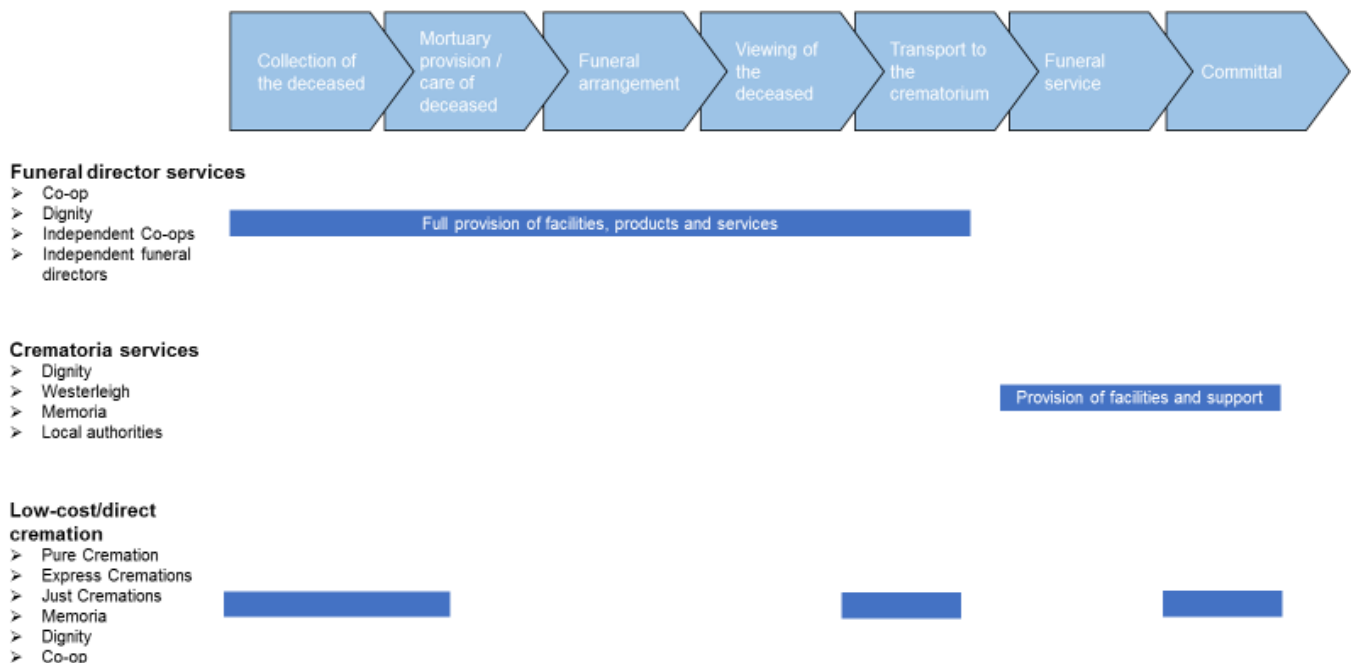
# Structure of the industry

## Overview

2.68 At the centre of the funerals industry are funeral directors, who are typically the only point of contact for people seeking to organise a funeral. They operate as an intermediary for the crematoria, cemeteries, officiants and medical referees and pass on the costs associated with these suppliers' activities, as 'disbursement costs', to the customer.

2.69 Figure 7 shows what range of services funeral directors, crematorium operators and direct cremation specialists offer to people seeking to organise a funeral, from collection of the deceased through to committal.

**Figure 7: Services and suppliers involved in the organisation of a funeral**



Source: CMA

## Funeral directors

2.70 To fully understand the way in which the industry operates today, it is useful to start with its commercial development, alongside the rapid expansion of cities in Victorian Britain.

## *Development of the funeral director industry*

- 2.71 Funeral directors were essentially family firms until the early years of the 20<sup>th</sup> century: this model of enterprise was ideally suited to this industry because continuity of a trading name and stability were key to maintaining personal contacts in the community, thus generating additional work from recommendations. The co-operative movement became involved in the supply of funerals in the 1920s, as an extension of the co-operative societies' role in providing death benefits to their members. By 1995, the industry remained fragmented, although a number of larger funeral director firms had emerged through a series of mergers and acquisitions, and the co-operative societies collectively had gained just over 25% share of supply (some of them having merged). In 1994, the American funeral business, Service Corporation International (SCI), entered the UK by acquiring two firms, which together had 520 branches and a share of supply of around 14%. Following a management buy-out by the UK board in 2001, SCI's holdings in the UK were floated on the London Stock Exchange as Dignity in 2004.<sup>114</sup>
- 2.72 Despite these changes, the funeral director industry remains fragmented, with many family-owned and managed firms continuing to operate in this sector. We consider current ownership structures in the sector from paragraph 2.84. We have analysed the membership databases of the two trade associations representing funeral directors and have estimated that together they account for 1,386 funeral directors, operating 5,231 branches.<sup>115</sup> In addition, some funeral directors are not registered with either association. Although there is no authoritative source of information on the number of funeral directors operating in the UK, we have seen an unpublished report estimating that overall in 2017 there were 6,955 funeral director branches in the UK. We also purchased a dataset of funeral directors in the UK, which listed 6,168 branches as open, operated by 2,294 companies as of August 2019.<sup>116</sup>

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<sup>114</sup> This paragraph is based on *The Evolution of the British Funeral Industry in the 20<sup>th</sup> Century*, Brian Parsons, 2018.

<sup>115</sup> To produce this estimate, we have removed duplications resulting from membership to both associations by some funeral directors.

<sup>116</sup> The dataset, purchased from GTS (a consultancy business), contains records for a total of 6,497 branches. Note, through data cleaning, the number of open branches is slightly reduced when compared with the raw purchased dataset.

## *Key players in the funeral director industry*

- 2.73 Of the three largest suppliers, Co-op has an estimated 17% share of the UK funerals branch network and Dignity 13%, while Funeral Partners has a share of 3%.<sup>117</sup>
- 2.74 Co-op and Dignity's shares (by volume) have been relatively stable (with a very small decrease) over the period 2013 to 2018, while Funeral Partners has nearly doubled its share over the same period.<sup>118</sup>
- 2.75 Co-op generated revenue from the provision of funeral director services<sup>119</sup> of £274m, from 96,104 funerals conducted by 1,053 branches in 2018. Since 2016, Co-op has pursued a growth strategy centred on opening new funeral director branches, refurbishing and rationalising the existing branch network and repositioning its prices and services.
- 2.76 In 2018, Dignity carried out 72,300 funerals, generating revenue from the provision of funeral director services of £214m out of 831 funeral branches.<sup>120</sup>
- 2.77 The third largest supplier, Funeral Partners, was established in 2007, and has expanded principally through acquisitions. In 2018, it generated funeral services revenue of £38m and operated 178 funeral homes.
- 2.78 Alongside Co-op, there are also 10 independent co-operative societies (the regional co-ops), the three largest of which are Central England Co-operative Limited (Central England Co-op), The Midcounties Co-operative Limited (Midcounties Co-op) and The Southern Co-operative Limited (Southern Co-op), offering funeral director services. The independent societies account for circa 330 funeral homes and a reported estimated combined share of 6%.
- 2.79 The rest of the industry is made up of a long tail of small firms, many of which have only one branch. Among them, there are also a few companies with a regional coverage, the largest of which being: Beverley Funerals Ltd (Beverley Funerals); A.W. Lymn The Family Funeral Service Limited (A.W. Lymn); William Purves (Funeral Directors) Limited (William Purves); Lodge

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<sup>117</sup> Calculations of market share are based on 2018 information per the dataset from GTS combined with the branch numbers shared by each of the three largest firms.

<sup>118</sup> This is based on the number of funerals performed by each funeral director as a percentage of the total deaths recorded in the UK for each year as reported by the Office for National Statistics - [Deaths by single year of age tables - UK](#). The shares include both pre-paid and at-need funerals.

<sup>119</sup> This is the revenue generated from the provision of funeral director services only, excluding disbursement and other revenue. Disbursement revenue is that generated from the sale of disbursements (eg cremations and burials). Disbursements are generally 'pass-through' meaning that the revenue earned, and the cost incurred, are equal. However, there are some instances where margins are earned on disbursements. Other revenue is revenue earned from other funeral-related activities which are not directly the provision of funeral director services (eg masonry).

<sup>120</sup> [Dignity Annual Report 2019](#).

Bros. (Funerals) Limited (Lodge Brothers); C.P.J. Field & Co. Limited (C.P.J. Field); and Alan Greenwood & Sons Limited (Alan Greenwood):

- (a) Beverley Funerals is based in the Yorkshire and The Humber region and operated 36 branches at the end of 2018. In 2018 the firm generated £[redacted]m in revenue from the provision of funeral director services and provided [redacted] funerals.
- (b) A.W. Lymn is based in the East Midlands, with 27 branches at the end of 2018. The firm generated £[redacted]m of revenue from the provision of funeral director services in 2018 and provided [redacted] funerals.
- (c) William Purves is largely based in Scotland, with a smaller number of branches in the North East region. In total, the firm operated 31 branches at the end of 2018 and generated £[redacted]m of revenue from the provision of funeral director services from [redacted] funerals.
- (d) Lodge Brothers operates in London and the South East and operated 41 branches at the end of 2018. The firm generated revenue from the provision of funeral director services of £[redacted]m from [redacted] funerals in the same year.
- (e) C.P.J. Field is located in the South East, operating 39 branches at the end of 2018. Revenues from the provision of funeral director services of £[redacted]m were earned in 2018 from the provision of [redacted] funerals.
- (f) Alan Greenwood also operates in London and the South East, with 28 branches at the end of 2018. The firm earned £[redacted]m total revenue from [redacted] funerals.<sup>121</sup>

2.80 Combined, these six firms account for approximately 3% of the supply of funeral director services based on 2018 funeral volumes.

2.81 Using the purchased dataset (see paragraph 2.72), Table 2 provides further detail on the make-up of the funeral director industry in the UK for the three largest funeral directors, regional co-ops and smaller funeral directors grouped by the number of branches they operate.<sup>122</sup>

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<sup>121</sup> [redacted].

<sup>122</sup> Though we consider it unlikely that GTS's dataset captures every funeral director company or branch, we consider this dataset to be the best available source of this sort of data. Additionally, there are small differences between the number of branches in GTS's dataset which the larger companies operate and the number of branches these parties have told us they operate (as set out from paragraph 2.72). This may be due to inconsistencies in the time period to which the numbers relate. See Appendix G for details.

2.82 Table 2 shows that the majority of the funeral director industry is made up of small companies, many of which (74%) have only one branch. Additionally, the table shows that the three Largest funeral directors, regional co-ops and smaller funeral directors with at least 20 branches, operate a large percentage of the funeral director branches in the UK (44%).

**Table 2: Branch and company statistics by Largest three, regional co-ops and smaller funeral director branch chain size, as of August 2019**

	<i>Number of branches</i>	<i>Proportion of all branches (%)</i>	<i>Number of companies</i>	<i>Proportion of all companies (%)</i>
Largest three	2,085	33.8	3	0.1
Regional Co-ops	402	6.5	11	0.5
Others with:				
- at least 20 branches	202	3.3	6	0.3
- 10 to 19 branches	176	2.9	14	0.6
- 5 to 9 branches	376	6.1	62	2.7
- 2 to 4 branches	1,228	19.9	499	21.8
- 1 branch	1,699	27.5	1,699	74.1

Source: CMA Analysis of GrowThink Solutions Ltd (GTS) data.

Notes: Based on 2,294 companies operating 6,168 branches identified as open. Two of the regional co-ops have fewer than 5 branches.

2.83 For the purpose of our analysis, we have categorised funeral directors by number of branches, as set out in Table 3 below, unless indicated otherwise elsewhere in this report.

**Table 3: CMA categorisation of funeral directors by number of branches**

<i>"The Largest"</i>	<i>"Other Large"</i>	<i>"The Large"</i>	<i>"the smaller"<sup>123</sup></i>
Co-op	Central England Co-op	Co-op	
Dignity	Midcounties Co-op	Dignity	
Funeral Partners	East of England Co-op	Funeral Partners	
	Southern Co-op	Central England Co-op	
	Lodge Brothers	Midcounties Co-op	
	CPJ Field	East of England Co-op	
	Beverley Funerals	Southern Co-op	
	A W Lymn	Lodge Brothers	
	Alan Greenwood and Sons	CPJ Field	
	William Purves	Beverley Funerals	
		A W Lymn	
		Alan Greenwood and Sons	
		William Purves	
			All other funeral directors

Source: CMA calculation of branch numbers based on parties' responses to information requests

### *Ownership structure of funeral director firms*

2.84 As noted at paragraph 2.71, the funeral director industry has seen changes in ownership structures in recent times. The industry currently comprises four main structures: listed company; co-operative; private equity owned; and family owned/sole traders.

<sup>123</sup> In Section 7 we refer to a specific sample of smaller funeral directors as "the Smaller" funeral directors. This sample of Smaller funeral directors is used in our profitability and pricing analysis.

- (a) The only listed company in the UK funerals industry is Dignity plc, which listed on the London Stock Exchange on 8 April 2004.
  - (b) Co-op is a co-operative meaning it is owned by individual members and other co-operatives. As noted above, there are a large number of regional co-operatives throughout the UK also operating in the funerals industry.
  - (c) A small number of firms, including Funeral Partners, are private equity owned.
  - (d) The large majority of funeral directors in the UK continue to operate either as family owned companies or individual sole traders.
- 2.85 The majority of funeral director firms focus on the provision of funeral director services only, alongside other related businesses such as masonry. A few firms, however, are vertically integrated and also engage in the provision of crematoria services. Dignity is one such example, providing both funeral director and crematoria services. Co-op previously provided crematoria services but exited the market in 2016, now focusing on the provision of funeral director services within the funerals market.

#### *Assets utilised by funeral director firms*

- 2.86 The biggest source of cost for a funeral director business is its staff (comprising mainly people who focus on arranging and directing funerals; drivers and pall bearers), which can account for around half of the cost of a funeral. But there are also some key assets employed by funeral directors, with property and vehicle costs being the next largest costs to the firm in providing a funeral.
- 2.87 Buildings will generally be funeral homes and mortuaries and will contain key assets such as refrigeration facilities.
- 2.88 Many firms will own the buildings in which they operate, but others will opt to lease properties. Smaller independent family firms may use their buildings both for the purposes of the business, but also as the family residential home. Often, smaller firms own their properties and the buildings have been in the business for generations.
- 2.89 A firm's vehicle fleet will generally be made up of hearses, limousines and vans (used as private ambulances). While many firms will own or lease a vehicle fleet which is unique to that business, others will use third-party rental agreements, renting vehicles as and when required.

- 2.90 The structure and size of the funeral director firm will have an impact on the utilisation of assets within the business. For example, multi-branch firms may share their vehicle fleet across various locations as needed.

## **Crematoria**

### *Key players in the crematoria industry*

- 2.91 As at 1 September 2019, there were 303 crematoria, operated by 184 separate entities in the UK.<sup>124</sup>
- 2.92 The four largest providers of crematoria services in the UK (Dignity, Westerleigh, Memoria and LCC have an estimated combined share of supply of approximately 26%, based on volume of cremations.<sup>125</sup> Based on value, these firms have an estimated combined share of supply of approximately 31%.<sup>126</sup>
- 2.93 The largest operator, Dignity, operates 46 crematoria (five of which are managed on behalf of, or in conjunction with, local authorities).<sup>127</sup> In 2018 Dignity generated revenues of £78m from cremations, memorials and burials.<sup>128</sup> In 2018 Dignity carried out 65,200 cremations, a 14% share of volumes in 2018.<sup>129</sup>
- 2.94 Westerleigh operates 34 crematoria (three of which are managed on behalf of, or in conjunction with, local authorities).<sup>130</sup> Westerleigh carried out 41,573 cremations in 2018, generating revenues (from cremations and memorials only) of £39m. Westerleigh had a share of 9% of volumes in 2018.<sup>131</sup>
- 2.95 Other significant providers include Memoria (11 crematoria) and LCC (6 crematoria). Memoria generated revenues of £8.7m from 11,251 cremations in 2018, and LCC generated £6.7m from 8,210 cremations in 2018.
- 2.96 There are 23 crematoria operated by smaller private providers, some of whom offer unattended services, for example, The Independent Family Funeral Directors Limited (trading as Fosters Family Funeral Directors, referred to as

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<sup>124</sup> As of 12 October 2020 there were 307 crematoria, operated by 187 separate entities ([ICCM website](#)).

<sup>125</sup> CMA analysis of Cremation Society data.

<sup>126</sup> We have assumed all cremations are standard fee cremations. This therefore does not take into account the level of reduced fee and unattended services, which may be different between providers.

<sup>127</sup> Dignity stated it currently holds five local authority contracts: Emstrey Crematorium, Enfield Crematorium, Weston-Super-Mare Crematorium, Rotherham Crematorium, and Stockport Crematorium.

<sup>128</sup> [Dignity Annual Report 2019](#).

<sup>129</sup> CMA analysis of Cremation Society data

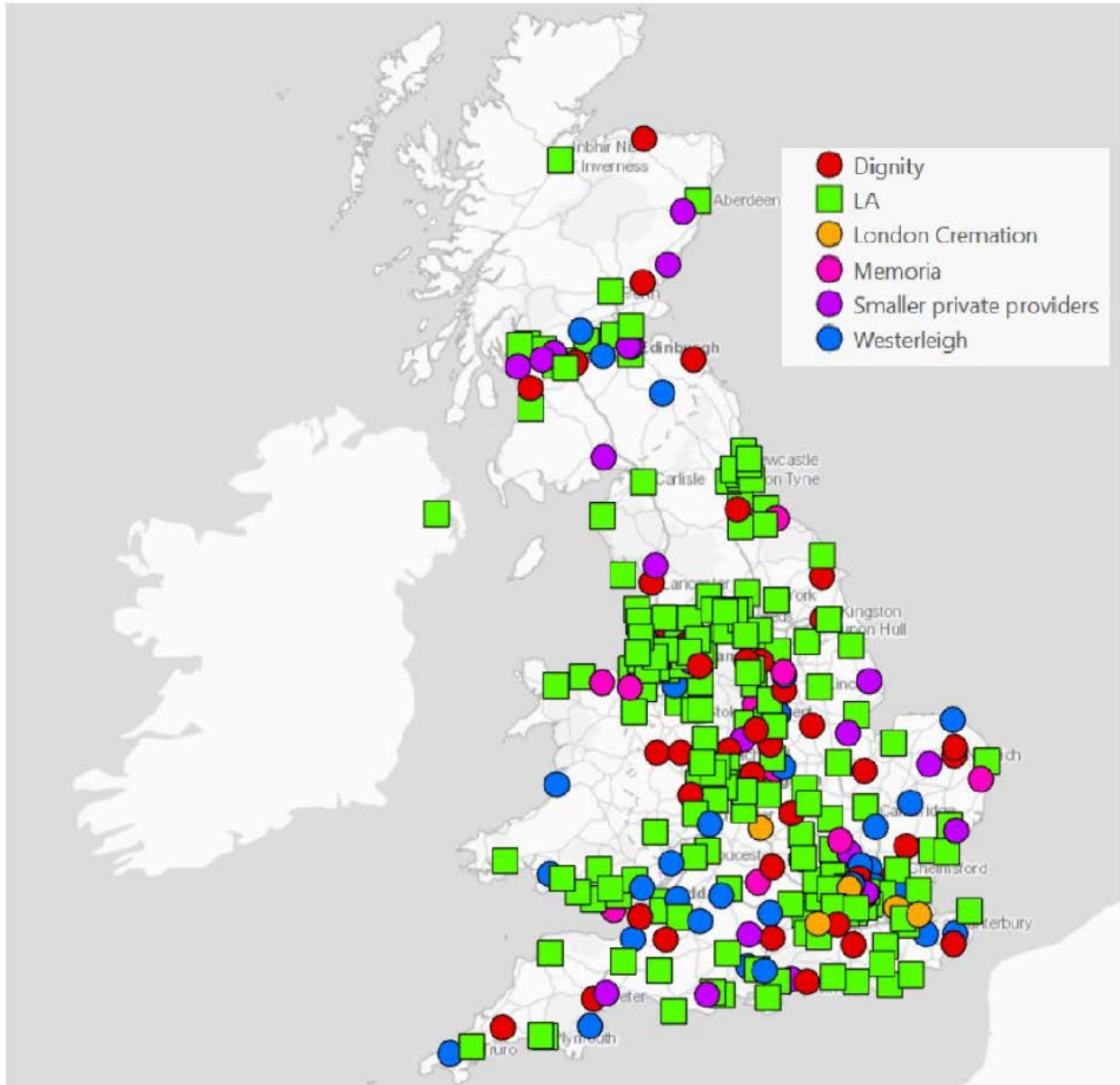
<sup>130</sup> Westerleigh stated that it has contracts with three local authorities to manage the operations of crematoria: Torbay Cemeteries and Crematoria, Forest Park Cemeteries and Crematoria, and Parndon Wood Cemetery and Crematorium.

<sup>131</sup> CMA analysis of Cremation Society data.



Fosters in this report) and Pure Cremation Limited (Pure Cremation). There are 162 local authorities operating 187 crematoria (61% of all crematoria). Smaller private providers and local authorities tend to operate one crematorium each but there are a number of these providers operating up to three crematoria. Figure 8 shows the locations of all crematoria in operation as at 1 September 2019.

**Figure 8: Map of crematoria in the UK**



Source: CMA analysis of ICCM data

### *Ownership structure of crematoria*

2.97 The crematoria industry is currently comprised of five main structures: listed company; private equity owned; family owned; charity owned; and local authority owned:

- (a) The only listed company in the UK crematoria industry is Dignity.
  - (b) Westerleigh is privately owned by Ontario Teachers' Pension Plan and Universities Superannuation Scheme, which acquired it in 2016. It was founded in 1991.
  - (c) Memoria is a private, family owned, business which was incorporated in 2003.
  - (d) LCC is a public limited company. Its parent company and majority shareholder is the Cremation Society of Great Britain, a registered charity (referred to as the Cremation Society throughout this report).
  - (e) The majority of crematoria are operated by local authorities who have traditionally operated crematoria alongside other bereavement services (for example, cemeteries) in order to serve their local communities.
- 2.98 A number of crematoria are owned by funeral directors (ie they are 'vertically integrated'). Dignity is the largest private provider to be vertically integrated. In addition, there are eight small private crematoria which are owned by a funeral director branch/chain. We are aware of one independent crematorium owned by a funeral director who will only conduct cremations from their own funeral director branches.

#### *Assets utilised by crematoria*

- 2.99 Despite differences in structure, the key assets utilised by crematoria in the provision of cremation services are largely consistent. The main assets relevant to our analysis are tangible fixed assets, such as land, buildings and cremator equipment. Typically, crematorium operators own the land, buildings and crematorium equipment at their crematorium, however land and buildings can both be leased.

#### ***Direct cremation providers***

- 2.100 Direct cremation is offered by some funeral directors. Funeral directors may contract with crematorium operators to conduct their direct cremations. [X] conducts direct cremations on behalf of Co-op with whom it has an exclusive agreement to provide the cremation and facilities for Co-op's Cremation Without Ceremony (CWC). [X] provides national coverage for Co-op in England and Wales and provides a partner for coverage in other parts of the

UK. If the funeral director has their own crematorium facilities they may use these to conduct direct cremations (for example, Dignity).<sup>132</sup>

- 2.101 A number of companies have been set up that specialise in the supply of direct cremations. One example is Pure Cremation which was founded in 2015. In 2018, it carried out circa [X] direct cremations at crematoria owned by [X] and [X]. Pure Cremation opened a crematorium in 2019. Its standard service to customers includes the collection and storage of the deceased, completion of paperwork, provision of a simple coffin, transport of the deceased to the crematorium and return of the ashes. Customers have the option to attend the cremation and to purchase a casket or urn. In 2016, Memoria set up Memoria Low Cost Funeral Limited. Memoria offers three fixed price direct cremation options: a direct option (unattended cremation without a service<sup>133</sup>), a contemporary option (cremation with memorial service at any crematorium in England, Scotland or Wales<sup>134</sup>) and a traditional affordable funeral service (a flexible package which allows for the addition of a range of services eg, viewing, provision of celebrant).<sup>135</sup>

### ***The role of comparison websites and online directories***

- 2.102 Comparison websites and online directories specialising in funerals have emerged in recent years.<sup>136</sup> While SAIF noted that ‘price comparison websites are proliferating and their reach is growing’, consultants undertaking a strategic review for a Large funeral director in 2019 noted that ‘Online brokers and comparison websites are nascent in this market and may not be well placed to succeed due to the personalised nature of the service’.
- 2.103 Evidence suggests that usage of comparison websites is low. Our Market Investigation consumer survey found that a very small proportion (5%) of respondents found out about the funeral director they used through an internet search with a search engine/browser and 1% through a price comparison website (PCW). This is consistent with findings from Royal London who reported that only 1% of consumers it surveyed used a funeral

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<sup>132</sup> Dignity’s Simplicity Cremations are conducted at Dignity crematoria: ‘A Simplicity Cremation is available ... through our nationwide network of offices and crematoriums.’ ([What is a Simplicity cremation?](#)).

<sup>133</sup> Includes collection of the deceased in a suitable vehicle, provision of a standard coffin, cremated remains scattered in the Garden of Remembrance or returned to the customer.

<sup>134</sup> Includes a memorial service of typically 30 minutes’ duration, at a time of the customers choosing, subject to availability.

<sup>135</sup> [Low cost funerals](#)

<sup>136</sup> [SAIF response to the Statement of Scope](#), page 15.

cost comparison website.<sup>137</sup> We consider trends in use of the internet in Section 3.

- 2.104 Comparison website models vary: for example, some provide comparisons between simple funerals, others allow for the selection and comparison of different packages, some also provide itemised quotes. A number allow customers to leave reviews and/or rate the funeral director's services. Examples of such comparison websites include About the Funeral,<sup>138</sup> Beyond,<sup>139</sup> and Your Funeral Choice.<sup>140</sup>
- 2.105 These websites do not generally charge people looking for a funeral director to use their comparison services, but they have adopted different models for generating revenue from the funeral directors listed on the websites. Some charge funeral directors a commission or percentage of the funeral director's professional fees for each referral; others charge a fixed fee/subscription; and some charge for the provision of additional services.
- 2.106 There are also a number of online directories which allow people to search for a funeral director. Examples include: Funeral Guide (previously known as Funeral Zone);<sup>141</sup> Localfuneral.co.uk,<sup>142</sup> and the NAFD's Funeral Directory, which was launched in 2019.<sup>143</sup>

## Regulation

- 2.107 The following paragraphs describe the regulatory and self-regulatory frameworks within the funerals industry, covering:
- (a) The requirement to register a death in each nation, and the paperwork necessary for enabling a burial or cremation;
  - (b) the role of the coroner and Procurator Fiscal;
  - (c) the regulatory and self-regulatory landscape for funeral directors; the outcomes of previous reviews of the industry; the evolution of the 'simple/basic' funeral; and

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<sup>137</sup> [The Impact of Covid-19 on Funerals. National Funeral Cost Index Report 2020](#) (Royal London, 2020), page 18.

<sup>138</sup> [www.aboutthefuneral.com/](http://www.aboutthefuneral.com/) operated by About the Funeral Limited.

<sup>139</sup> [beyond.life/](http://beyond.life/) operated by Funeralbooker Limited.

<sup>140</sup> [www.yourfuneralchoice.com/](http://www.yourfuneralchoice.com/) - operated by Funeral Advisor Limited.

<sup>141</sup> [www.funeralguide.co.uk/](http://www.funeralguide.co.uk/) operated by Funeral Zone Limited. [Dignity's 2019 Annual report and accounts](#) note that, at 28 December 2018 and 27 December 2019 the Group had a 23.8 per cent investment in Funeral Zone (page 129).

<sup>142</sup> [localfuneral.co.uk](http://localfuneral.co.uk) operated by Golden Charter Services Limited.

<sup>143</sup> [Funeral directory](#).

- (d) the regulatory landscape for crematoria, including the rules on cost recovery that apply to local authorities.

2.108 Each of the above is supplemented by more detailed information, and source references, in Appendix B.<sup>144</sup>

### ***The process of registering a death and applying for cremation***

2.109 Every death in England and Wales must be certified by a registered medical practitioner (RMP) as to the cause of death and registered within five days, unless there is to be a coroner's post-mortem or an inquest. Having received sufficient particulars about the death, the registrar will then issue a certificate as to cause of death (Medical Certificate of Cause of Death). Once the death is registered a Certificate for Burial or Cremation ('green form') is issued. This certificate enables a burial or cremation to go ahead. If the body is being disposed of via cremation, a cremation application needs to be completed which authorises the cremation to take place.

2.110 If the body is being disposed of via cremation, a cremation application needs to be completed which authorises the cremation to take place. Unless the death has been referred to the coroner, this involves a second RMP completing a Confirmatory Medical Certificate.<sup>145</sup>

2.111 The Coroners and Justice Act 2009 introduced provision for deaths in England and Wales not investigated by a coroner to be scrutinised by an independent 'medical examiner'. The reforms have not yet been fully implemented. From April 2019, the NHS has rolled out a non-statutory scheme on a phased basis to give greater scrutiny of death certificates.<sup>146</sup>

2.112 Scotland has its own regime and formalities for the certification and registration of deaths. In Scotland, a RMP who was attending the deceased during their last illness must, within seven days (or such other period, not being less than two days) after the death of the person, transmit to a 'qualified informant', or to the district registrar for a registration district, a certificate stating to the best of their knowledge and belief the cause of death. The death must be registered with 8 days from the date of death. On registration of a death the registrar gives the registrant a certificate that the death has been registered.

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<sup>144</sup> Note that this section and Appendix B do not reflect any changes to the regulatory framework brought about by COVID-19, eg changes to death registration.

<sup>145</sup> Under the Cremation (England and Wales) Regulations 2008.

<sup>146</sup> [National Medical Examiner's good practice guidelines, January 2020.](#)

2.113 Northern Ireland also has its own regime for certification and registration of death. When a person dies of any natural illness for which they have been treated by a RMP within 28 days prior to the date of death, that RMP must sign and give a certificate of cause of death to a qualified informant. A death must be registered within five days of death, together with the cause of death. The registrar will then provide a certificate of registration.

### ***Coroners and Procurator Fiscal***

2.114 A coroner is an independent judicial office holder, appointed by a local authority to investigate certain deaths in England and Wales. Coroners investigate deaths that have been reported to them if they think that:

- The death was violent or unnatural;
- the cause of death is unknown; or,
- the person died in prison police custody or another type of state detention.

When a death is reported to a coroner, they:

- Decide whether an investigation is needed; and (if it is)
- investigate to establish the identity of the person who has died; how, when and where they died; and any information they need to register the death; and
- use information discovered during the investigation to help prevent other deaths.

2.115 A death may be reported to the coroner by different people, such as the police, prison officers, the registrar of births and deaths, doctors or a hospital. When a death is reported, the coroner first carries out enquiries to see if they can find the cause of death quickly. If they can, and the death was due to natural causes, in most cases the coroner has no further role. If the cause of death is still not known, or appears unnatural or violent, the coroner investigates to find out the cause of death. This may include a post-mortem. If the cause of death is unknown or the death was violent or unnatural, the coroner needs to hold an inquest.<sup>147</sup>

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<sup>147</sup> Ministry of Justice, [Guide to coroner services for bereaved people](#).

- 2.116 In Northern Ireland, coroners inquire into deaths reported to them that appear to be unexpected or unexplained, as a result of violence, an accident, as a result of negligence, from any cause other than natural illness or disease. The coroner will seek to establish the cause of death and will make inquiries necessary to do this, eg ordering a post-mortem examination, obtaining witness statements and medical records, and holding an inquest.
- 2.117 In Scotland, if a death is sudden, suspicious, accidental or unexplained at common law it must be reported to the Procurator Fiscal. The Procurator Fiscal then decides what further action will be taken, if any. The Lord Advocate decides if it is in the public interest for an inquiry to be held into the circumstances of a death which was sudden, suspicious or unexplained, or occurred in circumstances giving rise to serious public concern. Where an inquiry is held, the Procurator Fiscal must investigate the circumstances of the death and arrange for the inquiry to be held. An inquiry is conducted by a sheriff.

### ***Regulatory and self-regulatory landscape for funeral directors***

- 2.118 The activities of funeral directors are not regulated in England, Wales and Northern Ireland.<sup>148</sup> There is, however, a broader regulatory framework relevant to the sector, covering issues such as health and safety and the regulation of public mortuaries. The broader regulatory framework is described in more detail in Appendix B.
- 2.119 A regulatory regime is being introduced in Scotland. The Burial and Cremation (Scotland) Act 2016 (the 2016 Act) was passed by the Scottish Parliament in March 2016 and provides the statutory framework to appoint Inspectors of Funeral Directors. In its 2015 Policy Memorandum to the Bill, the Scottish Government stated that regulation of the funeral industry ‘will address current concerns that there are few formal requirements to operate as a funeral director and that there is little independent scrutiny of funeral directors.’<sup>149</sup>
- 2.120 The first Inspector of Funeral Directors was appointed in July 2017. Ministers requested that, over a two-year period, the Inspector carry out a critical appraisal of the work of funeral directors to make recommendations, including as to a future regulatory landscape, including whether licensing should be introduced into the sector.<sup>150</sup> On 23 August 2019, the Scottish Government accepted the Inspector of Funeral Director’s recommendation to develop a

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<sup>148</sup> Funeral directors are subject to a range of generally applicable laws, including health and safety and public health law.

<sup>149</sup> [Burial and Cremation \(Scotland\) Bill Policy Memorandum](#).

<sup>150</sup> [Inspector of Funeral Directors Annual Report, 2017-18](#).

licensing scheme for funeral directors' businesses. In December 2020 the Scottish Government announced the appointment of a Senior Inspector of Burial, Cremation and Funeral Directors and an Inspector of Burial, Cremation and Funeral Directors as a first step in the process of creating a funeral industry inspectorate in Scotland. Additional Inspectors of Burial, Cremation and Funeral Directors will be appointed in 2021.

- 2.121 In June 2019, the Scottish Government published for formal consultation a draft statutory Code of Practice for Funeral Directors (the Code). When it comes into force, the Code will set standards and be used as the basis for conducting inspections and making enforcement decisions.
- 2.122 In May 2019, the Scottish Government published 'Guidance on funeral costs' under section 98 of the 2016 Act. The guidance provides recommendations to burial authorities, cremation authorities, funeral directors, and local authorities. In respect of funeral directors, the guidance sets out good practice in relation to transparency of pricing, helping clients understand costs, provision of estimates and final bills, and making information about lower-cost funeral options available. It is distinct from the Code of Practice.
- 2.123 Further details on the regime in Scotland are set out in Appendix B.

#### *Self-regulation and voluntary initiatives*

- 2.124 There is no obligation for a funeral director to belong to any trade association in the UK. However, many funeral directors are members of one or more trade associations, voluntarily agreeing to abide by their codes of practice which set certain conduct and service standards.
- 2.125 There are two main trade associations: The NAFD and SAIF. Both set standards of conduct and service through their codes, provide access to independent dispute resolution, carry out inspections of their members' premises, provide practical guidance to members and access to training and funeral director qualifications. Based on the overall numbers of funeral directors and branches in the UK set out in paragraph 2.72, we estimate that between them, their membership represents between 75% and 85% of funeral director branches. As at August 2020, the NAFD had 4103 members and SAIF had 967 members plus 9 probationary members.
- 2.126 Details of the trade associations' code of practice requirements are set out at a high level in Appendix B. We note the following recent developments:
- (a) The NAFD has indicated that it is taking steps to improve the transparency and comparability of pricing information, having committed to requiring its members to make their pricing information available online



in 2020.<sup>151</sup> On 15 October 2020 the NAFD launched a new code for its members, The Funeral Director Code, which is based on a set of mandatory principles and outcomes. Providing online pricing information, including on the NAFD's funeral-directory.co.uk website, features in the code.<sup>152</sup> The NAFD told us that the Code is based very closely on the draft code that was proposed by the Funeral Service Consumer Standards Review (FSCSR) (see paragraph 2.129). The NAFD has commissioned a review of its quality assurance framework to inform the design of a new approach to inspections and monitoring quality and standards.<sup>153</sup> The NAFD is also planning to set up an arms-length body to oversee compliance with standards.<sup>154</sup>

- (b) SAIF indicated that it is committed to calling on all its members to display an agreed set of prices online, and in October 2020 SAIF updated its Code of Practice to introduce a provision mandating this.<sup>155</sup> SAIF said that its members would be required to display prices relating to simple funeral and unattended cremation or burial on their website or digital platform by 31 March 2021 as a minimum.<sup>156</sup> It has been in discussion with trading standards about establishing a Primary Authority relationship to quality control funeral services. SAIF has also indicated that it will be implementing risk-based inspections this year.
- (c) More generally, both the NAFD and SAIF are involved with the FSCSR (acting as joint Secretariat) and have indicated they will sign-up to the FSCSR Code of Practice.

2.127 We consider the operation of the trade associations codes of practice and inspection regimes at paragraph 7.75, at paragraphs 7.96 to 7.101, and in Appendix B.

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<sup>151</sup> The NAFD has indicated that it intends to require all NAFD members to make some pricing information available to consumers online, in a format similar to the 'Key Information Form' that the Funeral Service Consumer Standards Review consulted on earlier in 2019. The version of the KIF the NAFD intends to adopt and use on its funeral-directory.co.uk will enable firms to link directly to their own online price lists so that consumers can arrange bespoke funerals, but this information will not be included on the platform itself.

<sup>152</sup> [NAFD Funeral Director Code, updated 15 October 2020](#).

<sup>153</sup> [NAFD response to PDR, page 25](#).

<sup>154</sup> [NAFD response to PDR, page 18](#); NAFD response to Working Papers, 12 June 2020.

<sup>155</sup> [SAIF response to Working Papers](#), 12 June 2020. Section 4.3 of the [updated Code of Practice](#) states: "Members must display either on their own website or on another open digital platform prices for a minimum of two funeral formats, including an unattended cremation or burial service (direct funeral) and a simple funeral. It must be made clear that any services supplied which are not covered in an estimate may incur additional charges, with details provided upon request."

<sup>156</sup> Summary of SAIF hearing, 8 October 2020, paragraph 13.

- 2.128 In November 2018, the FSCSR was established by the funerals industry with a view to improving quality, standards and outcomes for funeral service consumers. The FSCSR's published aims are to:
- (a) Produce a comprehensive codified set of minimum standards for the profession, to be presented to the government as a proposed starting point for future regulation and recommended for immediate adoption by both major trade associations.
  - (b) Propose a method of monitoring and encouraging compliance with these minimum standards, to be presented to the government and recommended for implementation by both major trade associations.
  - (c) To recommend a set of rules and guidance for funeral service providers to adopt with a view to improving consumers' ability to usefully compare services offered by differed providers. In particular, the FSCSR will consider how transparency in relation to services offered, the standard of those services and pricing could be improved.
- 2.129 In November 2019, the FSCSR published for consultation a draft Code of Practice for funeral directors. The Code contains two mandatory provisions, the Code Principles and the Outcomes, and non-mandatory indicative behaviours.<sup>157</sup> The Code Principles define the fundamental ethical and professional standards expected of funeral directors when providing funeral services. The Outcomes describe what funeral directors are expected to achieve in order to comply with the Code, including in terms of caring for the client and caring for the deceased.
- 2.130 In February 2020, the FSCSR launched the second phase of consultation which contained proposals on how to improve the consumer experience of transparency and standards within the funeral sector.<sup>158</sup>
- 2.131 On 23 March 2020 the chair of the FSCSR announced that work on the FSCSR would be temporarily suspended so that the funeral sector can focus on tackling the serious challenges posed by the coronavirus pandemic.<sup>159</sup> On 30 July the FSCSR Steering Committee met to discuss the next steps for the project, in light of the challenges posed by the pandemic.<sup>160</sup> The Committee agreed some changes to the draft FSCSR code, including the strengthening

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<sup>157</sup> [FSCSR launches first phase of consultation.](#)

<sup>158</sup> [FSCSR Launches second phase of consultation.](#)

<sup>159</sup> [FSCSR put on hold to enable sector to deal with pandemic.](#)

<sup>160</sup> [Steering Committee meets to discuss next steps.](#)

of two of the Code's mandatory principles. The FSCSR website notes 'that the Committee did not yet feel comfortable resuming the consultation process it suspended earlier in the year'.

### *Fair Funerals Pledge*

2.132 As part of its initiative to address funeral poverty, Quaker Social Action encouraged funeral directors to sign up to the *Fair Funerals Pledge*, part of its Fair Funerals campaign, thereby committing to help people find funerals that are within their means, and to be transparent about their most affordable options. Quaker Social Action estimates that over 1,700 UK funeral branches had signed the pledge by September 2019.<sup>161</sup> The Fair Funerals Pledge was relaunched in 2020, after the Fair Funerals campaign ended. The relaunched pledge asks funeral directors across the UK to make the following voluntary commitment:

- We will help people to find funerals that are within their means.
- We will be open about the price of our services, including third-party costs:
  - In initial conversations
  - Within our price lists
  - On our website
- We will be open about the amount of any deposit we require, and when this and the final balance are required:
  - In initial conversations
  - Within our price lists
  - On our website.

### *Good Funeral Guide*

2.133 The Good Funeral Guide, a not-for-profit social enterprise company, is dedicated to supporting, empowering and representing the interests of dying and bereaved people living in the UK. It operates an accreditation scheme for funeral directors and undertakes visits to firms that it reviews and

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<sup>161</sup> [Fair Funerals About Us](#).

recommends on its website. It lists just under 200 branches of the companies that have chosen to seek accreditation.<sup>162</sup>

### *Previous investigations*

2.134 The Office of Fair Trading (OFT) published reports into the funerals industry in 1989 and 2001.<sup>163</sup> Recommendations from both reports focused primarily on increasing transparency (of price and ownership information) and the provision of better information, by industry and third parties, to help inform choice. Prior to this, in 1976, the Secretary of State for Prices and Consumer Protection asked the Director General of Fair Trading to negotiate a code of practice with the NAFD to ensure that people were given a written estimate, that a basic funeral was made available, and that its price was displayed in a prominent position in the funeral director's premises.

2.135 Both of the OFT's reports examined the operation of industry codes of practice.<sup>164</sup> In 2001, having ruled out recommending new legislation as 'a disproportionate solution', the OFT suggested that consumer safeguards could best be achieved by building on the OFT's Consumer Codes Approval Scheme initiative (CCAS)<sup>165</sup> for encouraging trade associations to develop robust industry codes of practice. In 2003, both the NAFD and SAIF sought to obtain OFT approval for their codes under CCAS. However, the NAFD told us it reached a stalemate position and SAIF advised that a compatible solution could not be found between CCAS and SAIF.<sup>166</sup> The specific recommendations made by the OFT are set out in Appendix B.

2.136 As noted in paragraph 2.134, in 1976 the government (the Commission for Prices and Consumer Protection) asked the Director General of the OFT to negotiate a code of practice with the NAFD. The code was launched in 1979 and one of its main features was that 'clients who require it should be offered a "basic simple funeral"'. In its 1989 report on the industry, the OFT said:

The elements comprising the NAFD's basic simple funeral are those of the traditional British funeral, but are more than is

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<sup>162</sup> [Good Funeral Guide response to CMA statement of scope](#) and [website](#).

<sup>163</sup> Funerals published in 1989, and [A report of the OFT inquiry into the funerals industry 2001 \(OFT346\)](#).

<sup>164</sup> In 1989, the OFT focused on the operation of the NAFD's code of practice. In 2001, the OFT focused on the codes of practice operated by the NAFD, SAIF and the Funeral Standards Council.

<sup>165</sup> [The CCAS is now operated by the Chartered Trading Standards Institute](#).

<sup>166</sup> The NAFD told us 'it undertook a lot of work to ensure its Code of Practice would meet all of the criteria set by the CCAS scheme. However, the requirements were changed a number of times, reaching a point at which the NAFD could simply no longer meet the criteria, specifically in relation to the introduction of a requirement for trade associations to effectively underwrite any members whose business failed while in possession of client disbursement payments for funerals that had not yet taken place.' SAIF said that it worked with the CCAS on a complaint redress service that CCAS would host. However, the operational costs for administering the scheme and insurance fund was disproportionate to the scale of complaints across the sector.

absolutely necessary ... The NAFD should redefine the specification of the basic simple funeral in its code of practice so that it provides the minimum service necessary. It should be marketed under an unambiguous name ... The NAFD's public relations programme should emphasise the availability of the basic simple funeral for those who prefer it.'

2.137 In its 2001 report the OFT commented further on this issue:

'People arranging funerals are generally not aware of costs. Once they have entered a funeral director's premises they rarely make efforts to find the prices offered by other firms. The basic funeral should provide a yardstick against which comparisons can be made, yet it does not appear to be fulfilling its intended role. This is partly due to a failure by funeral firms to present it as a valid option, but also because it does not appear to provide the sort of service which most people want.'

2.138 SAIF's recently updated code of practice states that 'it is a requirement of SAIF membership to offer a simple funeral.'<sup>167</sup> This is defined as follows:

'Making all necessary arrangements for a funeral service with mourners present and providing professional advice.

Removal of the deceased to a suitable resting place within a 10-mile radius within normal working hours.

Provision of a coffin and conveyance by hearse direct to a local cemetery or crematorium.

Providing appropriate staff.

All necessary disbursements.'<sup>168</sup>

2.139 In 2014 the NAFD removed from its code of practice the requirement for its members to have a price for a Simple Funeral. It explained that it removed this for several reasons, including that:

- It was largely based on a white, Christian funeral service, which would not be suitable for some religious and cultural minorities.

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<sup>167</sup> SAIF Code of Practice, paragraph 4.2.

<sup>168</sup> Ibid., paragraph 4.2 and 12.5.

- Prior to 2014 it was regularly observed that families did not want or like the idea of their loved one having a ‘simple’ (basic) funeral, with a social stigma felt in relation to limited service options.

2.140 However, the NAFD has created a ‘simple funeral style’ set of parameters to allow its members to provide more easily comparable information for its online platform, funeral-directory.co.uk.<sup>169</sup>

## **Crematoria**

### *Local authority charging for crematoria services*

2.141 As explained in paragraph 2.96, most crematoria are operated by local authorities. However, local authorities are not obliged to provide crematoria services, which are therefore categorized as ‘discretionary services’. In its submission in response to the Market Study Statement of Scope, the Local Government Association noted that powers contained in the Local Government Act 2003 provide the ability for local authorities in England and Wales to charge for discretionary services on a cost recovery basis.<sup>170</sup> In Scotland, the legislation provides for local authorities to charge such fees as they see fit.

2.142 The power of local authorities in England and Wales to charge for discretionary services is subject to a duty to do so on a ‘cost recovery basis’ – ie to ensure that the charges are set on the basis that income from these charges does not exceed the costs of providing the services. (This is in order to stop local authorities using this charging power as a general revenue-raising power.) However, subject to this limitation, the Act allows an authority flexibility to set charges as it thinks fit, to charge only some persons and not others for providing a service, and to charge different persons different amounts for the provision of a service. The Secretary of State (in relation to England) and the Welsh Ministers (in relation to Wales) have issued Guidance Notes.

2.143 The same general principle, that local authorities can only make charges as authorised by legislation, and for the purposes specified in the relevant legislation, applies in Northern Ireland and Scotland as it does in England and Wales. The discretionary power of Scottish local authorities to charge such cremation fees as they ‘think fit’ does not allow authorities to use this power as a general revenue-raising measure.

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<sup>169</sup> [NAFD response to the Statement of Scope.](#)

<sup>170</sup> [Local Government Association response to the CMA Statement of Scope.](#)

2.144 Further detail on the legal basis for charging in each nation of the UK is provided in Appendix B.

### *Main legislation applicable to crematoria*

2.145 The main legislation on cremation in the four nations of the UK is as follows:

- (a) In England and Wales, the Cremation Act 1902 (the 1902 Act), the Cremation Act 1952, and the Cremation (England and Wales) Regulations 2008.<sup>171</sup>
- (b) In Northern Ireland, Part 6 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 (at present the only crematorium in Northern Ireland is located in Belfast).
- (c) In Scotland, the Burial and Cremation (Scotland) Act 2016 (the 2016 Act), the Cremation (Scotland) Regulations 1935 and the Cremation (Scotland) Regulations 2019.<sup>172</sup>

### *Inspector of crematoria in Scotland*

2.146 An Inspector of Crematoria was appointed in Scotland in 2015 under the Cremation (Scotland) Regulations 1935. This was one of 64 recommendations made in the Report of the Infant Cremation Commission headed by Lord Bonomy, which was published in 2014. As noted in paragraph 2.120, in December 2020 the Scottish Government announced the appointment of a Senior Inspector of Burial, Cremation and Funeral Directors and an Inspector of Burial, Cremation and Funeral Directors as a first step in the process of creating a funeral industry inspectorate in Scotland.

### *Construction of crematoria*

2.147 The 1902 Act contains restrictions on where a crematorium may be constructed in England and Wales. Section 5 of this Act states that, 'No crematorium shall be constructed nearer to any dwelling-house than two hundred yards, except with the consent, in writing of the owner, lessee and occupier of such house, nor within fifty yards of any public highway, nor in the consecrated part of the burial ground of any burial authority'. The London County Council (General Powers) Act 1935, s.64 reduced this limit to 100

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<sup>171</sup> See Appendix B, paragraph 86 and 87.

<sup>172</sup> See Appendix B, paragraphs 88.

yards in the case of crematoria built by London borough councils, and disappplied it in relation to new dwelling-houses.

- 2.148 The statutory restrictions regarding proximity to dwelling-houses and highways no longer apply in Scotland or Northern Ireland.<sup>173</sup>
- 2.149 In Scotland, the Policy Memorandum to the 2016 Act notes that the Scottish Government was unconvinced that a minimum distance (ie as set out in section 5 of the 1902 Act) was necessary, because its purpose was not clear from the 1902 Act, and to the extent that this was linked to concerns relating to emissions, this had been addressed through Scottish Environment Protection Agency emission regulations. As such, the 2016 Act contains no minimum distance, with the Scottish Government noting that it would rely on the planning system to consider development applications for crematoria in the general context of a given location, taking into account the development plan and all ‘relevant material considerations’, such that land is used efficiently, and new sites are not prevented unnecessarily.<sup>174</sup>
- 2.150 All new crematoria across the UK require planning approval. Crematoria providers are required to support their planning applications with evidence of how the development will comply with planning rules and policies, including demonstrating a local planning ‘need’ for new crematorium provision. This is particularly important when proposing development in Green Belt areas where it is necessary to prove that any harm from building on the Green Belt is outweighed by other considerations, as set out in the National Planning Policy Framework (NPPF).<sup>175</sup> The meaning of what may constitute a local ‘need’ for a crematorium is explored further in Section 4 and Appendix B.
- 2.151 The NPPF sets out policy for England. Scotland, Wales and Northern Ireland have their own national planning policies.<sup>176</sup> Green Belts exist in Scotland, Wales and Northern Ireland, and development therein is similarly tightly controlled.
- 2.152 The planning system is considered further in Appendix B.

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<sup>173</sup> The 2016 Act repealed the 1902 Act in respect of Scotland and did not reintroduce any provision equivalent to section 5 of the 1902 Act; see the [Burial and Cremation \(Scotland\) Act 2016](#), section 110 and Schedule 2. In respect of Northern Ireland, see the [Local Government \(Miscellaneous Provisions\) Northern Ireland Order 1985](#), article 43 and Schedule 5.

<sup>174</sup> [Burial and Cremation \(Scotland\) Bill Policy Memorandum](#).

<sup>175</sup> [National Planning Policy Framework \(July 2018\)](#).

<sup>176</sup> For Scotland, see [Scottish Planning Policy](#) and the [National Planning Framework 3](#). For Wales, see [Planning Policy Wales](#). For Northern Ireland, see the [Regional Development Strategy](#) and [Strategic Planning Policy Statement for Northern Ireland](#). Revised versions of some of these documents are currently being prepared.



## *Environmental rules*

2.153 Environmental rules<sup>177</sup> seek to control emissions, including those from crematoria, and a permit is required to cremate human remains. The Environmental Protection Act 1990 required crematoria to improve their emissions performance by 1997. Mercury abatement equipment was required to be fitted to crematoria to ensure that, by the end of 2012, 50% of all cremation emissions were subject to abatement. All new crematoria since 2006 have had to fit mercury abatement equipment while existing crematoria (mostly operated by local authorities) can choose to fit mercury abatement equipment or to 'burden share'<sup>178</sup> or choose a combination of both approaches.

2.154 Further details on the above legislation pertaining to crematoria are set out in Appendix B.

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<sup>177</sup> See Appendix B, paragraphs 102 to 105.

<sup>178</sup> ie provide a contribution to those crematoria that have fitted abatement equipment. CAMEO (the Crematoria Abatement of Mercury Emissions Organisation) is a scheme under which crematorium operators who could install abatement plant do so, and the cost is shared with those crematorium operators who could not install such abatement equipment.

### 3. How people choose a funeral

- 3.1 In this Section, we explore how people go about choosing a funeral director and funeral. Buying funeral products and services is unlike other purchases because of the unique set of circumstances and intrinsic challenges that most people will face when having to make these decisions. It has been described by a funeral director as, ‘the ultimate distress purchase ... made infrequently by inexpert, emotionally vulnerable clients under time pressure ... Clients don’t know what to expect, spend little time thinking about the provider and feel under pressure to sort things quickly’.
- 3.2 This Section starts by exploring these unique circumstances before explaining how they shape the decision-making process that people who organise a funeral will tend to adopt.
- 3.3 It then considers how people’s attitudes and expectations around organising a funeral have changed over time.
- 3.4 The Section draws in large part upon a review of academic literature that we commissioned from NatCen<sup>179</sup> in late 2019, our own review of some of the papers identified by NatCen and other academic research literature of relevance to the Market Investigation; a quantitative consumer survey commissioned for the Market Investigation (see Appendix C for additional information on our research);<sup>180</sup> qualitative consumer research carried out in the course of the Market Study;<sup>181</sup> direct testimony we received from people who had organised a funeral; meetings and roundtables with a number of experts in the fields of funerals research, palliative and end of life care and support for the bereaved; and, submissions from funeral directors and others who have shared with us their understanding of the bereaved.
- 3.5 We have also considered various pieces of consumer and customer research that were submitted to us by funeral directors and crematorium operators. We refer to them where appropriate and have set out our assessment of the evidential weight of this research in Appendix C.

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<sup>179</sup> NatCen, an independent, non-profit social research agency, was commissioned by the CMA to undertake a Rapid Evidence Assessment (REA) as part of the evidence-gathering for this market investigation (the Market Investigation REA). The REA was conducted between December 2019 and March 2020 and was undertaken to provide a structured and objective synthesis of literature relating to the impact (if any) of grief/bereavement on the decision-making and purchasing behaviours of funeral consumers (those arranging an at-need funeral).

<sup>180</sup> Market Investigation consumer survey; see: [Funeral director tables](#) and [Crematoria tables](#).

<sup>181</sup> [Market Study consumer research](#).

## ***Vulnerability***

- 3.6 In this Section we consider the extent to which people who organise funerals are vulnerable. By “vulnerability”, we mean any situation in which an individual may be unable to engage effectively in a market and, as a result, is at a particularly high risk of not making the best choice available to them. In particular, we explore the way in which the funerals market may be characterised by ‘market-specific vulnerability’ in that ‘all of us can experience a degree of vulnerability’<sup>182</sup> given the circumstances surrounding the organisation and purchase of a funeral, and this is due to a combination of factors. Those factors are both contextual, and psychological due to the impact of bereavement and grief and we discuss these in detail below. Further discussion of the concept of market-specific vulnerability is set out in the CMA’s broader research and analysis on consumer vulnerability.<sup>183</sup>

## **Circumstances of death and contextual factors**

### ***The circumstances in which a funeral is organised***

- 3.7 The circumstances of death can affect the process of choosing a funeral director. As noted by McManus and Schafer (2014), ‘The process of organising a funeral depends on how and where [as well as when] a person died’.<sup>184</sup>
- 3.8 Research undertaken [§] for a Large funeral director ([§]) in 2018 noted that each bereavement is a highly personal event, and behaviour is dictated by a wide variety of factors – a mix of emotional and practical. This is consistent with the academic literature which notes that decision-making in this context is linked to our own experiences with death and illness, with decisions based on ‘a complex mix of spiritual, emotional and social considerations’ (Lambert et al., 2005).<sup>185</sup> Lambert’s paper also notes that the factors considered during the decision-making process are oriented more toward the individual’s experiences and less towards contributions from objective sources than the paper’s authors had anticipated.

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<sup>182</sup> As described in the CMA’s research paper [Consumer vulnerability: challenges and potential solutions](#), 28 February 2019.

<sup>183</sup> Ibid. The CMA’s research highlights that ‘market-specific vulnerability’ is in contrast with ‘vulnerability associated with personal characteristics’ such as physical disability, poor mental health or low incomes, which may result in individuals with those characteristics facing particularly severe, persistent problems across markets.

<sup>184</sup> McManus, R. and Schafer, C. (2014) Final arrangements: examining debt and distress. *Mortality*, 19(4): 379-397.

<sup>185</sup> Lambert, H.C., McColl, M.A., Gilbert, J., Wong, J., Murray, G. and Shortt, S.E. (2005). Factors affecting long-term-care residents’ decision-making processes as they formulate advance directives. *The Gerontologist*, 45(5): 626-633.

## *The place and circumstances of death*

### *Whether a death is expected*

- 3.9 One Large funeral director told us, 'The context of a death can have a great bearing on client behaviour, beginning with whether it was a sudden or anticipated death'.
- 3.10 The death of a loved one is often expected. One in three respondents (33%) to a 2018 survey carried out [X] for a Large funeral director ([X]) said they had recently organised a funeral for someone whose death was *sudden and completely unexpected*. However, 40% said the death had followed a short period of illness and 27% that it had followed an extended period of illness (ie, for two-thirds of respondents, the death had been to some extent anticipated). A survey commissioned by Co-op in 2018 found that 'for half of those who've suffered a bereavement of someone close to them in the past five years, it was expected, whether that was due to age or illness'. The report noted that, 'whether the death was sudden (39%) or expected (50%) had a consequent impact on the grieving process'.<sup>186</sup>
- 3.11 Table 4 sets out the proportion of deaths by age group in the UK in 2018. This indicates that people over the age of 60 account for 85% of male deaths and 91% of female deaths, with people up to the age of 40 accounting for 2.5% of male deaths and 1.3% of female deaths.

**Table 4: Proportion of deaths by age, UK 2018**

	Male	Female
0 to 5	0.60	0.50
6 to 10	0.05	0.04
11 to 20	0.30	0.20
21 to 40	2.50	1.30
41 to 60	11.00	7.00
61 to 80	41.00	31.00
80+	44.00	60.00

Source: [ONS Deaths by single year of age tables](#)

- 3.12 Table 5 shows that the leading causes of death for many people between the ages of 5 and 49 are sudden/unexpected deaths (ie suicide/injury or poisoning of undetermined intent). Given the leading causes of death for people over the age of 65, such as dementia and cancer, it is much more likely that death will have been expected.

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<sup>186</sup> Co-op (2018). [Making peace with death: National attitudes to death, dying and bereavement](#), page 8.

**Table 5: Leading causes of death by age, UK 2018**

	<i>Male</i>	<i>Female</i>
80+	Dementia and Alzheimer disease	Dementia and Alzheimer disease
65 to 79	Ischaemic heart disease	Malignant neoplasm of trachea, bronchus and lung
50 to 64	Ischaemic heart disease	Malignant neoplasm of trachea, bronchus and lung
35 to 49	Accidental poisoning	Malignant neoplasm of breast
20 to 34	Suicide / injury or poisoning of undetermined intent	Suicide / injury or poisoning of undetermined intent
5 to 19	Suicide / injury or poisoning of undetermined intent	Suicide / injury or poisoning of undetermined intent
1 to 4	Congenital malformations, deformations	Congenital malformations, deformations

Source: [ONS Leading causes of death, UK: 2001 to 2018](#)

- 3.13 In cases where a death is expected, a choice of funeral director may have been made before death and potentially communicated to a family member, friend or a care provider. 13% of respondents to the Market Investigation consumer survey told us they had not compared the services of different funeral directors because the deceased, at some point in advance, had made their wishes known about which one to use.<sup>187</sup> We have also been told that when end of life plans are put in place for people who have moved into a nursing home or hospice, the plan might include details of a preferred funeral director. Some care providers told us that they ask residents on admission whether they already have a preferred funeral director, although the percentage of people who do name one appears to vary across care homes (discussed further in Appendix D). However, the majority of people do not plan in advance and only engage with the funeral arrangement process once a death has occurred. We consider the evidence on this at paragraphs 3.42 and 3.43.
- 3.14 When death is unexpected, this will tend to make the process of choosing a funeral director harder. At its hearing, SAIF told us that, ‘In the case where a sudden death had occurred, particularly a death of a young person, because of the level of shock it may be several days before the family is in a position to make any decisions. In such circumstances, they might seek advice from friends, family or local GP for guidance’.<sup>188</sup> This is further illustrated by case studies from the Market Study consumer research where immediate relatives of the deceased were too shocked to make decisions, instead relying on other relatives to do so.<sup>189</sup>
- 3.15 We were also told that unexpected or sudden deaths can leave the bereaved very vulnerable because they have little time to prepare and may feel under

<sup>187</sup> [Market Investigation consumer survey](#), Tables 40-42, Question FD1+FD2 (SUMMARY). Base: all UK adults 18+ involved in making at-need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279).

<sup>188</sup> [Summary of hearing with SAIF, 18 July 2019](#).

<sup>189</sup> [Market Study consumer research](#), case studies 3 and 5.

pressure to say goodbye in a more lavish way, through the arrangements they make, because they have not said goodbye in person.<sup>190</sup>

### *The involvement of a coroner*

- 3.16 In certain circumstances (as described in Section 2 and Appendix B) a coroner (or Procurator Fiscal in Scotland) may be required to investigate the cause of death. In 2019, 40% of all registered deaths (in England and Wales) were reported to the coroner. Of these, post-mortems were carried out in 39% of cases, corresponding to 16% of all registered deaths in England and Wales in 2019. The coroner has temporary legal control of the body while they are carrying out their investigations.<sup>191</sup>
- 3.17 In some situations involving the coroner or Procurator Fiscal, families may have some additional time to choose a funeral director while the coroner undertakes their investigation, irrespective of any post-mortem: the Coroners' Society of England & Wales states that coroners' enquiries are generally completed very quickly and usually within the same or next working day, but notes that they sometimes do take longer.<sup>192</sup> Dignity advises that if a death is reported to a coroner, there is usually a delay of one or two days before the death can be registered<sup>193</sup> and Co-op said that in [coroners] cases, the family of the deceased has some time to consider what they would like to do before they are committed to a choice of funeral director. The government's guide to coroner services for the bereaved states that, '[T]he coroner will usually let you have the body for burial or cremation once they have carried out their first enquiries. You can make funeral arrangements once this has happened.'<sup>194</sup> SAIF indicated that the time taken by the coroner to investigate cases is increasing.<sup>195</sup>
- 3.18 In any event, there is no indication from the evidence we have seen, including in our Market Investigation consumer survey,<sup>196</sup> to suggest that the behaviour of these families – for example, with regard to their propensity to compare funeral directors, or to switch funeral director – differs from those where the death is not reported to the coroner.
- 3.19 Since deaths involving the coroner are more likely to be unexpected, and potentially traumatic (for example, if violent or unnatural), this may negate

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<sup>190</sup> [Quaker Social Action response to the Issues Statement](#).

<sup>191</sup> CMA calculation based on ONS statistics: [Coroners Statistics 2019 \(England and Wales\)](#).

<sup>192</sup> [The Coroners' Society of England & Wales](#).

<sup>193</sup> [The Coroner and their role](#).

<sup>194</sup> Ministry of Justice, [A Guide to coroner services for bereaved people](#).

<sup>195</sup> Although it noted that this does not preclude funeral arrangements being made during that period.

<sup>196</sup> Source: CMA analysis of consumer survey dataset. We note, however, that the analysis we can undertake for these respondents is limited by the small sub-group size, and the findings are indicative only (n=32).

some of the benefits of additional time, as the bereaved are likely to be particularly negatively affected by the death (as illustrated in paragraph 3.14).

- 3.20 We consider the implications of funeral directors collecting the deceased on behalf of the coroner/Procurator Fiscal in Section 5.

### *The place of death*

- 3.21 As a proportion of all deaths, 45% occur in hospitals, 24% at home, 22% in care homes and 6% in hospices.<sup>197</sup>
- 3.22 The place of death can have a bearing on when, and how quickly, people choose a funeral director. We consider this further in the next section.

### ***Impact of contextual factors on decision-making***

- 3.23 The evidence demonstrates that contextual factors will have an impact on an individual's choice and purchasing behaviours.
- 3.24 The factors considered below are:
- (a) Relationship with the deceased;
  - (b) time pressures;
  - (c) other conflicting priorities;
  - (d) lack of knowledge; and
  - (e) social pressures.

### *Relationship with the deceased*

- 3.25 The Market Study consumer research found that the most important factor for all respondents in making funeral arrangements was the wishes of the

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<sup>197</sup> [Public Health England Palliative and End of Life Care Profiles for 2018](#). Public Health England's Classification of place of death guide defines a 'care home' as including residential and nursing homes, run privately, by the NHS or by local authorities; 'hospice' includes many charitably funded independent hospices, such as Sue Ryder homes and Marie Curie Centres, and specialist palliative care centres. The guide notes that some hospices are located within NHS hospitals, which may not be clearly identified on the death certificate, in such circumstances the place of death is usually recorded as 'hospital'. Also, hospices increasingly work in the community, but information on who was caring for the patient at the end of their life is not recorded on the death certificate. The guide states that, as a result, mortality statistics underestimate the true number of people who receive hospice care at the end of their life.

deceased, where these were known: ‘the need to follow the wishes of the deceased was universally respected, without question’.<sup>198</sup>

- 3.26 In practice, however, the extent to which the bereaved can do this is often limited because all of the deceased’s wishes may not be known. Against a pre-specified list of potential preferences, SunLife found<sup>199</sup> that less than three in five (58%) of those it surveyed knew whether their loved one wanted a burial or cremation. Fewer still said they knew the deceased’s preferred funeral director (26%), coffin type (13%) or flowers (11%), or who their loved one would want to be invited to the funeral (12%); less than 1% of people felt they knew all their loved one’s wishes in regard to the preferences listed.
- 3.27 This suggests that many people will have to second-guess what the deceased would have wanted, and having to make decisions ‘on behalf of’ the deceased may make the bereaved risk-averse and more likely to err towards more expensive options.<sup>200</sup> To illustrate, in our Market Study consumer research some elements of the funeral – such as a car for the family, the quality of the coffin or flowers – were perceived to be negotiable by a large number of respondents, if they felt they had the tacit permission of the deceased to drop them, or if the bereaved agreed this would best reflect the wishes of the deceased. The implication being that, if they had not felt they had tacit permission, or did not know the wishes of the deceased, such elements would more likely be non-negotiable.<sup>201</sup> Further, the Market Study consumer research noted that consumers are more likely to select lower-cost options if they are actively encouraged to do so by the deceased.<sup>202</sup>
- 3.28 A majority of participants in the Market Study consumer research did not think it would be appropriate to negotiate on cost: doing so would make them feel and seem like a ‘cheapskate’, and it would reflect badly on both the arranger (consumer) personally and the deceased and on the relationship between them. Giving a loved one a ‘good send-off’ was regarded as a last duty of care, where choosing cheap(er) options could be interpreted as not caring and maybe disrespectful.<sup>203</sup> The Market Investigation REA notes that controlling costs of the funeral was perceived as ‘insulting to the deceased

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<sup>198</sup> [Market Study consumer research](#), paragraph 4.1.1.

<sup>199</sup> SunLife (2020). [Cost of Dying](#), page 20.

<sup>200</sup> This is similar to what Dionne-Odom et al (2015) describe as ‘uncertainty angst’ (a state of simply not knowing what decision should be made). In the context of an intensive care unit, this was triggered in several cases by a lack of clarity concerning the patient’s past instruction regarding their healthcare wishes. Dionne-Odom, J.N., Willis, D.G., Bakitas, M., Crandall, B. and Grace, P.J. (2015). Conceptualizing Surrogate Decision-Making at End of Life in the Intensive Care Unit using Cognitive Task Analysis. *Nursing Outlook*, 63(3): 331-340.

<sup>201</sup> [Market Study consumer research](#), paragraph 4.1.1.

<sup>202</sup> [Market Study consumer research](#), paragraph 5.2.6.

<sup>203</sup> [Market Study consumer research](#), paragraph 4.4.18.



and a sign to the community that the deceased was not valued'.<sup>204</sup>

Woodthorpe (2017) notes that, "For those who struggle to afford a funeral, there are considerable implications for determining how much to spend and the way in which the funeral – and thus their relationships – will be judged".<sup>205</sup>

- 3.29 Literature exploring decision-making in the context of organ donation found that the core perception informing decision-making was not knowledge of the person's wishes but the need to protect the 'integrity and wholeness of their relative's body'. The drive to keep the deceased's body 'safe' was reflected in papers that directly explored the funerals industry. McManus and Schafer (2014) argue that purchasing and arranging a funeral necessarily encompasses a range of socio-economic processes, including to do the 'best' for the loved one.<sup>206</sup> This is consistent with what we were told by funeral directors on our site visits, ie that knowing the deceased's body was 'safe' in the funeral home was important to people.

### *Time pressures*

- 3.30 NatCen reports that many bereaved individuals perceived that the funeral must be undertaken 'quickly', limiting in-depth consideration of either selection of a funeral package or provider.<sup>207</sup>
- 3.31 There is often some immediate time pressure related to moving the body from the place of death, as well as some emotional desire to hold the funeral as soon as practicably possible, as indicated by a large number of those who participated in the Market Study consumer research.<sup>208</sup> Many of these interviewees hoped the funeral would give them a sense of closure, so felt it was important to arrange it for as soon as possible after the death.
- 3.32 In addition, some religions and cultures have specific criteria relating to the timing of the burial and/or cremation. Some faiths require the funeral to take place within a particular time frame, especially the Muslim and Jewish faiths (where typically the funeral must take place within 24 hours) and to a lesser extent the Sikh and Hindu faiths. There is also a cultural norm in Northern Ireland for funerals to take place within three or four days of the death (which applies to both Protestant and Roman Catholic funerals). Some participants in the Market Study consumer research reported being under time pressure for

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<sup>204</sup> [Market Investigation REA](#), paragraph 5.15.

<sup>205</sup> Woodthorpe, K. (2017). Family and funerals: Taking a relational perspective, *Death Studies*, 41:9, 592-601, DOI: [10.1080/07481187.2017.1325419](https://doi.org/10.1080/07481187.2017.1325419), citing Woodthorpe, K. and Rumble, H. (2016). Funerals and families: Locating death as a relational issue. *British Journal of Sociology*, 67(2).

<sup>206</sup> [Market Investigation REA](#), paragraph 5.15.

<sup>207</sup> [Market Investigation REA](#), paragraph 7.1.

<sup>208</sup> [Market Study consumer research](#).

cultural reasons, where a particular religion or tradition dictated that the deceased should be buried or cremated very quickly after the death.

- 3.33 Reflecting the demand to act quickly after a death, most funeral directors will collect the deceased 24 hours a day, seven days a week.
- 3.34 We were told by A.W. Lymn that ‘decisions with regard to the funeral are not always made in a hurry or by people at a time when they are emotional’<sup>209</sup> and we received other submissions to this effect.<sup>210</sup> However, we also received submissions that highlighted the time pressures faced by people in the immediate aftermath of a death:
- (a) The Cremation Society said that, ‘In the immediate aftermath of a bereavement bereaved people are not able to exercise the commercial judgement they would exercise in normal circumstances. At a time of great emotional upset they are having to make key decisions and are under pressure time-wise, particularly if there are cultural/religious aspects to consider’.<sup>211</sup>
  - (b) Quaker Social Action said that, ‘Time can be a pressure factor that leaves customers unable to make informed choices’.<sup>212</sup>
  - (c) Kensington and Chelsea Citizens Advice said that, ‘Bereaved people usually feel an urgency to book the funeral that discourages shopping around’.<sup>213</sup>
  - (d) Beyond noted that, ‘The typical consumer is in an incredibly weak purchasing position, based on: critical and time limited – there is not a large amount of time to educate one’s self and make an informed choice and the purchase cannot be delayed in most cases’.<sup>214</sup>
  - (e) Co-op said that, ‘The days following death are a very difficult time and a large number of decisions need to be made in a short period.’<sup>215</sup>

### *The place of death*

- 3.35 As noted above, the place of death can have a bearing on when, and how quickly, people choose a funeral director. The NAFD told us:

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<sup>209</sup> [A.W. Lymn The Family Funeral Service Limited response to Interim Report.](#)

<sup>210</sup> See paragraph 3.71.

<sup>211</sup> [Cremation Society response to the Issues Statement.](#)

<sup>212</sup> [Quaker Social Action response to Issues Statement.](#)

<sup>213</sup> [Kensington and Chelsea Citizens Advice response to Interim Report.](#)

<sup>214</sup> [Beyond response to Statement of Scope.](#)

<sup>215</sup> [Co-op response to Working Paper on Sales practices and transparency.](#)

‘The decision over which funeral director to contact is often made at-need eg when a death has occurred or is expected imminently. The person responsible for arranging the funeral may be at the hospital with the person that has died or is dying, in a bereavement office, at a hospice – or they may be at home, at work, walking along the street – indeed almost anywhere. In the case of a death in a hospice or nursing home, often there is a requirement for the body to be collected quickly which hastens the choice of funeral director. None of these places, the NAFD would suggest, is the ideal place to be able to think clearly about any immediate choices relating to the funeral.’<sup>216</sup>

- 3.36 As noted by the NAFD, and other parties, when the death occurs in a care home or a hospice, an immediate removal of the deceased by a funeral director is usually necessary, because these settings may have limited or no body storage facilities.
- 3.37 We have heard from funeral customers that, if the choice of funeral director has not been made in advance, the decision can be very time-pressured when the death takes place in a care home or hospice.<sup>217</sup> For example, one funeral customer was told by the hospice that her husband’s body had to be removed by 5pm the same day.
- 3.38 When a death takes place at home, although there is normally no legal requirement (or even a hygiene reason) for immediate removal of the deceased, this situation can place pressure on the family to contact a funeral director about collecting the body (unless the removal is carried out by a funeral director on behalf of a coroner in cases where they are involved). Some participants in the Market Study consumer research reported being under time pressure for practical reasons if the deceased’s body needed to be moved quickly (typically if they died at home or in a care home).<sup>218</sup> We heard from one funeral customer whose relative died at home during a hospital home visit. The customer was told by the visiting ‘medical professional’ that she was able to certify death and that the body had to be moved immediately – the customer therefore felt under pressure to choose a funeral director with insufficient time to make an informed choice.

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<sup>216</sup> [NAFD response to the Statement of Scope](#).

<sup>217</sup> As described by certain funeral customers we spoke to.

<sup>218</sup> [Market Study consumer research](#), paragraph 4.3.6.

- 3.39 When the death occurs in hospital, or another care setting with body storage facilities or a mortuary,<sup>219</sup> the bereaved may have a little more time to consider their choice of funeral director. SAIF stated that if a death occurred in hospital, the deceased would be cared for in the hospital mortuary until the body was moved to the funeral director of the family's choice.<sup>220</sup> Funeral Partners told us, 'For deaths in hospital, there is arguably more time for families to make their decision in relation to which funeral director to use, since hospitals generally have mortuaries in order to store the deceased'. However, Co-op said that [the statement that a consumer has more time if the place of death is a hospital as they have their own mortuaries where the deceased can be stored for longer] is not borne out in practice to a material degree, since hospital mortuary capacity is increasingly constrained.
- 3.40 As illustrated in Table 6, our Market Investigation consumer survey indicates that, where the person died in a hospital, the body was more than three times more likely to be collected by a funeral director after three days had elapsed than where the person had died either at home or in a care home/nursing home/hospice.<sup>221</sup> In over half of at-home deaths (n=47/86) and in two-fifths of care home/nursing home/hospice deaths (n=25/57), the deceased was collected within six hours. However, the deceased was only removed within six hours in just one in ten hospital deaths (n=7/69).

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<sup>219</sup> The Human Tissue Authority noted that some hospitals have body storage facilities and do not have mortuaries.

<sup>220</sup> [Summary of hearing with SAIF, 18 July 2019.](#)

<sup>221</sup> CMA analysis of consumer survey dataset.

**Table 6: Collection of the deceased by a funeral director**

	<i>All*</i>	<i>Home†</i>	<i>Care home/ nursing home/ hospice‡</i>	<i>% Hospital§</i>
1-2 hours	16	19	19	5
3-4 hours	11	17	5	5
4-6 hours	13	19	16	2
<b><i>All within 6 hours</i></b>	<b>39</b>	<b>55</b>	<b>40</b>	<b>11</b>
7-12 hours	5	7	5	6
<b><i>All within 12 hours</i></b>	<b>44</b>	<b>62</b>	<b>44</b>	<b>18</b>
13-24 hours	9	8	6	13
<b><i>All within 24 hours</i></b>	<b>54</b>	<b>70</b>	<b>50</b>	<b>31</b>
More than 24 hours up to 3 days	17	12	26	23
<b><i>All within 3 days</i></b>	<b>71</b>	<b>81</b>	<b>77</b>	<b>53</b>
4-5 days	4	2	3	10
6-7 days	5	1	3	8
8-10 days	2	2	-	6
More than 10 days	<	-	2	2
<b><i>All more than 3 days</i></b>	<b>11</b>	<b>6</b>	<b>8</b>	<b>26</b>
Don't know/can't remember	17	14	18	32
Refused	1	-	--	-

Source: Market Investigation consumer survey.

\* Base: 235 (all where a post-mortem/inquest was not required)

† Base: 86 (nb frequencies shown as percentages, not Ns, for ease of comparison)

‡ Base: 57 [care home n=29; nursing home n=16; hospice n=12] (nb frequencies shown as percentages, not Ns, for ease of comparison)

§ Base: 69 (nb frequencies shown as percentages, not Ns, for ease of comparison)

### *Alleviating time pressures through advance planning*

- 3.41 In principle, the time pressures associated with choosing a funeral director when death occurs in a care home, nursing home or hospice could be avoided where the family selects a funeral director and informs the care provider prior to death (such as in the circumstances outlined in paragraph 3.13). In practice, even if the family nominated a funeral director before death, this is likely to have been done when the relative first moved into the care setting.<sup>222</sup> That decision is also likely to have been made urgently and may have been extremely distressing for the family: the CMA's Residential Care Home market study found that, frequently, decisions on care are faced for the first time following a sudden illness, injury or loss of a carer, meaning they are often made with urgency under extremely distressing circumstances.<sup>223</sup> Bern-

<sup>222</sup> An individual with experience and expertise in the care sector told us that most of the conversations which care home staff have with people about funerals or about their funeral plans arise in the context of end of life care and care plan arrangements, and that such conversations are likely to take place in the first couple of weeks after someone is admitted into a care home.

<sup>223</sup> [CMA Care homes market study \(2017\)](#).

Klug (2005), reports that some family members found placing an elderly relative in a long-term care facility more stressful than making life-sustaining treatment decisions.<sup>224</sup> In such circumstances, any choice of funeral director is likely to have been made at a time of conflicting pressures and priorities.

3.42 Irrespective of whether the death was expected or not, some people may have made their choice of funeral director in advance of their death, including through a pre-paid funeral plan. Funeral Partners told us, ‘the choice of funeral director in many instances will have been made prior to the death occurring and when consumers are arguably much less emotionally vulnerable’.<sup>225</sup> Further, as noted in paragraph 3.10, in most cases death is, to some extent, anticipated. In principle, this could alleviate some of these time pressures by allowing people to undertake advance research and planning. However, the majority of people will not have planned in advance: SunLife reported in its 2020 Cost of Dying report that only 26% of those surveyed<sup>226</sup> felt they knew who the preferred funeral director of their loved one was.<sup>227</sup> We also note that:

- In 2018, only 16% of funerals were funded through a pre-paid plan.<sup>228</sup>
- Sales of pre-paid plans have plateaued. After several years of growth, reaching a peak of 210,700 sales of pre-paid plans in 2016, sales reduced in 2018 and 2019 to 177,000 and 165,200 respectively.<sup>229</sup>

3.43 There are a number of reasons why people may not have made their choice of funeral director in advance of their death:

- (a) Even when the death is expected, the exact timing can be uncertain and can be sooner than expected.
- (b) The immediate period preceding the death may be too busy/distressing/stressful to make arrangements.
- (c) People may not wish to acknowledge the impending death. A small funeral director ([X]) said that ‘most people cannot allow themselves to

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<sup>224</sup> Bern-Klug, M. (2008). The emotional context facing nursing home residents’ families: A call for role reinforcement strategies from nursing homes and the community. *Journal of the American Medical Directors Association*, 9(1): 36-44.

<sup>225</sup> [Funeral Partners’ response to the Issues Statement](#).

<sup>226</sup> Base: UK adults who were responsible for planning a funeral and administering an estate in the last four years (n=1,503).

<sup>227</sup> SunLife (2020). [Cost of Dying](#).

<sup>228</sup> CMA calculation: based on number of UK deaths registered in 2018 and number of funeral plans redeemed in 2018 (FPA statistics).

<sup>229</sup> [Funeral Planning Authority statistics](#).

believe that the death has occurred until it has happened, even when they know it is going to happen’.

- (d) The taboo around talking about death. In a discussion on preparing for death in Australia, Britain, Canada and the USA, Valentine and Woodthorpe noted that, ‘In all cases, talking about death was reported to be largely taboo’,<sup>230</sup> although at its hearing with us, SAIF told us that the taboo around death is reducing and it is getting easier for people to talk about what they want from a funeral.<sup>231</sup>

- 3.44 Consequently, many people do not consider decisions about the funeral – including which funeral director to approach – until after a death has occurred, even if the death was anticipated.

### *Other conflicting priorities*

- 3.45 As well as time pressures related to making funeral arrangements, there will typically be competing urgent decisions to make following the death, for example: how will the rent/mortgage and household bills be paid, how to get access to bank and savings accounts, who will care for or support surviving relatives etc.
- 3.46 The Market Investigation REA reports that, ‘... bereavement affects decision-making capacity at times when an individual may need to deal with immediate, unfamiliar demands’.<sup>232</sup> Blackburn and Bulsara (2018) state that dealing with the volume and urgency of practical matters may compromise an individual’s capacity to cope with their grief.<sup>233</sup> The authors note that many participants in their Australian study highlighted the impact on their psychological and emotional state directly as a result of contending with dealing with institutions. Some participants stated they felt they had to ‘hold off’ on their grief so they could attend to practical matters as they struggled with bureaucratic processes which demonstrated little compassion and consideration for their unique circumstances.
- 3.47 Dr Kate Woodthorpe told us that there are significant implications when someone, especially an income provider, dies.<sup>234</sup> She said that there are an

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<sup>230</sup> Valentine, C. and Woodthorpe, K. (2013). From the Cradle to the Grave: Funeral Welfare from an International Perspective. *Social Policy & Administration*, 48(5), pp 515-536. DOI: 10.1111/spol.12018.

<sup>231</sup> [Summary of hearing with SAIF, 18 July 2019](#), paragraph 38.

<sup>232</sup> [Market Investigation REA](#), paragraph 5.13 (Gentry, Kennedy, Paul & Hill, 1995, cited by Aoun et al., 2019: 619).

<sup>233</sup> Blackburn, P. and Bulsara, C. (2018). “I am tired of having to prove that my husband was dead.” Dealing with practical matters in bereavement and the impact on the bereaved. *Death Studies*, 42(10):627-635.

<sup>234</sup> [Summary of meeting with Dr Kate Woodthorpe](#), 25 July 2019. Based on a presentation made to the CMA by Dr Kate Woodthorpe, Senior Lecturer in Sociology, Centre for Death and Society, Department of Social and



enormous number of considerations that were already compromising people's financial circumstances at the point they were making the purchase of a funeral, and it could be that they had incurred considerable costs already, for example, for travel and expenses of caring for someone. Dr Woodthorpe also noted that such factors can result in significant levels of fatigue – both emotional and financial.<sup>235</sup>

- 3.48 Such pressures may be exacerbated for certain individuals. Citizens Advice Scotland submitted that there may be certain groups or individuals with other characteristics that increase their vulnerability, 'for example, those on low incomes may be trying to balance affordability against providing a funeral they consider dignified and respectful,'<sup>236</sup> thus compounding market-specific vulnerability with vulnerability associated with personal characteristics.

### *Inexperienced purchasers with low or no knowledge of the funeral sector*

- 3.49 A funeral is a high-cost purchase (see paragraph 2.18) which, for many people, has not been made before, and for others only once or twice. The Market Investigation consumer survey found that only 5% of all respondents had been involved in making arrangements for an at-need funeral, using a funeral director, since 2017.<sup>237</sup> Of these, 53% were first time arrangers. Co-op told us that, 'it is a business built on repeat business, albeit you typically organise two funerals in your lifetime, ten years apart' and research carried out [redacted] on behalf of a Large funeral director ([redacted]) noted that for most

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Policy Sciences, University of Bath. Drawing on her own expertise and experience, and referencing the following sources: Canning, L. and Szmigin, I (2010). 'Death and disposal: The universal, environmental dilemma', *Journal of Marketing Management*, 26 (11-12): 1129-1142, DOI: 10.1080/0267257X.2010.509580; Gentry, J.W., Kennedy, P.F., Paul, K. and Hill, R.P. (1995). 'The vulnerability of those grieving the death of a loved one: implications for Public Policy', *Journal of Public Policy and Marketing*, 14 (1): 128-142; Korai, B. and Souden, N. (2017). 'Rethinking functionality and emotions in the service consumption process: the case of funeral services', *Journal of Services Marketing*, 31(3): 247-264, DOI: 10.1108/JSM-03-2015-0132; McManus, R. and Schafer, C. (2014). 'Final arrangements: examining debt and distress', *Mortality*, 19 (4): 379-397, DOI: 10.1080/13576275.2014.948413; Office of Fair Trading (2001). *The Psychology of Death: an exploration of the impact of bereavement on the purchasers of 'at need' funerals* (London: OFT); van Ryn, L., Meese, J., Arnold, M., Nansen, B., Gibbs, M. and Kohn, T. (2019). 'Managing the consumption of death and digital media: The funeral director as market intermediary', *Death Studies*, DOI: 10.1080/07481187.2018.1522387; Turley, D. and O'Donohoe, S. (2017). 'Mortality, morality and the marketplace: empathetic improvisation and the double duty of care in service encounters with bereaved consumers', *Consumption Markets & Culture*, 20 (5): 456-476, DOI: 10.1080/10253866.2017.1367679; Walter, T. (2017). 'Bodies and ceremonies: is the UK funeral industry still fit for purpose?', *Mortality*, 22 (3): 194-208, DOI: 10.1080/13576275.2016.1205574; Woodthorpe, K. (2017). 'Family and funerals: Taking a relational perspective', *Death Studies*, 41 (9): 592-601, DOI: 10.1080/07481187.2.

<sup>235</sup> [Summary of meeting with Dr Kate Woodthorpe](#), 25 July 2019.

<sup>236</sup> [Citizens Advice Scotland response to the Statement of Scope](#).

<sup>237</sup> CMA analysis of consumer survey dataset. The survey found that 7% of all respondents (n=6,084) had personally been involved in making the arrangements for a funeral since J/A/S/O 2017. Of these (n=461), 69% (n=314, equivalent to 5% of all respondents) had arranged an 'at-need' funeral. Of these, 89% (n=279, equivalent to 5% of all respondents) had used a funeral director.



arrangers [ie funeral customers] this is only the first or second funeral they have ever arranged.

- 3.50 The Market Investigation REA reports that for many individuals, the grief and shock of any bereavement is compounded by lack of knowledge around the process of planning and purchasing a funeral. In a qualitative study exploring funeral poverty, Corden and Hirst (2015) found that some family members emphasised that their inexperience in organising a funeral required them to make decisions outside of any prior experience or knowledge. They may never have attended a funeral previously, have no or low awareness of the range of options that could be available and, as a result, were completely reliant on the funeral director. McQuaid (2013) found that consumers were unaware of how to go about arranging a funeral, unable to ‘assess the competence’ of the funeral director to deliver appropriate services, or to infer trustworthiness.<sup>238</sup> Woodthorpe (2017) notes that while there has been a shift towards funerals that are ‘a coproduction between the funeral director and the organizer’,<sup>239</sup> ‘[n]onetheless ... there exists a clear mismatch of experience between the organizer and the funeral director, as “as routine, ordinary, and normalized as the ceremony is for the director, it is rather unique and extraordinary for the clients”’.<sup>240</sup>
- 3.51 A report produced for Dignity notes that, ‘Many people have little knowledge of or experience of handling a body or arranging a funeral, making the process disorientating and distressing’. The report notes that, ‘Not knowing where to start, as a matter of course, [many adults] turn to a funeral director’.<sup>241</sup>
- 3.52 The Market Study consumer research found that participants’ level of knowledge of the funerals sector was generally very low.<sup>242</sup> Consumer

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<sup>238</sup> [Market Investigation REA](#), paragraph 5.12, citing McQuaid, J. (2013). *Mortuaries, markets, and meaning: the social context of funeral expenditures* (Doctoral dissertation). While McQuaid goes on to note that funeral consumers (as individuals) generally do not act as if they are uncertain (actor uncertainty, “the simple awareness on the part of the individual that he or she is missing information that is needed to make a ‘rational’ decision [or] an emotional state that emerges when an individual tries to make a decision but is missing information that he or she perceives as vital”), situational uncertainty “ignores the subjective experience of the individual in favor of focusing on his or her objective knowledge ... if that individual is missing information, then we would say situational uncertainty is a factor regardless of the individual’s feeling of confidence”. In other words, uncertainty is often present in the situation of organising a funeral and affects decision-making, even if a feeling of uncertainty is not experienced by the bereaved. In our view, this ‘situational uncertainty’ should be regarded as a market-specific vulnerability.

<sup>239</sup> Woodthorpe, K. (2017). Family and funerals: Taking a relational perspective, *Death Studies*, 41:9, 592-601, DOI: [10.1080/07481187.2017.1325419](https://doi.org/10.1080/07481187.2017.1325419), citing Sanders, G. (2012). Branding in the American Funeral Industry. *Journal of Consumer Culture* 12 (3): 263-282. <http://dx.doi.org/10.1177/1469540512456924>.

<sup>240</sup> Woodthorpe, K. (2017). Family and funerals: Taking a relational perspective, *Death Studies*, 41:9, 592-601, DOI: [10.1080/07481187.2017.1325419](https://doi.org/10.1080/07481187.2017.1325419), citing Forsyth, C.J., Palmer, E. and Simpson, J. (2006). The funeral director: maintaining business, reputation and performance. *Free Inquiry in Creative Sociology* 34 (2): 123-132.

<sup>241</sup> Dignity (2018). [Time to talk about quality and standards](#), pages 6 and 12.

<sup>242</sup> [Market Study consumer research](#), paragraphs 4.1.6-4.1.10.

knowledge about how to arrange a funeral was broad and relatively vague but finding out more did not appeal (other than finding a funeral director to take on the task of making the arrangements).

- 3.53 Some participants in the qualitative research displayed a range of general knowledge, derived from attending, or speaking to people who had organised, other funerals and this was regarded as helpful in terms of recommending funeral directors and identifying ballpark costs. Others displayed experiential knowledge, derived from personally arranging a previous funeral. This was perceived to be helpful in terms of understanding what arrangements needed to be made, the range of options available and identifying ballpark costs.<sup>243</sup>
- 3.54 However, experience of arranging other funerals was not always helpful, particularly when those previously arranged and those to be arranged were very different.<sup>244</sup>
- 3.55 Over two-thirds of respondents to our Market Investigation consumer survey considered that, ahead of the arrangement meeting, they had some idea of what the cost of the funeral they were about to arrange would be or was likely to be, although a quarter reported having no idea.<sup>245</sup> In the majority of cases this knowledge was not gained directly from the funeral director, but from previous personal experience (47%), what family/friends etc had paid previously (15%), and TV adverts about funeral prices (8%).<sup>246</sup> Participants in the Market Study consumer research revealed little awareness that pricing could vary significantly between different funeral directors or different crematoria.<sup>247</sup>
- 3.56 We were told by Kensington and Chelsea Citizens Advice:

‘As [the bereaved] have little experience of funerals or understanding of the possible pricing differences, their expectations may be very vague. They are not in a position to compare what is being offered and are particularly vulnerable to being reassured by a kindly confident salesperson, and relieved

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<sup>243</sup> [Market Study consumer research](#), paragraph 4.1.8.

<sup>244</sup> [Market Study consumer research](#), paragraph 4.1.8.

<sup>245</sup> [Market Investigation consumer survey](#), Tables 160-162, Question FD27. Base: all UK adults 18+ involved in making at-need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279).

<sup>246</sup> [Market Investigation consumer survey](#), Tables 163-165, Question FD28. Base: all with an idea of the funeral cost prior to the arrangement meeting (n=182).

<sup>247</sup> [Market Study consumer research](#), paragraphs 4.1.11-4.1.13.

to feel they need go no further in their search than the first company considered.’<sup>248</sup>

- 3.57 In contrast, qualitative research published in 2019<sup>249</sup> states that, because people have attended, participated in or arranged a funeral previously, they can become ‘very experienced in making funeral arrangements and quite confident about the processes involved’. Acknowledging that few of the 50 participants in their study were “newbies” (ie, people who had never attended a funeral before they organised one) and – indeed – that over half the sample had organised a funeral at least twice, if not more often, the authors posit that ‘People learn from funerals, and carry that knowledge from one funeral to another. It would be a mistake, therefore, to presume that all customers in the funeral marketplace are gullible or easily persuaded to purchase things they do not want or need’. One attendee at the roundtable with experts and NatCen also noted that the presumption in the academic literature that everyone was a beginner when it came to arranging a funeral was not borne out in their conversations with bereaved people.<sup>250</sup>
- 3.58 In any event, even when people have previously organised a funeral, experience may not always be informative for future purchases:
- (a) It was suggested at our roundtable with experts and NatCen that even when consumers had a bad experience with a funeral director, they might use the company again because it is the only one in the locality, or it is the one the family has always used.<sup>251</sup>
  - (b) An attendee said that while some people may have used funeral directors before, this experience did not necessarily mean they were aware of all their options – the funeral director they had previously used may not have informed them of all choices available and so the bereaved may be acting on limited information.<sup>252</sup>

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<sup>248</sup> [Kensington and Chelsea Citizens Advice response to Interim Report](#).

<sup>249</sup> See Rugg, J. and Jones, S. (2019). *Funeral experts by experience: what matters to them*. We note that participants in the research responded to a poster/leaflet invitation to get involved in a study to explore “which aspects of funerals people find helpful and to see whether funerals have an impact on long-term wellbeing”. It is possible that the more experienced/more confident funeral arranger [funeral customer] would be more likely to self-select for a study of this nature; consequently, the authors’ conclusions may be true of only a minority of funeral consumers.

<sup>250</sup> [Summary of NatCen roundtable](#), 4 March 2020, paragraph 14.

<sup>251</sup> [Summary of NatCen roundtable](#), 4 March 2020, paragraph 23.

<sup>252</sup> [Summary of NatCen roundtable](#), 4 March 2020, paragraph 15.

(c) Korai and Souiden (2017) note that, ‘because the services are non-recurring and consumers want the painful process to end quickly, post-purchase evaluation is often neglected’.<sup>253</sup>

- 3.59 Against this background we considered whether people were able to compensate for their lack of knowledge by seeking advice and guidance from the health and social care professionals with whom they come into contact during the bereavement process.<sup>254</sup> We consider this further in Appendix D.
- 3.60 We spoke to a number of care provider organisations to understand the nature of information relating to funeral choices that is discussed with, or provided to, people in their care. The picture that emerged is that information/support to assist people in choosing a funeral director is not routinely disseminated across all types of care provider.
- 3.61 The Care Quality Commission inspects and rates end of life care services in hospitals, community health services and hospices, and assesses quality of end of life care as part of its approach in other settings, including care homes and GP practices. Amongst many other factors, the CQC’s frameworks seek to address how people who may be approaching the end of their lives are supported to make informed choices about their care; they also examine whether people’s decisions are documented and delivered through personalised advance care plans.<sup>255</sup> The frameworks do not, however, focus specifically on supporting people with funeral planning or making funeral choices.

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<sup>253</sup> Korai, B. and Souiden, N. (2017). Rethinking functionality and emotions in the service consumption process: the case of funeral services. *Journal of Services Marketing*, 31(3): 247-264.

<sup>254</sup> NatCen reports that a number of studies recognise that people living with grief as a result of bereavement (McQuaid, 2013; Bellamy et al., 2014; Price et al., 2014) or comparable emotional states (Baxter and Glendinning, 2013) may need greater institutional support with decision-making (although no paper discussed such support in the context of purchasing behaviour). Market Investigation REA, paragraph 5.24.

<sup>255</sup> See CQC’s assessment framework [Key lines of enquiry, prompts and ratings characteristics for healthcare care services](#). This assesses how acute and community health service patients who may be approaching the end of their life are supported to make informed choices about their care. The CQC’s [Acute core service – end of life care](#) assesses what emotional support and information is provided to those close to people who use services and whether people are given the opportunity to create an advance care plan. This is underpinned by the [Bereavement Care Service Standards](#), a professional standard developed by Cruse and the Bereavement Services Association, which provides a practical tool against which to benchmark what services such as hospitals and hospices offer. The standards set the criteria for what clients, carers etc can expect from bereavement care services.

## *Social pressures*

- 3.62 It was submitted that, ‘the typical [funeral] consumer is in an incredibly weak purchasing position based on a number of factors, including social pressure: the desire to “give a good send off”.’<sup>256</sup>
- 3.63 Some people arranging a funeral feel social pressure to ‘do the right thing’, which may push them towards more conventional, and more expensive, funeral choices. Paradoxically, this may also lead to people feeling less able to challenge costs when accompanied by a relative or friend to the arrangement meeting (see paragraph 3.75 below). In its 2019 report, Royal London notes that ‘social pressure to give loved ones “a good send-off” appears to be driving lower income households to spend a disproportionate amount on funerals and reject the concept of a low-cost alternative to a traditional funeral’.<sup>257</sup> Royal London also reports that more people elect to take on debt rather than compromise on the funeral they choose.
- 3.64 Participants in the Market Study consumer research demonstrated a marked sense of, and adherence to, social norms around funeral arrangements. These included some non-negotiable elements including:
- A funeral director to store the body and to make arrangements for transporting (hearse) and disposing of the body.
  - A service (whether religious or non-religious), formally conducted by someone (clergy or lay), the presence of mourners and a gathering afterwards.
  - A certain standard of coffin not visibly made out of the cheapest material.
- 3.65 As noted in paragraph 3.27, some elements were perceived as negotiable by a large number of participants. These could be dropped if the bereaved felt they had the tacit permission of the deceased to do so, or if the bereaved agreed that this would best reflect the wishes of the deceased.
- 3.66 Preparedness to relax social norms varied amongst the participants across different socio-economic groups, age groups, ethnicities and religions:<sup>258</sup>
- Participants from the C2DE socio-economic groups were more likely to feel it was important to adhere to all the different elements of the traditional

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<sup>256</sup> [Beyond response to Market Study Statement of Scope.](#)

<sup>257</sup> Royal London (2019). [Change on the Horizon? The Royal London National Funeral Cost Index Report.](#)

<sup>258</sup> [Market Study consumer research](#), paragraph 4.1.5.

funeral norm, whereas the very small number of participants who ignored some social norms were all in socio-economic groups BC1.<sup>259</sup> This is consistent with what we heard from other sources whose role is to support the bereaved, including at a roundtable in Edinburgh, and from Quaker Social Action (as discussed in Section 2). One attendee at the Edinburgh roundtable suggested that there is an inverse relationship between people's income level and demand for low-cost funerals, with people in lower socio-economic groups often experiencing societal/neighbourhood pressure to 'do the right thing' for their loved one.<sup>260</sup>

- When the deceased were older (aged 65+), participants often felt that following tradition was important because it was what 'that generation' wanted. Conversely, those under 65 were more interested in having a personalised funeral (discussed further from paragraph 3.160 to paragraph 3.167).
- Where participants were religious or belonged to particular ethnic groups with their own funeral traditions (for example, Indian or Afro-Caribbean) following religious or cultural norms in organising funerals was also very important.

3.67 The Market Study consumer research found that where tradition was more important, participants were less likely to drop any elements of the funeral norm, for example, having a family car was non-negotiable, formal dress code for funeral directors was important, mourners had to be dressed in black.<sup>261</sup>

3.68 The Good Funeral Guide noted that, 'The importance of unseen social pressure in decision making after a death has occurred cannot be underestimated, and is, we believe, a major factor in the majority of clients choosing to engage local, traditional funeral companies, irrespective of their cost or calibre'.<sup>262</sup>

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<sup>259</sup> Socio-economic group (SEG) is a classification system based on occupation. It enables a household and all its members to be classified according to the occupation of the Chief Income Earner (CIE). The groups are most often defined as follows:

A: Higher managerial, administrative, professional, eg chief executive, senior civil servant, surgeon.

B: Intermediate managerial, administrative, professional, eg bank manager, teacher.

C1: Supervisory, clerical, junior managerial, eg shop floor supervisor, bank clerk, salesperson.

C2: Skilled manual workers, eg electrician, carpenter.

D: Semi-skilled and unskilled manual workers, eg assembly line worker, refuse collector, messenger.

E: Casual labourers, pensioners, unemployed, eg pensioners without private pensions and anyone living on basic benefits.

<sup>260</sup> [Summary of roundtable discussion held in Edinburgh on 27 June 2019](#), paragraph 6. The roundtable was attended by organisations whose role is to support the bereaved and/or provide advice to people in Scotland.

<sup>261</sup> [Market Study consumer research](#), paragraph 4.1.5.

<sup>262</sup> [The Good Funeral Guide response to the Interim Report](#), page 5.

## ***Extent of psychological vulnerability of funerals customers***

- 3.69 We have considered the extent to which people who organise funerals are vulnerable due to the impact of bereavement and grief.
- 3.70 Representations on people's vulnerability in the context of organising a funeral were mixed:
- (a) A small funeral director ([redacted]) said that, 'Everybody that comes to you [wanting] to arrange a funeral is vulnerable, and they look to you as a professional adviser accordingly'.
  - (b) A report produced for Dignity noted that, 'For many people, organising a funeral is the ultimate distress purchase. It comes at a time of profound loss and can present families with practical and financial burden on top of an enormous emotional strain'.<sup>263</sup>
  - (c) Citizens Advice said that, 'Choosing a funeral director is a distress purchase for the majority of people, which leaves customers vulnerable to being mis-sold a funeral or exploited for a greater price'.<sup>264</sup>
  - (d) At the Edinburgh roundtable one attendee said that 'being bereaved affects people in different ways, it will affect everyone. A default position should be to treat people as if they are vulnerable because others are not in a position to judge'.<sup>265</sup>
- 3.71 Others disagreed that bereavement and grief necessarily mean that people are vulnerable. We were told that despite customers' grief, their behaviours (discussed further below) are often driven by rational customer preference and informed decision-making.<sup>266</sup>
- (a) The NAFD submitted that, 'We would caution against assuming that all consumers are inherently vulnerable at the point of need. Grief affects us all differently and the decision-making ability of a confident and well-informed consumer, even at a time of bereavement, will not necessarily be impaired'.<sup>267</sup>

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<sup>263</sup> Dignity (2018). [Time to talk about quality and standards](#), page 17.

<sup>264</sup> [Citizens Advice response to the Statement of Scope](#).

<sup>265</sup> [Summary of roundtable discussion held in Edinburgh on 27 June 2019](#), paragraph 13.

<sup>266</sup> See also: [Tapper Funeral Service response to the Interim Report](#); [Brodies Funeral Services response to Interim Report](#); Rugg, J. and Jones, S. (2019). [Funeral experts by experience: what matters to them](#); summary of NatCen roundtable; Summary of hearing with Dr Kate Woodthorpe, 25 July 2019. (p.13).

<sup>267</sup> [NAFD response to the Issues Statement](#). In its [Funeral Director Code](#), published on 15 October 2020, the NAFD states: 'In taking instructions and during the course of your interactions with your client, you have proper regard to your client's mental capacity or other vulnerability, such as vulnerability due to bereavement.' (O(1.1))



- (b) Brodies Funeral Services noted that, “vulnerable” is a very subjective word. Bereaved is a catch all for those recently experiencing a loss. But not all bereaved are vulnerable. I can offer many examples where the client knows exactly what they want for the funeral and how much it will cost’.<sup>268</sup>
- (c) Freeman Brothers Funeral Directors said that, ‘Assuming that everyone who has to arrange a funeral is distressed is a key error which is made time and time again, not only throughout [the CMA’s] Interim Report but in society as a whole ... Even people who are upset are not necessarily so to the loss of sense’.<sup>269</sup>
- (d) Co-op said, ‘We don’t disagree ... that the customers who come to us are bereaved and upset and that there are some time pressures involved in arranging a funeral. A key part of our role is to support customers sensitively in those circumstances. However ... this does not mean that those customers are incapacitated and incapable of decision-making ... Customer vulnerability is a question of degree and not simply binary’.

3.72 In Dr Kate Woodthorpe’s experience, and the work she had done, it was quite often the clearest thinking family member, or person within a network of people, who would become the funeral director’s client, rather than the individual who was suffering most from the bereavement. The decision about who became the client of the funeral director was made as a collective. It was not necessarily the spouse or the parent and might be a friend, or the eldest child, or someone who had not been involved in the care of the person who had died.<sup>270</sup> Dr Woodthorpe also noted people might hold an initial conversation with the funeral director and discuss this with their networks (family or friends) before returning to the funeral director in what was a fluid, back and forth process.<sup>271</sup>

3.73 It was also submitted that grief does not have an impact on the funeral purchasing process because people are frequently accompanied when they meet the funeral director.<sup>272</sup>

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<sup>268</sup> [Brodies Funeral Services Limited response to the Issues Statement](#).

<sup>269</sup> [Freeman Brothers Funeral Directors response to the Issues Statement](#).

<sup>270</sup> [Summary of meeting with Dr Kate Woodthorpe](#), 25 July 2020. See also [Funeral experts by experience: what matters to them](#). Dr Julie Rugg and Dr Sarah Jones, September 2019.

<sup>271</sup> *Ibid.*, paragraph 16.

<sup>272</sup> See, for example, [A.W. Lymn response to the Interim Report](#), page 3. The submission notes that, based on an analysis of funerals conducted by the firm, and when adjustments had been made ‘in the normal situation of a family arranging a funeral not funded and prescribed by a pre-paid plan and without the benefit of a professional executor in excess of 95% of the families were represented by two or more people.’



- 3.74 Our Market Investigation consumer survey found that the person who organises the funeral is generally closely related to the person who died: three quarters of those who organised the funeral were either the spouse/civil partner/partner (14%), parent (20%), brother/sister (10%), or child (32%) of the deceased.<sup>273</sup> Overall, 19% of consumers said they had attended the arrangement meeting on their own, with most (77%) accompanied by someone else who was directly affected by the death of the deceased; therefore, the majority of those accompanying the person organising the funeral are also likely to be grieving.<sup>274</sup>
- 3.75 An attendee at the Edinburgh roundtable said that when a bereaved person is accompanied to the arrangement meeting, it should not be assumed that the presence of someone else means they will be better informed or somehow protected from social pressure when making the funeral arrangements. They may feel that talking about financial difficulties in front of a friend or family member is taboo. The attendee noted that it could also be hard for someone to open up and show that they did not know their loved one's wishes in front of people they knew – especially those close to them. Another attendee reinforced the point, noting that some of their clients come to them for support because it is a safe place away from family and friends, and somewhere they can show their true feelings.<sup>275</sup>
- 3.76 We recognise that some funeral customers may engage more effectively with the process of arranging and purchasing a funeral than others, and that funeral customers are vulnerable to varying degrees. However, our evidence - considered in the round - shows that the combination of contextual factors and psychological factors means that, generally, funeral customers are unable to engage effectively with the process of purchasing a funeral, and that some face considerable difficulties due to the extent of their psychological vulnerability. Even people who are not vulnerable due to the psychological impact of bereavement and grief are still likely to be affected by the contextual factors discussed in this Section, such as time pressures and inexperience. Moreover, in the majority of cases where the person organising the funeral is accompanied, the person accompanying them is directly affected by the death, and therefore also likely to be grieving.

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<sup>273</sup> CMA analysis of consumer survey dataset.

<sup>274</sup> [Market Investigation consumer survey](#), Tables 157-159, Question FD26. Base: all UK adults 18+ involved in making at-need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279).

<sup>275</sup> [Summary of roundtable discussion held in Edinburgh on 27 June 2019](#), paragraph 14.

### ***Impact of grief on decision-making***

- 3.77 NatCen reports that, drawing on all papers extracted and analysed as part of the REA, there is an overarching consensus that the psychological effects of grief or bereavement make it challenging (if not impossible) for consumers to make informed decisions.<sup>276</sup> The Market Investigation REA further reports that, from available evidence which discusses the impact of grief and bereavement on decision-making, it seems that, overall, individuals will struggle to make logical and rational choices and actions whilst experiencing bereavement or likely bereavement.<sup>277</sup>
- 3.78 Korai and Souiden (2017) noted that: 'This context of high emotiveness has a destabilizing effect on the bereaved consumers' decision-making. Grief and other emotions make consumers less sensitive to pricing as they are in an altered state and less apt to process information on cost and other decisions. Families generally assume the funeral bill without question'.<sup>278</sup>
- 3.79 Many of the papers reviewed for the Market Investigation REA alluded to the 'risks' consumers face as a consequence of the impact of grief and bereavement on decision-making, highlighting prior papers around over-charging, lack of control and reliance on the 'expert' in order to make a decision.<sup>279</sup>
- 3.80 Lopez et al. (2018) explored how (and why) bereaved individuals make decisions around organ donation.<sup>280</sup> From a cross-sectional survey with relatives of deceased people, they were able to highlight that cognitive processes 'shrank' to fit the situation. Mental 'short-cuts' were taken, with only the most relevant factors (for example, the wishes of their relative as opposed to discussions with health professionals) considered, whilst others were ignored or obscured.<sup>281</sup>
- 3.81 Baxter and Glendinning (2013) looked at the effect of emotion on making choices in a broad context. Their findings support the theory that cognitive processing can be impaired by negative emotions. People reported feeling drained by the experience of having to make a choice at a time when they felt 'overwhelmed with stress'. The authors report that, although there was no evidence of the use of heuristics (ie mental shortcuts that allow people to

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<sup>276</sup> [Market Investigation REA](#), paragraph 5.4.

<sup>277</sup> [Market Investigation REA](#), paragraph 5.16.

<sup>278</sup> Korai, B. and Souiden, N. (2017) Rethinking functionality and emotions in the service consumption process: the case of funeral services. *Journal of Services Marketing*, 31(3): 247-264.

<sup>279</sup> [Market Investigation REA](#), paragraph 5.19.

<sup>280</sup> We discuss the use of 'transferable' evidence in Appendix C.

<sup>281</sup> [Market Investigation REA](#), paragraph 5.5.

solve problems and make judgments quickly and efficiently – in contrast to Lopez et al. (2018), our Market Study consumer research (see paragraph 3.105) and other evidence discussed below), there was some reliance on instincts and some self-confessed irrational behaviour. The article also reports that emotions can result in people avoiding making choices, delaying the amount of thought devoted to the choice or showing a preference for the status quo.<sup>282</sup>

- 3.82 Baxter and Glendinning identified that individuals may transfer permission to make core decisions to someone else. This was also found by Olesen et al. (2015) in a study that explored the decision-making processes of women experiencing miscarriage.<sup>283</sup> They found that the women did not just avoid decision-making but moved the responsibility for deciding on their treatment path to clinicians or healthcare practitioners, asking ‘what would you do?’.
- 3.83 As discussed in paragraph 3.42, it was submitted to us that the choice of funeral director in many instances will have been made prior to the death occurring and when consumers are arguably much less emotionally vulnerable. The Market Investigation REA reports that an individual’s decision-making capacity or cognitive processes will also seemingly be affected prior to the death of their relative. ‘Anticipatory grief’ (ie grief before the death of a mourned individual) was referred to in studies where the death of a relative was anticipated.<sup>284</sup> Glick et al. (2018) identified that anticipatory grief is common among people with seriously ill loved ones and is associated with impaired problem-solving. They found that anticipatory grief was associated with anxiety and depression. Additionally, it was found that anticipatory grief was significantly associated with worsened overall problem-solving. Higher measures of anticipatory grief were also significantly associated with increased negative problem orientation as well as impulsivity, carelessness and avoidance problem-solving styles.<sup>285</sup>
- 3.84 The impact of grief on decision-making is illustrated by further evidence we received during the investigation:
- (a) One funeral customer told us: ‘My dad had literally just died in my arms, so I couldn’t even consider shopping around, or costs, or there being an

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<sup>282</sup> Baxter, K. and Glendinning, C. (2013) The role of emotions in the process of making choices about welfare services: the experiences of disabled people in England. *Social Policy and Society*, 12(3): 439-450. This article explores the issues for disabled working age and older people making choices about health, social care, housing and employment.

<sup>283</sup> Linnet Olesen, M., Graungaard, A.H. and Husted, G.R. (2015) Deciding treatment for miscarriage—experiences of women and healthcare professionals. *Scandinavian journal of caring sciences*, 29(2): 386-394.

<sup>284</sup> [Market Investigation REA](#), paragraph 5.6.

<sup>285</sup> Glick, D.R., Motta, M., Wiegand, D.L., Range, P., Reed, R.M., Verceles, A.C., Shah, N.G. and Netzer, G. (2018). Anticipatory grief and impaired problem solving among surrogate decision makers of critically ill patients: A cross-sectional study. *Intensive and Critical Care Nursing*, 49(4): 1-5.

alternative. It never even crossed my mind. And then, of course, they said, “We’ll send the ambulance and then we will give a call to you Monday afternoon.” So, I sort of stood there, and actually said, “Okay, then.” I mean, I was in such a state of shock that when I walked back and sat in my car, I forgot how to drive. I didn’t even know how to start my car, and I had to call my brother to come and pick me up, because my brain was not functioning at all’.

- (b) A small funeral director ([X]) told us: ‘Grief does things to people’s brains; it makes them forget things, it makes them really vulnerable. It can turn the most high-powered barrister into someone who has absolutely no clue. It affects your memory; it affects your sleep; it just changes you completely, and then you have to make a really big decision that you do not want to be making, and that leaves people incredibly vulnerable, open to all sorts of exploitation’.
- (c) Another small funeral director told us: ‘A small minority of our clients are empowered and informed before they contact us. These people know what they want and need. They will call us with clear wishes and instructions. Their perspective is, ‘we are going to do this thing. Will you facilitate it?’ But the majority of people who contact us say, ‘I have never done this before. I am at sea. I am not myself. What should I do?’<sup>286</sup>

3.85 The concept of anticipatory grief, discussed in paragraph 3.83, was illustrated by one funeral customer who contacted us. He told us:

‘While he made his intentions known to us, at that point he was very close to death (a matter of a few weeks) and although we knew his death was imminent, nobody in the family felt it was either important or appropriate to make these arrangements at that point. It was also the case that none of us was psychologically and emotionally prepared to discuss the arrangements with a funeral director in advance of his death’.

3.86 Some people may be particularly negatively affected, for example, where the death is sudden; where it involves a child (see paragraph 3.14); or where the person making the arrangements has been particularly physically or emotionally reliant on the deceased. This state of mind will make it even harder to make decisions (under time pressures) about an ‘experience good’ that is valued for intangible benefits.

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<sup>286</sup> Poppy’s Funerals response to the Interim Report.

## Summary

- 3.87 The circumstances in which a funeral is arranged are usually extremely challenging, with purchase decisions generally having to be made at short notice.
- 3.88 Individually, each of the contextual factors described in paragraphs 3.23 to 3.68 – ie relationship with the deceased, time pressures, conflicting priorities, inexperience and social pressures – is likely to have an impact on decision-making, and consumers are likely to be affected by multiple factors in parallel.
- 3.89 Grief and bereavement affect people's decision-making to varying degrees, but for many, clear and rational judgments can be very difficult to make in the few days after a loved one dies. Even where people are less emotionally vulnerable, they are still likely to be affected by the contextual factors described in paragraphs 3.23 to 3.68.
- 3.90 Because of this, most people are unlikely to be able to engage effectively in the market. Given the social and emotional significance of the purchase, people therefore need alternative strategies to manage down the risks. We discuss this further in the next section.

## How this translates into the approach taken by consumers

- 3.91 The context and environment in which consumers make choices about funerals is materially different to that which prevails in most other areas of consumer decision-making because of a combination of factors, as highlighted in the preceding sections and illustrated by quotes from the Market Study consumer research:
- *I may be upset, I may not be thinking straight*
  - *This isn't a service I want, or want to think about*
  - *I'm under time pressure – this needs to be sorted*
  - *This isn't really for me, it's for the deceased*
  - *This isn't my money I'm spending*
  - *Funerals are expensive anyway*
  - *I'm under pressure to 'get this right'.*
- 3.92 The consumer decision-making process thus tends to involve the use of low-risk strategies to make a choice of funeral director and funeral, rather than

active comparisons and choices. Funeral customers take short-cuts in decision-making, committing to a large expense on the basis of limited information.

- 3.93 NatCen reports, from its review of papers focusing on comparable emotional states,<sup>287</sup> that individuals may employ mental ‘short-cuts’, avoid or delay decisions, show preference for the status quo and/or attempt to pass the decision onto someone else. The Market Investigation REA notes that these challenges to cognitive processing are compounded by the perception (upon bereavement) that purchasing a funeral must take place as quickly as possible. NatCen reports that, in addition, the majority of individuals are inexperienced in purchasing (and arranging) funerals, demonstrably uncertain as to what actions they should be undertaking. Bringing these factors together results in individuals seemingly not putting in place the normal checks and balances that would be applied when acting as a consumer, ie shopping around, checking costs, identifying the value of different ‘packages’ that may be available.
- 3.94 Dr Kate Woodthorpe told us that proximity to a funeral director was what mattered. Other factors in choosing a funeral director included personal recommendation or that of a bereavement service, local reputation, and previous experience. She added that the pathway to funeral directors was not the standard shopping-around model and evidence showed that most people did not want to shop around.<sup>288</sup> McQuaid’s doctoral dissertation (2013) noted the many examples of ‘unreflexive and unquestioned’ decisions (effectively non-decisions) made by the bereaved to contact only the funeral home that their family had used in the past or was recommended to them by a friend or co-worker.<sup>289</sup> It further stated: ‘In the majority of cases, the idea of searching for a better deal – an idea that features prominently in the way people approach many market exchanges – never occurs to funeral consumers. The fact that the ‘choice’ of funeral home is overwhelmingly a nonchoice suggests, despite the fact that consumers are very often emotionally upset and ignorant of their options, that most consumers do not experience uncertainty when they are in need of a funeral provider.’

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<sup>287</sup> Overall, there was a limited number of academic papers or grey literature that detailed the impact of grief or bereavement on decision-making capacity or purchasing behaviours directly related to arranging a funeral. However, the impact of grief and bereavement on decision-making at different life points was discussed in a range of transferable papers focusing on comparable emotional states, for example, choosing welfare and social care services at time of crisis, organ donation and miscarriage and stillbirth. [Market Investigation REA](#), paragraph 5.16.

<sup>288</sup> [Summary of meeting with Kate Woodthorpe](#), 25 July 2019.

<sup>289</sup> McQuaid, J. (2013). *Mortuaries, markets, and meaning: the social context of funeral expenditures* (Doctoral dissertation).

## ***Limited comparisons***

### ***Funeral directors***

- 3.95 The Market Investigation REA reports that, where it is discussed in the literature, few individuals made active ‘choices’ about the funeral director they used.<sup>290</sup>
- 3.96 Our Market Investigation consumer survey found that only a minority of consumers (17%) compare the services of two or more funeral directors when deciding which one to use.<sup>291</sup>
- 3.97 When the deceased’s body is moved quickly from the place of death, this will limit the opportunity for people to make any comparisons. Nearly half (n=22/48) of consumers who had compared funeral directors said that the deceased was collected by a funeral director within 24 hours.<sup>292</sup>
- 3.98 Table 7 shows how respondents to the survey found out about the funeral director they used. Generally, people used a funeral director who was known to them, followed the recommendations of family and friends, or based their choice on word-of-mouth.<sup>293</sup> Around two in five (38%, rising significantly to 46% of those who did not compare funeral directors)<sup>294</sup> said they used a funeral director who was already known to them (either through arranging a previous funeral with the same business and/or through attending a funeral arranged by the same business). Over one in four found out about the funeral director they used through a recommendation from a personal contact, and one in five did so through local knowledge/word-of-mouth.

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<sup>290</sup> [Market Investigation REA](#), paragraph 5.17.

<sup>291</sup> [Market Investigation consumer survey](#), Tables 40-42, Question FD1+FD2 (SUMMARY). Base: all UK adults 18+ involved in making at-need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279).

<sup>292</sup> CMA analysis of consumer survey dataset.

<sup>293</sup> [Market Investigation consumer survey](#), Tables 49-51, Question FD4. Base: all with a choice of funeral director (n=207).

<sup>294</sup> CMA analysis of consumer survey dataset.

**Table 7: How consumers found out about the funeral director they used**

	All*	Compared†	Did not compare‡	%
Previous personal experience: used them before to arrange a funeral	35	16		41
Recommendation by family member(s)/friend(s)/neighbour(s)/work colleague(s)	26	41		20
Local knowledge/word-of-mouth	20	24		18
Internet/online search using: a search engine/browser (eg Bing, Google etc.)	5	16		2
Recommendation by a member of staff at the care home/ nursing home/ hospice/ hospital where the deceased died	5	2		6
Previous personal experience: attended a funeral they had arranged	4	-		5
Recommendation by a professional third-party	4	4		4
Funeral director is a friend/acquaintance	3	-		3
The deceased had already passed into their care (on the instruction of someone else)	2	-		2
Internet/online search using: price comparison website	1	-		1
Internet/online search using: directory/reviews-based comparison website	<	-		-
Internet/online search using: online map	-	-		-
<i>Any previous personal experience</i>	38	16		46
<i>Any recommendation</i>	33	47		28
<i>Any internet search</i>	6	16		3

Source: Market Investigation consumer survey

\* Base: 207 (all with a choice of funeral director)

† Base: 48 (nb frequencies shown as percentages, not Ns, for ease of comparison)

‡ Base: 146

3.99 Few of these respondents had used a price comparison website or an online directory/reviews-based comparison website to find out about the funeral director they used (see paragraph 3.172 for further detail on people's propensity to go online to find a funeral director).

3.100 Where the use of a particular funeral director was not pre-determined by the deceased, relatively few respondents said that either value for money (3%), prices (2%) and/or the range of funeral options on offer (1%) were the most important factors in their choice.<sup>295</sup>

## Crematoria

3.101 When it comes to choosing a crematorium, our Market Investigation consumer survey found that less than half of customers considered that they had a choice. Overall, very few (just 1 in 14) compared the services of two or more crematoria.<sup>296</sup>

<sup>295</sup> [Market Investigation consumer survey](#), Tables 55-57, Question FD6a. Base: all with a choice of funeral director (n=242).

<sup>296</sup> [Market Investigation consumer survey](#), Tables 308-310, Question C1+C2 SUMMARY. Base: all UK adults 18+ involved in making at-need cremation funeral arrangements since J/A/S/O 2017 (n=376).



- 3.102 Most consumers (over four in five) went to the funeral director with an idea of which crematorium they wanted to use already in mind,<sup>297</sup> and most did not change their mind after they first met with the funeral director.<sup>298</sup>
- 3.103 The Market Study consumer research also found that participants' perceptions of having a choice of crematorium was limited. Indeed, awareness that there might be a choice of local crematoria was extremely low.<sup>299</sup>

### ***Reliance on short-cuts/recommendations***

- 3.104 As noted in paragraph 3.93, some academic literature indicates that individuals may employ mental short-cuts. McQuaid (2013)<sup>300</sup> highlights that despite consumer uncertainty, the bereaved individual will simply contact the funeral director who either supported them at a previous bereavement or had been used before by a family member or friend.
- 3.105 When deciding who to use locally, many participants in the Market Study consumer research revealed that they had used such short-cuts to expedite decision-making – described in the report as pragmatic but also low-risk strategies for making a choice of funeral director. Additional practical, emotional and cultural factors reinforced interviewees' inclination to rely on their previous experience or recommendations when choosing funeral directors.<sup>301</sup>
- 3.106 The preferred short-cuts reported by participants included:
- Copying a previous choice of funeral director (either from personal or family experience).
  - Copying someone else's previous choice of funeral director (that is, acting on a recommendation of a friend, family member, care home, wider community, or (in Northern Ireland) a religious leader).

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<sup>297</sup> [Market Investigation consumer survey](#), Tables 311-313, Question C3. Base: all UK adults 18+ involved in making at-need cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=370).

<sup>298</sup> [Market Investigation consumer survey](#), Tables 314-316, Question C4. Base: all who made contact with a funeral director with an idea of which crematorium/crematoria to use (n=306).

<sup>299</sup> [Market Study consumer research](#), paragraph 4.2.6.

<sup>300</sup> McQuaid, J. (2013). *Mortuaries, markets, and meaning: the social context of funeral expenditures* (Doctoral dissertation).

<sup>301</sup> [Market Study consumer research](#), paragraph 1.4.10-1.4.11.

- Basing their choice on assumed reputation, as concluded from a funeral director being a well-known local name or national brand.<sup>302</sup>

3.107 Research carried out for Dignity showed that two-thirds of its customers choose Dignity through previous experience or recommendation.<sup>303</sup> A.W. Lymn also noted that in its experience, clients make an informed decision to come to its business based on recommendations from their friends or family.<sup>304</sup> Kensington and Chelsea Citizens Advice said that, '[people] will approach a company that has been used before, recommended by friends or family, or one they are familiar with due to proximity'.<sup>305</sup>

3.108 We received representations from parties<sup>306</sup> to the effect that recommendations, or copying a previous choice of a funeral director, are proxies for quality. We consider this point further at paragraphs 3.136 and 3.137 and paragraphs 5.10 and 5.11.

3.109 As noted in paragraph 3.106, some participants in the Market Study consumer research based their choice of funeral director on assumed reputation, as concluded from a funeral director being a well-known local name or national brand.

3.110 Quaker Social Action submitted that people maintain an attachment to local brands they have used in the past:

‘The issue here is that the local independent that Joe Bloggs went to for his mother’s funeral in 2000 has been bought over by a local conglomerate, with no name or branding change. Unbeknownst, there is an entirely new staff and the price for the same service has more than doubled, but a contract has already been signed as there’s an emotional attachment to the local, longstanding funeral director, even if they don’t really exist anymore.’<sup>307</sup>

3.111 This is consistent with what the Good Funeral Guide submitted: ‘... the decision as to which company to employ may be influenced by a number of

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<sup>302</sup> [Market Study consumer research](#), paragraph 4.3.5.

<sup>303</sup> [Dignity response to Statement of Scope](#).

<sup>304</sup> [A.W. Lymn response to working papers](#), published in January 2020.

<sup>305</sup> [Kensington and Chelsea response to the Interim Report](#).

<sup>306</sup> For example, [Dignity response to the interim report](#), [Funeral Partners response to the interim report](#); [Co-op response to the PDR](#), paragraph 3.48.

<sup>307</sup> [Quaker Social Action response to the Market Study Statement of Scope](#).

factors, including the retention of former trading names (with their associated local reputation)'.<sup>308</sup>

### **Importance of location**

3.112 Funeral directors are local businesses, often in very close proximity to the deceased's home. Halpenny (2013) and Korai and Souiden (2017) report that for many, the choice of the funeral home may be simply based on the ease of location, reducing stress and travel times.<sup>309</sup> As noted above at paragraph 3.94, Dr Kate Woodthorpe told us, 'Proximity to a funeral director was what mattered'.

3.113 Findings from our Market Investigation consumer survey show that the majority of funeral directors were located within a 20-minute drive time of where the deceased had lived.<sup>310</sup>

3.114 Participants in the Market Study consumer research all said they had wanted to use a local funeral director, and this was the first factor limiting the range of funeral directors they were ready to consider. The idea of the deceased's 'home area' defined decision-making and arranging a funeral local to where the deceased had lived remained important even if family members had subsequently moved away. The report noted that the drive for arranging a 'local' funeral was clearly rooted in a sense of 'belonging' to a place in life – and therefore in death.<sup>311</sup>

3.115 Location and a personal connection with the venue are key factors in consumers' choice of a crematorium. Four-fifths of respondents to the Market Investigation consumer survey told us that the deceased had lived within a 30-minute drive time of the crematorium they used.<sup>312</sup> We were also informed by some smaller funeral directors who we visited that the main driver of choice of crematorium was location. One small funeral director we visited ([redacted]) told us that 'the slot length is 1 hour in [redacted] but 45 minutes at all the

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<sup>308</sup> [The Good Funeral Guide response to the Interim Report](#).

<sup>309</sup> Halpenny, J. (2013). *An exploration of consumer decision making processes in the Funeral Industry* (Doctoral dissertation, Dublin, National College of Ireland); Korai, B. and Souiden, N. (2017). Rethinking functionality and emotions in the service consumption process: the case of funeral services. *Journal of Services Marketing*, 31(3): 247-264.

<sup>310</sup> [Market Investigation consumer survey](#), Tables 103-105, Question FD3a+FD9a+FD15a (SUMMARY). Base: all UK adults 18+ involved in making at-need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279).

<sup>311</sup> [Market Study consumer research](#), paragraph 4.2.1-4.2.2.

<sup>312</sup> [Market Investigation consumer survey](#), Tables 341-343, Question C10. Base: all UK adults 18+ involved in making at-need cremation funeral arrangements since J/A/S/O 2017 (n=376).

other crematoria. This does not make any difference to people's decisions. Location is the only thing that matters.'

### ***Delegation of responsibility***

3.116 As noted in paragraph 3.82, the academic literature indicates that the bereaved (or people in comparable emotional states) may delegate decision-making responsibility to others. The Market Investigation REA reports that individuals living with grief or anticipatory grief may transfer decision-making to someone else: 'What would you do?'.<sup>313</sup>

3.117 Dr Kate Woodthorpe said that, 'Most people wanted to defer to people who were more experienced and who would make decisions for them, or to assist them in coming to a conclusion'.<sup>314</sup>

3.118 This is consistent with other evidence we received:

- (a) A small funeral director told us: 'We have had circumstances where people have gone so far as to ask us, "do you think I should cremate or bury my mother?"'<sup>315</sup>
- (b) Research undertaken on behalf of a Large funeral director ([REDACTED]) notes that: 'Families want to shift the burden and this limits choice'. It continues: 'One of the primary roles of the funeral director is to shift the huge emotional and practical burden from families/loved ones. This is a major conditioner of behaviour both immediately after the death and throughout the funeral arranging process ... when arranging the funeral, people are keen to be guided/advised by funeral directors'.
- (c) Internal documents from a Large funeral director ([REDACTED]) state that, 'clients place a great deal of trust in the funeral director' and that 'clients want us to take control, to listen and to provide them with ideas that ensure a personalised funeral for their loved one'.

3.119 Transference of decision-making responsibility and the trust placed in the funeral director means that individuals are far less in control of the purchasing process than they are for other consumer purchases, willingly affording the funeral director a position of control. At a roundtable of funeral directors, attendees suggested that many bereaved people feel unsupported, and that

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<sup>313</sup> [Market Investigation REA](#), paragraph 7.1.

<sup>314</sup> [Summary of meeting with Dr Kate Woodthorpe](#), 25 July 2019.

<sup>315</sup> [Poppy's Funerals response to the Interim Report](#).

the recently bereaved can be particularly vulnerable to the authority associated with funeral directors.<sup>316</sup>

### ***Committing to using a funeral director and evaluation of the offering by customers***

#### ***Factors confirming choice of funeral director***

3.120 The Market Study consumer research found that, by the time participants met with the funeral director to discuss the funeral arrangements, they typically were already committed mentally and emotionally to using that funeral director for a variety of reasons:

- First, they felt the funeral director was trustworthy (based on their previous experience, recommendation or reputation) and did not want to shop around.
- Second, many had already instructed the funeral director to collect the body of the deceased before meeting them to discuss funeral arrangements in detail.<sup>317</sup>

3.121 As noted in paragraphs 3.30 to 3.35, the choice of funeral director is often made quickly, driven by the perceived need to move the body. A small funeral director ([X]) told us, ‘a lot of people actually want you to come, take [the body] away for them to start to deal with the whole process of organising the funeral post that’. A report produced for Dignity notes that there are a number of reasons why individuals are unlikely to consider several funeral directors, including, ‘The feeling that a quick decision needs to be made – when death happens, the family feel that the deceased should be taken into care quickly ... This desire for the deceased to be taken into care quickly is therefore the current cultural norm’.<sup>318</sup>

3.122 In the majority of cases, there is no consideration of switching after this point. Our Market Investigation consumer survey found that the funeral director who collected the body also took care of the rest of the arrangements in over four-fifths of cases (81%).<sup>319</sup> Very few of these respondents had considered

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<sup>316</sup> [Summary of roundtable with ‘progressive’ funeral directors](#), 21 August 2019.

<sup>317</sup> [Market Study consumer research](#), paragraph 4.3.16.

<sup>318</sup> Dignity (2018). [Time to talk about quality and standards](#), page 17.

<sup>319</sup> [Market Investigation consumer survey](#), Tables 139-141, Question FD21. Base: all UK adults 18+ involved in making at-need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279).

switching to a second funeral director at any point.<sup>320</sup> Similarly, almost all participants in the Market Study consumer research felt that it would be extremely unlikely for someone arranging a funeral to switch once the funeral director had been instructed to collect the body of the deceased, even if any problems arose subsequently in the funeral director's service.<sup>321</sup> In response to our call for evidence from funeral directors, one funeral director told us: 'Once a deceased is in the care of a funeral home, even if it is against their [the bereaved's] will, it can be difficult to assert yourself and state that it was not your wish and you do not wish to use that funeral director. It can be hard to be assertive when grieving'.<sup>322</sup> Similarly, the Good Funeral Guide submitted that:

'Once a decision has been made about which company to use, it is unlikely that bereaved people will change funeral directors, even if they are not happy with the service being provided.

The stress of having to acknowledge that they have chosen an unsuitable provider and the difficulty (whether real or perceived) of confronting the staff or owners of the company and raising their dissatisfaction about whatever aspect of the arrangements they are unhappy with makes the effort of changing provider highly unlikely, even without the concerns of finding a suitable alternative.'<sup>323</sup>

3.123 Over half of respondents (53%) in the Market Investigation consumer survey had committed to using the funeral director during the arrangement meeting (for example, by paying a deposit or signing an agreement or contract), and over a third of consumers (37%) had committed to using the funeral director (for example, by paying a deposit or signing an agreement of contract) before they were told what the full cost would be/was likely to be.<sup>324</sup>

3.124 For participants in the Market Study consumer research, the arrangement meeting with the funeral director was key to providing reassurance that they were making the right choice. As long as the meeting went well, the

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<sup>320</sup> [Market Investigation consumer survey](#), Tables 142-144, Question FD22A. Base: all where the same funeral director collected the body of the deceased and made the other arrangements for the funeral (n=227). Of these, 96% had not considered switching at any point, usually because they were already using the funeral director they wanted to use or did not feel it was necessary. Very few respondents referred to the deterrent effect of potentially incurring additional costs by switching.

<sup>321</sup> [Market Study consumer research](#), paragraph 1.4.13.

<sup>322</sup> The call for evidence sought evidence on the existence of formal and informal referral arrangements between care providers and funeral directors.

<sup>323</sup> [The Good Funeral Guide response to the Interim Report](#).

<sup>324</sup> [Market Investigation consumer survey](#), Tables 196-226, Question FD39. Base: all UK adults 18+ involved in making at-need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279).

prospective customer was likely to commit (either contractually and/or emotionally) to the funeral director following this meeting.<sup>325</sup>

- 3.125 The principal (and typically the only) reason revealed by participants in the Market Study consumer research which meant they might not enter into a contractual arrangement with a funeral director after the face-to-face meeting was if the price of the funeral package was not within their ballpark range (and on one occasion, because the respondent felt that the funeral director's premises looked 'tacky').<sup>326</sup>

### *Choosing the elements of the funeral package*

- 3.126 Most participants in the Market Study consumer research said that, when the funeral director went through a checklist of all potential elements, they had found it helpful. Some, though, said they had felt awkward about having to actively reject certain elements of the 'funeral norm' (for example, hiring a car to transport the bereaved family).<sup>327</sup> Research commissioned by a Large funeral director found that families were more likely to add to an existing package (34%) than reduce it (10%).
- 3.127 At the end of the discussion, provided the total estimate of costs was within their ballpark estimate, it was unlikely that participants would make any comment or other adjustments. This was particularly the case if the funeral was being paid for from the deceased's savings or estate (because respondents did not see this as spending their own money). Where the cost was slightly outside of their budget or ballpark estimate, some of the research participants considered making adjustments to the package, for example, by excluding a funeral car, sourcing the flowers direct or choosing a cheaper coffin/casket.<sup>328</sup>
- 3.128 A key finding to note from the Market Study consumer research is that participants told us they were under the impression that funeral directors would not negotiate over their fee. Indeed, very few had tried to negotiate on cost. Of those who did, the families had very recent experience of organising burials, which they perceived to be expensive.<sup>329</sup>

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<sup>325</sup> [Market Study consumer research](#), paragraph 1.4.14.

<sup>326</sup> [Market Study consumer research](#), paragraph 4.3.18.

<sup>327</sup> [Market Study consumer research](#), paragraph 4.4.10.

<sup>328</sup> [Market Study consumer research](#), paragraph 4.4.12.

<sup>329</sup> [Market Study consumer research](#), paragraph 4.4.17.

## *Role of quality in the choices made*

### *Funeral directors*

3.129 The Market Study consumer research found that customers want funeral directors to meet a range of needs. These are not limited to the practical processes, such as the physical disposal of the body, advice and practical assistance with organising a funeral.

3.130 For most participants in the research, quality was largely judged in terms of service. Quality of service was defined as ‘going above and beyond’ to support funeral customers emotionally and helping them to achieve a meaningful farewell.<sup>330</sup> Participants’ criteria for good quality can be broadly divided into:

- Standard service requirements – managing funeral arrangements professionally;
- specific service requirements – attending to the particular wishes of the funeral arrangers (customers) for the funeral (as a trusted carer of the deceased, as a guide/adviser, as a safe pair of hands); and
- how services are delivered – providing emotional and psychological support; ensuring everything goes smoothly on the day.

3.131 In addition, the Market Study consumer research found that participants appreciated funeral directors’ professionalism, which was perceived in terms of the following aspects of their service:

- Smart dress and presentation of their premises;
- responsiveness to the needs of the funeral arrangers (customers);
- flexibility in how and when services were provided (for example, available outside normal working hours);
- expertise in guiding respondents through the process; and
- a calm and respectful manner.<sup>331</sup>

3.132 Dr Kate Woodthorpe said that it was very difficult evaluating funerals because they were an experience and people had different starting points (namely the

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<sup>330</sup> [Market Study consumer research](#), paragraph 1.4.19.

<sup>331</sup> [Market Study consumer research](#), paragraph 1.4.20.



circumstances of death, their background, education and values) which affected the assessment. The bereaved tended to define their satisfaction on emotional grounds, ie, their connection to the funeral director, for example, were they listened to? Did they feel heard? Was the funeral director available? Did they feel that their experience with the funeral director was handled sensitively? Did they honour their wishes? Did they organise it according to their needs? This was incredibly difficult to quantify across the sector and compare between businesses.<sup>332</sup>

3.133 In our Market Investigation consumer survey, a little under half of consumers (47%) told us they had either asked to see (9%) or the funeral director had offered to show them (38%) the funeral director's facilities for taking care of the deceased, with younger respondents being more likely to ask to see these facilities.<sup>333</sup> A little over half of those who asked to see or received an offer to see such facilities did so. However, in giving these answers, we think that many respondents may have had in mind the funeral director's viewing room rather than the mortuary.<sup>334</sup>

3.134 None of the participants in the Market Study consumer research inquired about the nature and quality of funeral directors' mortuaries when choosing a funeral director or took this into consideration. Respondents assumed funeral directors had to meet certain industry standards:

(a) The Market Study consumer research found that customers often assume that funeral directors meet industry standards (whereas minimum standards on quality are not prescribed by law).<sup>335</sup>

(b) A survey of the general public commissioned by the CMA as part of this Market Investigation found that 69% of UK adults believe that funeral directors must be licensed or registered to operate.<sup>336</sup>

3.135 Many participants in the Market Study consumer research also found thinking about the deceased's body stressful and preferred not to know details beyond

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<sup>332</sup> [Summary of meeting with Dr Kate Woodthorpe, 25 July 2019](#), paragraph 19.

<sup>333</sup> [Market Investigation consumer survey](#), Tables 255-257, Question FDadd9. Base: all UK adults 18+ involved in making at-need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279).

<sup>334</sup> [Market Investigation consumer survey](#), Tables 258-261, Question FDadd10. Base: all who asked to see/received an offer to see the facilities for taking care of the deceased (n=132).

<sup>335</sup> [Market Study consumer research](#), paragraph 4.3.15.

<sup>336</sup> Market Investigation general public survey, July 2019. Base: UK adults age 18+ (n=2,237). All choosing response option 'funeral directors' specifically, or spontaneously stating 'all of them', in response to the following question: In the United Kingdom, certain types of business are regulated by law to meet particular minimum standards for the goods or services they provide. This means they must either hold a licence, or register, to operate. Which of the following businesses, if any, do you think (or know) must be licensed or registered to operate in the UK?).

the practical information they needed if they wanted to view the body.<sup>337</sup> This is confirmed by other research which has found that many customers find it difficult to talk openly with funeral directors about the care of their loved one, and the details of what that involves, and further research which found that only 6% of all respondents, or 30% of those that shopped around, compared funeral directors on the basis of standards of care of the deceased.<sup>338</sup>

### *Recommendations / choice of previous funeral director as a proxy for quality*

- 3.136 As noted in paragraph 3.108, we received representations that recommendations, or copying choice of a previous funeral director, are, effectively, proxies for quality of funeral director services.
- 3.137 The Market Investigation consumer survey found that information received as part of a recommendation tends to be practical and/or high-level/general information about the businesses concerned rather than specific information relating to the offering of the funeral director. Around one in four respondents (n=18/65) had received no information other than the name, contact details and/or an idea of location for the firm, as indicated in Table 8 below.<sup>339</sup> This indicates that the fact of a recommendation in itself is often sufficient for people, and the specifics are less important, ie people rely on short-cuts, rather than taking active steps to assess quality.

**Table 8: Information received as part of a recommendation**

	<i>n</i>
Name of the firm	42
Contact details	26
Local knowledge/word-of-mouth about them, their reputation	22
An idea of their location/proximity	19
An idea of what the staff were like	19
Level of customer care they provided/could be expected	16
Level of quality they provided/could be expected	14
Type of funerals available	10
Standard of their care for/respect for the remains of the deceased	9
General information about prices (reasonable, good value for money, fair etc.)	7
General/non-specific positive comment or endorsement (safe pair of hands, could rely on them, could trust them, everything went smoothly etc.)	6
Capable of meeting the specific requirements of respondent's faith	5
Specific information about prices ("we paid £x", etc.)	5
Standard of their vehicles	5
Standard of their customer-facing facilities	3
Standard of their behind-the-scenes facilities	2
Don't know/can't remember	1

Source: Market Investigation consumer survey

Base: 65 (all who found out about the funeral director they used through a recommendation)

- 3.138 Co-op submitted that it is not clear that using previous experience and recommendation as a proxy for quality does not qualify as informed decision-

<sup>337</sup> [Market Study consumer research](#), paragraph 4.3.15.

<sup>338</sup> Dignity (2018). [Time to talk about quality and standards](#), p.17-18.

<sup>339</sup> [Market Investigation consumer survey](#), Tables 52-54, Question FD5. Base: all who found out about the funeral director they used through a recommendation (n=65).

making. Co-op noted that, ‘the Market Investigation consumer survey also indicates that the expected level of customer care, the level of quality, option of personalisation, capability of meeting specific religious requirements and level of care of the deceased were cited as the most important part of a recommendation that led to the choice of funeral director.’<sup>340</sup> While we accept that previous experience and recommendation may be a mechanism, albeit indirect, for customers to take into account quality factors which are difficult to observe or judge before the purchase, we nevertheless consider that funeral customers relying on recommendations or previous experience generally do not assess quality or price differentials between suppliers for themselves at the point they make decisions, so may not purchase the funeral that best suits their needs. We consider this further in Section 5.

### *Crematoria*

- 3.139 The large private crematorium operators told us that customers choose their sites over others on the basis of quality. They also said that competition occurs between crematoria through recommendations, and these recommendations are often made on the basis of quality. We discuss the extent to which crematorium operators compete on quality in paragraphs 6.54 to 6.75.
- 3.140 Our Market Investigation consumer survey findings indicate that minimal evaluation of alternative crematoria is carried out by most consumers.
- 3.141 In our Market Investigation consumer survey, where the use of a particular crematorium was not pre-determined by the deceased, respondents reported a variety of factors as being most important to their choice, but the one most frequently described as such was *it is the only local crematorium* (34%, rising to 43% of consumers making any mention of this factor).<sup>341</sup>

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<sup>340</sup> Co-op response to the PDR, paragraph 3.43, with reference to [Market Investigation consumer survey](#), Tables 61-63, Question FD8b. Base: all where recommendation/reviews/reputation was the most important factor in choosing the funeral director you used (n=68). Of these, n=41 mentioned one or more of the following as the aspect of most influence: level of customer care I/we could expect, level of quality I/we could expect and/or level of care/respect for the remains of the deceased I/we could expect.

<sup>341</sup> [Market Investigation consumer survey](#), Tables 326-334, Question C7A/B. Base: all with a choice of crematorium (n=339).

**Table 9: Factors in consumers' choice of crematorium**

	<i>Most important</i>	<i>% Any mention</i>
It is the only local crematorium	34	43
Personal experience of using it before, or of attending a funeral there	24	36
The distance/journey time/location was convenient	10	18
They had availability around the time we needed/wanted them	4	12
Recommendation by the funeral director	4	7
Attractive/peaceful/well-maintained place/building gardens	4	8
I/we liked the location	3	7
Recommendation by family member(s)/friend(s)/neighbour(s)/work colleague(s)	3	8
Good reputation in the area	3	10
Easy for funeral guests to find/get to	2	8
Easy to get from the crematorium to the venue for the reception afterwards/wake	-	5

Source: Market Investigation consumer survey

Base: 339 (all except those who honoured the express wishes of the deceased)

Note: table shows those factors with any mention by 5+% of respondents, but ranked by most important factor

3.142 In the Market Investigation consumer survey, over four in five consumers who used a funeral director to arrange a cremation told us they had an idea of which crematorium they wanted to use before they made contact with the funeral director.<sup>342</sup> Amongst consumers who contacted the funeral director with an idea of which crematorium to use and did not 'switch' subsequently or who did not use a funeral director, four in five (80%) said they used a crematorium already known to them.<sup>343</sup>

3.143 We note that only 6% of customers in our Market Investigation consumer survey found out about the crematorium they used on the basis of recommendations.<sup>344</sup> When respondents had found out about the crematorium they used through a recommendation, most believed it had been made to them on grounds of the crematorium's location/proximity, as shown in Table 10.

**Table 10: Perceived grounds for recommending a crematorium**

	<i>n</i>
Location/proximity	13
Capable of meeting the specific requirements for my/our faith	4
Reputation/customer ratings	4
Attractiveness of buildings and grounds	3
Availability/flexibility re. dates/time slots (waiting times)	3
General personal experience of using it before, or of attending a funeral there	2
Cremation fees/charges/costs	1
Quality of facilities (e.g. modern, well-maintained)	1
Size/capacity	1
Other	1

Source: Market Investigation consumer survey

Base: 23 (all who found out about the crematorium they used through a recommendation)

<sup>342</sup> [Market Investigation consumer survey](#), Tables 311-313, Question C3. Base: all UK adults 18+ involved in making at-need cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=370).

<sup>343</sup> [Market Investigation consumer survey](#), Tables 320-322, Question C5. Base: all who had a crematorium in mind before they contacted a funeral director and used that crematorium or who didn't use a funeral director but had a choice of crematorium (n=294).

<sup>344</sup> CMA analysis of consumer survey dataset.

3.144 For the 7% of consumers (n=26) who compared two or more crematoria when deciding which one to use, the point of comparison most frequently mentioned was the attractiveness of the building and grounds (n=12), followed by location/proximity (see Table 11 below). Most (n=18) had compared crematoria on the basis of a single factor.<sup>345</sup>

**Table 11: Information consumers use to compare crematoria**

Attractiveness of building and grounds	12
Location/proximity	11
Availability/flexibility re. dates/time slots (waiting times)	5
Cremation fees/charges/costs	4
Quality of facilities (e.g. modern, well-maintained)	4
Reputation/customer ratings	3
Capable of meeting the specific requirements for my/our faith	2
Range of facilities (e.g. disabled access, parking, refreshments, toilets etc., able to display photos, music system, web streaming etc.)	1
Slot length – offer the appropriate/right/ideal slot length	1
Standard of customer service/professionalism	1
Whether member of a quality mark scheme/trade body	1
Other	3
Don't know/can't remember	-

Source: Market Investigation consumer survey

Base: 26 (all who compared crematoria)

3.145 Nearly half of consumers (49%) who responded to the Market Investigation consumer survey said that nothing would have encouraged them to travel further from where the deceased person lived to use a better crematorium, although three in ten (30%) thought that a recommendation (especially one by a personal contact) would encourage them to do so.<sup>346</sup>

**Table 12: Factors that would encourage consumers to travel further**

	%
Nothing	49
Recommendation by family member(s)/friend(s)/neighbour(s)/work colleague(s)	22
Recommendation by a funeral director	11
More convenient location (e.g. better transport links)	8
Better availability/shorter waiting times	5
Better quality of facilities	5
Lower fees/charges/cost	4
Better quality of customer care/service	4
Recommendation by a professional third-party	3
Don't know	7
<i>Any recommendation</i>	<i>30</i>

Source: Market Investigation consumer survey

Base: 376 (all eligible crematoria question respondents)

3.146 Nearly all respondents to our Market Investigation consumer survey (95%) considered that the crematorium they used had met their service expectations

<sup>345</sup> [Market Investigation consumer survey](#), Tables 335-337, Question C8. Base: all who compared crematoria (n=26).

<sup>346</sup> [Market Investigation consumer survey](#), Tables 341-343, Question C21. Base: all UK adults 18+ involved in making at-need cremation funeral arrangements since J/A/S/O 2017 (n=376).

in full or had exceeded them.<sup>347</sup> In this context, seven in ten respondents (70%) said they had recommended or would recommend the crematorium to someone else.<sup>348</sup>

## Summary

- 3.147 Generally, people do not compare the offers of different funeral directors and crematoria, instead relying on short-cuts in decision-making – such as recommendations or previous experience – and committing to a large expense without an objective assessment of alternatives.
- 3.148 People often simply go to a funeral director that is in very close proximity to the home of the deceased, and the basis on which the choice is made is narrow – familiarity/recommendation and perception that the funeral director will look after you are the main considerations. Price is not an important factor in many customers' choices, with some people relying on ballpark estimates to guide their decisions.
- 3.149 Having made the decision, under pressure, of which funeral director to call up to collect the body, people will not often consider switching; and once the customer has entered the premises of the funeral director, they are then generally committed emotionally and mentally to that funeral director. They commit to the purchase during the arrangement meeting, sometimes without having any idea about how much it is going to cost them. They put their trust in the funeral director, wishing to hand over control, so as to avoid making decisions themselves.
- 3.150 People are not focused on quality differentials between suppliers, particularly when it comes to back of house quality, believing funeral directors to be regulated, so quality is assured.
- 3.151 Even though the largest disbursement is the cremation or burial cost, there is limited awareness of, or exercise of, choice with the crematorium or burial ground taken as a given because location and family connections are the overriding drivers of choice.

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<sup>347</sup> [Market Investigation consumer survey](#), Tables 381-383, Question C22. Base: all UK adults 18+ involved in making at-need cremation funeral arrangements since J/A/S/O 2017 (n=376). Three in ten respondents (29%) said the crematorium had *met and exceeded* their expectations, while two-thirds (66%) said their expectations had been *met in full*.

<sup>348</sup> [Market Investigation consumer survey](#), Tables 384-386, Question C23. Base: all UK adults 18+ involved in making at-need cremation funeral arrangements since J/A/S/O 2017 (n=376).

## Changing customer dynamics

3.152 In the paragraphs below we consider key trends in customer attitudes and approaches to funerals. Specifically, we focus on:

- (a) Secularisation;
- (b) personalisation;
- (c) family connections and mobility; and
- (d) use of the internet.

### **Secularisation**

3.153 The National Secular Society reports that 52% of British people have no religion. This figure has risen from 48% since 2015 and 31% since 1983.<sup>349</sup>

3.154 Secularisation is most pronounced for those who (ostensibly at least) are Christians; only 2% of non-religious people have been reported as being raised in religious homes other than Christian.<sup>350</sup>

3.155 According to a 2017 internal document from a Large funeral director ([X]), 'the UK funeral market will become increasingly diverse in terms of religious expectations and ethnic origins'. It continues:

'Today, over 55% of deaths are White British Christian, 35% are White British Secular and under 10% ethnic/non-Christian. By 2040, 25% of deaths will be White British Christian, 55% White British Secular and 20% ethnic/non-Christian'.

3.156 The number of people with no religion is much lower in Northern Ireland: the last census (2011) indicated that 82% of people identified as Christian (compared to 86% in 2001) and 10% as 'no religion'. On a site visit to a small funeral director ([X]) in Northern Ireland, we were informed that cultural and religious affiliations meant that often, people will use a funeral director affiliated to either the Roman Catholic or Protestant faith, and this would be replicated in most towns in Northern Ireland. The funeral director also told us that the ceremony will also predominantly be religious, although it indicated

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<sup>349</sup> National Secular Society, citing NatCen British Social Attitudes Survey, [Data and Statistics, Religion and the State](#).

<sup>350</sup> The Guardian, (14 May 2017) [Nearly 50% are of no religion – but has UK hit 'peak secular'?](#) The article notes that the 'nonversion' rate was 14% for Jews, 10% for Muslims and Sikhs and 6% for Hindus.



that, in the last two to three years, it has started to undertake some non-religious funerals.

3.157 In its 2017 Cost of Dying report, SunLife noted '68% of funeral directors [said] they have seen a decrease in the number of religious funerals, and just 11% of those who organised a funeral for a loved one described the tone of the service as 'religious'.<sup>351</sup>

3.158 SAIF noted in its hearing with us that, 'there had been a move to more secular funerals: of the 50 funerals that [SAIF] sampled in 2008, 47 of them were religious and had a minister of faith leading them, one was secular and for two, the family did their own thing. In 2018, only 20 were faith-based'.<sup>352</sup>

3.159 C.P.J. Field told us that it had seen a huge change in society's approach to funerals over the last 12 years, driven by societal changes in the declining part that religion now played across the community and in people's lives.<sup>353</sup> C.P.J. Field said that it thought that when people considered how to remember someone, the part that was played by the church, and in particular by a minister of religion, was 'no longer the pinnacle'. It said that the implications of this change for the funeral industry was considerable because first there was no longer a set format to hang a ceremony around, and second there were also implications for the ongoing pastoral care of those who survived the deceased. C.P.J. Field said that 'people were increasingly turning to funeral directors for pastoral care, having built a trusting and caring relationship with staff through the period of acute loss and the arrangement process'.

## **Personalisation**

3.160 The NAFD told us that the increased personalisation of funerals was one of the most significant changes to have taken place in the sector over the last few years.<sup>354</sup> Plymouth City Council, a local authority crematorium operator, said that it has experienced a changing marketplace over recent years, and, in particular, over the past decade that families have moved to a much more personal service and tribute to a person's life and celebration of a life.<sup>355</sup> This is linked to increased secularisation.

3.161 Co-op said that, '[Its] experience is that the funerals market is changing rapidly as consumer needs change and an increasing expectation that

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<sup>351</sup> SunLife (2017). [Cost of Dying](#).

<sup>352</sup> [Summary of hearing with SAIF, 18 July 2019](#).

<sup>353</sup> [Summary of hearing with CPJ Field, 10 December 2019](#), paragraph 5.

<sup>354</sup> [Summary of hearing with the NAFD, 26 June 2019](#), paragraph 6.

<sup>355</sup> [Plymouth City Council response to the Issues Statement](#).



funerals will be personalised. There is no one-size-fits-all for funeral services. Funerals and celebration of life ceremonies provide families with an opportunity to say their last goodbye to loved ones in a wide variety of ways’.

- 3.162 Consistent with the above points, a celebrant told us that the way we organise funerals is already changing in response to [a] wish to celebrate the individual first and foremost. People are now choosing funerals outside the conventional, choosing alternative venues and longer time slots, requiring funeral directors to work more flexibly and collaboratively with the consumer and/or officiant.<sup>356</sup>
- 3.163 The celebrant noted that funeral ceremonies are no longer similar across all faiths. We were also told by the operator of a Muslim cemetery that while Muslim funerals are supposed to be very simple, it has noticed that families are now demanding more, and for this they are willing to pay more.<sup>357</sup>
- 3.164 In the Market Study consumer research, respondents under 65 years of age were more likely to express interest in having a personalised funeral where the coffin, dress code, music, speeches and even a route to the funeral could be tailored to reflect the deceased’s character and passions.<sup>358</sup>
- 3.165 In terms of other specific aspects of personalisation, we note the following:
- (a) SunLife’s latest Cost of Dying report<sup>359</sup> notes that survey respondents were asked what they wanted for their own funeral: 30% wanted mourners to wear bright colours, rather than traditional black; 28% wanted family and friends to decide what the funeral should be like; 14% wanted photos or films of their life to be shown at the funeral; and 12% wanted their favourite songs played at the funeral. SunLife’s 2017 Cost of Dying report noted an increase in the number of eco, environmental or woodland funerals, rising from one in 14 in 2016 (7%) to one in 11 (9%) in 2017.<sup>360</sup>
  - (b) Co-op highlighted a 2017 YouGov report noting that it showed that one in seven funerals organised in 2017 included a ‘special request’ (for example, sport team kit, wearing bright colours, alternative transport, turning ashes into diamond etc). It indicated that the most popular personalised feature in funerals organised in 2017 was a wake (98% of respondents), followed by recorded music (67%), order of service cards

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<sup>356</sup> [Emma Curtis response to the Interim Report](#).

<sup>357</sup> [Gardens of Peace response to Interim Report](#).

<sup>358</sup> [Market Study consumer research](#), paragraph 4.1.5.

<sup>359</sup> SunLife (2020). [Cost of Dying](#), page 40.

<sup>360</sup> SunLife (2017). [Cost of Dying](#), page 15.

(63%), obituary notice (55%), flowers (42%), permanent memorial (30%), live music (29%), biodegradable coffin (6%) and memorial service after funeral (5%).<sup>361</sup>

(c) A report produced for Dignity notes that, 'Funeral directors report more requests to personalise services – this ranges from the type of coffin ... custom designed coffins, how the deceased is taken to the funeral (in their own vehicle, brightly coloured hearses, milk floats and motorbike processions) to requesting mourners to wear particular colours or clothing, decorating coffins and request for particular items to be put in the coffin'.<sup>362</sup>

(d) At a roundtable in Edinburgh, attendees noted there had been a particular shift in the ceremonial aspects of a funeral. Examples given included people holding the ceremonial part of the funeral in a restaurant rather than a church, using a celebrant rather than a priest, and playing pop music instead of hymns.<sup>363</sup>

3.166 With regard to ceremonies being held separately from the committal, Royal London's 2019 National Funeral Cost Index survey notes that the proportion of people having a direct cremation with a separate celebration of life has remained static at 6%.<sup>364</sup>

3.167 One small funeral director ([redacted]) noted that the role of a funeral director is changing into that of an event organiser and said that the skillset required to fill this role is changing. The funeral director also noted that to provide the personalisation that is now desired by customers – such as the creation of PowerPoints and photo album presentations – a funeral director needs to be comfortable with the use of computers. Another funeral director ([redacted]) told us that the time taken to organise a funeral has increased over time, partly because of the paperwork requirements, but also because of personalisation and increased range of choices available. The funeral director noted the need to be able to format photographs from USBs, format fonts for service sheets and personalisation of coffins. The NAFD also stated that increased personalisation could take up more of a funeral director's time on the essential elements of a funeral.<sup>365</sup>

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<sup>361</sup> [Co-op response to remedy options working paper](#), paragraph 4.2.11, referencing YouGov (2017), Funeral Planning.

<sup>362</sup> Dignity (2018). [Time to talk about quality and standards](#), page 16.

<sup>363</sup> [Summary of roundtable discussion held in Edinburgh, 27 June 2019](#), paragraph 10.

<sup>364</sup> Royal London (2019). [Change on the Horizon? The Royal London National Funeral Cost Index Report](#).

<sup>365</sup> [Summary of hearing with the NAFD, 26 June 2019](#), paragraph 6.

3.168 We discuss the implications of increased personalisation on funeral directors' costs at paragraph 7.51.

### ***Family connections and mobility***

3.169 At a roundtable we held in Belfast it was stated that, in rural areas in Northern Ireland, funeral directors may have been in business for many generations, and family connections with that funeral director may have built up generationally, meaning there is effectively no choice exercised. However, it was also stated that familial bonds may no longer be as strong as they were in the past, although it was noted that this may be happening at a slower pace in Northern Ireland than elsewhere in the UK.<sup>366</sup>

3.170 This may be explained by an increase in family members living away from the family home. A 2012 report revealed the fragmented nature of families in the UK, highlighting that for a large number of the over-75s, even their nearest children lived a substantial distance away from them.<sup>367</sup> The report noted that for 10% of older people, their nearest child lives more than an hour's drive away (40 miles plus). This appears to be a continuing trend, with a Large funeral director submitting that the increasing mobility of people means that families are less likely to have a 'regular' funeral director.

3.171 Family members who live at some distance from other relatives may be more likely to use the internet to choose a funeral director. We discuss this further below.

### ***Use of the internet***

3.172 Notwithstanding the above, our Market Investigation consumer survey indicates that customer use of the internet when purchasing an at-need funeral is very low. A very small proportion of all respondents (5%<sup>368</sup>) found out about the funeral director they used by searching online (ie using one or more of a search engine, comparison website and/or online map).

3.173 By way of context, a 2019 statistical release from the ONS<sup>369</sup> reports that 87% of GB adults age 16+ use the internet daily. This represented a 32 percentage point increase over the previous decade.

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<sup>366</sup> [Summary of roundtable discussion held in Belfast on 5 September 2019](#).

<sup>367</sup> WRVS, 2012, [Loneliness amongst older people and the impact of family connections](#).

<sup>368</sup> 5% of respondents to the Market Investigation consumer survey made an internet/online search using a search engine/browser, and 1% used a PCW, to find out about the funeral director they used.

<sup>369</sup> Source: Office for National Statistics, [Internet access – households and individuals, Great Britain: 2019](#).

- 3.174 Some parties submitted that customer use of the internet in finding a funeral director is higher than our survey results suggest. Noting that almost all of the consumer research evidence submitted by parties to the case was conducted online with a panel sample,<sup>370</sup> most third-party consumer research results appear broadly consistent with the CMA's finding that use of the internet by consumers in this market is low. We consider this evidence further in Appendix C.
- 3.175 Some research suggests that a higher proportion of customers may go online to find contact details:
- (a) A survey [redacted] for a Large funeral director ([redacted]) found that 11% of funeral arrangers (ie funeral customers) had found contact details for the funeral director by searching on the internet;<sup>371</sup> and
  - (b) a Large funeral director's ([redacted]) internal document indicated that [redacted]% of its customers searched online for contact details.
- 3.176 However, we infer that only a small proportion of customers find price information on funeral director websites:
- (a) Two-thirds (68%) of all Market Investigation consumer survey respondents<sup>372</sup> said they had some idea about the cost of the funeral prior to the arrangement meeting. Of these, only 5% got this information from the website of the funeral director that they used (and 2% from another funeral director's website).<sup>373</sup>
  - (b) A Large funeral director ([redacted]) stated that only [redacted]% of visitors to its at-need webpages visit its online pricing tool.<sup>374</sup>
- 3.177 Similarly, only a small proportion of customers go online to make comparisons between funeral directors. The Market Study consumer research identified just a handful of participants who had compared funeral directors by looking at

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<sup>370</sup> Typically, we consider that online surveys with members of pre-recruited respondent panels, where sample recruitment does not rely on randomisation, may be subject to bias and may not be sufficiently robust. As such, we place limited weight on this type of evidence but note that its findings align with other evidence we have considered in the course of our investigation.

<sup>371</sup> CMA analysis of the Large funeral director's ([redacted]) dataset: 32% of n=1,121 (all who looked at/got contact details for 2+ funeral directors) rebased for all respondents (n=3,151).

<sup>372</sup> [Market Investigation consumer survey](#), Tables 160-162, Question FD27. Base: all UK adults 18+ involved in making at-need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279).

<sup>373</sup> [Market Investigation consumer survey](#), Tables 163-165, Question FD28. Base: all with an idea of the funeral cost prior to the arrangement meeting (n=182).

<sup>374</sup> [Summary of hearing with Co-operative Group Limited held on Tuesday, 16 July 2019](#).

funeral director websites.<sup>375, 376</sup> We consider that this can also be inferred from third-party evidence:

- (a) Only [%] of visitors to a Large funeral director's ([%]) website next visited the website of a competitor or a website comparing funeral options;<sup>377</sup>
- (b) a Large funeral director ([%]) found that, when respondents had received multiple quotes, only a minority got the quotes from websites and/or via email.<sup>378</sup>

3.178 Many of the funeral directors we visited during the investigation also believed customers used their websites to find contact details for their local funeral director rather than as a tool for making comparisons between different providers.<sup>379</sup>

3.179 Consistent with the above, we saw evidence that some funeral directors had considered the impact of publishing more pricing information on their websites and concluded that it had (or would have) little or no impact on their funeral volumes:

- (a) A Co-op internal document stated that it expected there to be no impact on its funeral volumes from including information on its at-need prices online. The document stated that this was because price is not the main driver of choice for most people and the prices are already available by phone or in-branch. It also noted that low volumes of customers accessed the price information online.
- (b) Dignity assessed that publishing its full-service funeral prices online did not 'materially' impact the volume of call enquiries received by its branches. It noted a possible 'small negative effect' on branch call volumes that listed [%] and a 'small positive effect' on branch volumes when a branch listed [%].<sup>380</sup>

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<sup>375</sup> [Market Study consumer research, paragraphs 4.3.9.](#)

<sup>376</sup> Some respondents reported difficulties comparing prices online in terms of information being limited, unclear (eg 'prices from £x') and not itemised. [Market Study consumer research, paragraphs 4.3.11.](#)

<sup>377</sup> The Large funeral director ([%]) stated that this will understate the extent of shopping around since, for instance, it does not include Google and it does not account for any website that was visited before the Large funeral director's ([%]) website.

<sup>378</sup> CMA analysis of the Large funeral director's ([%]) dataset. Between Q3 2017 and Q4 2019, 29% (n=913) of all respondents (n=3,151) got two or more quotes from funeral directors. Of those who did so, an average of 3% per wave got the quotes from websites and 5% by email (whereas an average of 63% per wave got them face-to-face and 21% by telephone).

<sup>379</sup> [Aggregated summary of interviews with independent funeral directors](#), paragraph 19.

<sup>380</sup> Dignity assessed this by comparing, for a sub-set of their branches, the average conversion rate of branch website views to subsequent telephone enquiries (i) before and after the branch pricing information was

3.180 Co-op internal documents, dated 2019, indicate that online has become relatively more important,<sup>381</sup> and is expected to increase in importance in future, albeit not rapidly.<sup>382</sup> Co-op submitted to us that our ‘consideration of funeral directors’ websites and the manner in which they have been used is a broadly accurate (backwards looking) snapshot; however, it does not take account of the increasing use of the internet by consumers, [REDACTED]. Co-op also noted that it believed online consumer engagement will increase naturally over time: ‘customers arranging funerals will increasingly be consumers in the demographics more used to researching online’.<sup>383</sup>

3.181 Dignity also submitted that, based on Dignity website visits from the beginning of 2018, consumers are increasingly searching for information on funeral directors and crematoria online and comparing options. We note that there has been an increase in the number of visits to Dignity’s national and local funeral director branch pages although much of the total increase can also be attributed to increases in online funeral notices, as indicated in Figure 9 which shows the different website areas accessed by customers.<sup>384</sup>

**Figure 9: Dignity website visits (2018-2020)**

[REDACTED]

Source: Dignity’s final submission before the CMA’s PDR.

3.182 Looking at the evidence in the round we find that:

- (a) Use of the internet by consumers in this market is low in comparison with other markets.
- (b) Currently, few consumers use the internet to compare funeral directors or get information on at-need funeral prices. Using the internet to find more generic information (for example, an initial search to find local funeral director businesses and contact details) is more common.

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published online; and (ii) comparing the change in the conversion rate between groups of branches that published different prices, or did not publish a price.

<sup>381</sup> A Co-op internal document states that there has been a [REDACTED]% increase in visits to funeral category websites over a 12-month period.

<sup>382</sup> For example, Co-op’s [REDACTED] research found that:

1. In the event they needed to organise a funeral in the future, whether the funeral director was online would be the main choice driver for [REDACTED]% of respondents [REDACTED]. By age, this was: [REDACTED]% (70+ year olds); [REDACTED]% (50-69 year olds); [REDACTED]% (35-49 year olds) and [REDACTED]% (18-34 year olds). CMA analysis of the dataset (rebased for all respondents).

2. [REDACTED]% agreed ([REDACTED]% *strongly*) that they would be willing to use an online-only funeral provider. By age, this was: [REDACTED]% (70+ year olds); [REDACTED]% (50-69 year olds); [REDACTED]% (35-49 year olds) and [REDACTED]% (18-34 year olds).

3. Referring to some of the above results, one internal document stated that “full digital adoption is nascent”.

<sup>383</sup> Co-op response to Working Paper on Sales Practices and Transparency, March 2020.

<sup>384</sup> Dignity plc final submission before the CMA’s PDR.

- (c) However, there is evidence that use of the internet in this market is growing and will become more prevalent, especially as younger consumers (who have an existing propensity to transact online compared with their older peers) mature.

### ***The implications of COVID-19***

- 3.183 Restrictions imposed as a result of COVID-19 have driven changes in consumer behaviour. SAIF observed that, ‘typical choices discarded by the consumer have been viewing the deceased, use of limousines, “unnecessary” expenditure on premium options such as coffins and reduced mourner numbers’.<sup>385</sup> Similarly, the NAFD noted that more people are purchasing simpler funerals (which we discuss further at paragraphs 5.116 to 5.118), for example, with no or very scaled-down services, no wakes, no viewings at the funeral home and fewer added extras such as limousines. The NAFD also noted that there had been a move towards the remote arrangement of funerals.<sup>386</sup>
- 3.184 Three in five people surveyed by Royal London (61%) said they had scaled back the desired funeral for their loved one.<sup>387</sup> When asked what type of funeral was arranged, more than half (53%) had organised a funeral with ‘essential items only (such as a coffin, a hearse and a funeral service)’<sup>388</sup>, and three-quarters (76%) had to reduce the number of mourners who could attend.<sup>389</sup> Overall, around two in three respondents had future plans for a gathering (a wake, celebration of life or religious service) when lockdown eases and, of these, around two-thirds said this was to allow people who had been unable to travel to attend the funeral (67%), while a similar proportion (65%) wanted to give their loved ones ‘a proper send-off’.<sup>390</sup>
- 3.185 We heard that the pandemic will drive longer lasting changes in consumer behaviour:
- (a) The NAFD said that the move to the remote arrangement of funerals may bring about longer-term changes in consumer and firm behaviour. Some firms had reported to it that families now have more time to make

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<sup>385</sup> SAIF, [Should the CMA consider the impact of Covid-19 on the funeral services market](#), 19 June 2020.

<sup>386</sup> [Impact of COVID-19 on the funeral director market – implications for the CMA investigation. A report for the NAFD by Europe Economics](#), June 2020.

<sup>387</sup> Royal London (2020). [The Impact of Covid-19 on Funerals. The Royal London National Funeral Cost Index Report](#), page 8. On behalf of Royal London, YouGov surveyed 501 adults who arranged a funeral since March 2020. Fieldwork was undertaken between 28th August and 7th September 2020.

<sup>388</sup> *Ibid.*, page 9.

<sup>389</sup> *Ibid.*, page 8.

<sup>390</sup> *Ibid.*, page 6, page 9.



decisions about the details of the funeral, for example, where information booklets are sent ahead of the conversations with the funeral director, noting that families are able to look through all the options at their own speed, sometimes choosing more elaborate options. It suggested that the provision of more, informed, decision-making time may increase the ability of consumers to make good choices about the funerals they want.<sup>391</sup>

- (b) The NAFD also said that the move towards remote arrangements may well continue beyond the pandemic, with the media and firm advertising raising the profile of online/telephone arrangements, combined with the general trend towards online consumption across the economy. The NAFD noted that this may enable and encourage consumers to compare funeral directors online, and in turn may incentivise the industry to increase their online presence, including the provision of more information.<sup>392</sup>
- (c) Dignity indicated that it expects to see an increasing number of customers looking for funeral services online, enabling quicker and easier comparison between providers.<sup>393</sup> It noted that websites that are available, including Dignity's, have become 'go-to' places for clients to access the sort of information they need to make informed choices about funerals.
- (d) Dignity also said that it expects an increased recognition that different aspects of a traditional funeral can be split, by holding a memorial service or celebration of the deceased's life (with a wider range of location options) at a later date, sometime after the cremation or burial of the deceased.<sup>394</sup> It noted that some of the changes it introduced during COVID-19 may become options that customers seek out afterwards – for example, its Funeral Now Service Later options.
- (e) Co-op said that the long-term effect of the pandemic is uncertain but noted that it 'fully expect[s] that the changes we are observing in the market will be permanent. For example, a take-up of low-cost funerals could remain due to consumers' greater awareness about these options. We expect a shift from face-to-face contact to use of telephone and online, providing consumers with greater opportunity to compare funeral packages and providers.'<sup>395</sup> Co-op also said that 'the pandemic has started to open the discussion around the taboo of death, noting that more

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<sup>391</sup> Ibid.

<sup>392</sup> Ibid.

<sup>393</sup> [Dignity final submission before the PDR, 19 June 2010, paragraph 3.4\(i\).](#)

<sup>394</sup> Ibid, paragraph 3.4(iii).

<sup>395</sup> [Co-op's response to the PDR, paragraph 6.33.](#)



people will be able to comfortably start to discuss their deaths and plan for it.'

- (f) Funeral Partners stated that it believes 'that the funerals industry will continue to evolve and innovate during and after COVID-19, as it did prior to COVID-19. Trends which are already in play (such as the increasing importance of the digital channel, as well as innovation in relation to products/services such as 'direct cremation') will continue and may simply accelerate.'<sup>396</sup>
- (g) Westerleigh noted that changes in market structure due to the greater availability of lower cost cremation services are accelerating, including as a result of the COVID-19 pandemic.<sup>397</sup> Westerleigh stated that 'with increased awareness among customers of available options, the rise in low cost funerals is expected to continue even after the effects of COVID-19 have subsided.'<sup>398</sup> Westerleigh highlighted the 'decoupling' of the funeral or memorial service from the cremation itself, noting that 'certain providers now focus only on specific aspects of a traditional funeral service, allowing customers to choose options that suit their preferences and budgets, while funeral directors having [sic] begun offering attended services at standard chapels or in their funeral homes, alongside a direct cremation.'<sup>399</sup>

3.186 However, the uncertainties about how consumer behaviour will change in the longer term were highlighted by Freeman Brothers who told us:

'Many people have had their thoughts about smaller or simpler funerals challenged, and this may significantly alter their future plans ... there could be increased demand for direct cremations, increasing the popularity of these more quickly than would otherwise be expected ... Of course, the opposite could also be true, and people who felt obliged to arrange simple funerals for their partner or parent may have found them lacking, and make grander plans for when their own time comes.'<sup>400</sup>

3.187 The Association of Private Crematoria and Cemeteries also stated that 'it really is not possible to assess what impact COVID-19 will have on the

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<sup>396</sup> Funeral Partners' response to the PDR.

<sup>397</sup> Westerleigh's response to the PDR, paragraph 39.

<sup>398</sup> Ibid., paragraph 43.

<sup>399</sup> Ibid., paragraph 44.

<sup>400</sup> Freeman Brothers' final submission before the PDR, 18 June 2010.

bereaved's preferences in respect of the type of funeral they choose once the pandemic has abated.<sup>401</sup>

- 3.188 It remains to be seen whether (and to what extent) the pandemic will have a fundamental effect on future consumer behaviour, when recent changes may reflect the severely limited, temporary 'choices' imposed by government restrictions rather than a genuine shift in the choices that consumers would make freely in conventional circumstances.

## **Conclusions on how people choose a funeral**

- 3.189 The circumstances in which a funeral is arranged are usually extremely challenging and affect the process of choosing a funeral director and crematorium. There is little advance planning, meaning purchase decisions generally have to be made in a very short time frame. Individually, contextual factors such as the relationship with the deceased; conflicting priorities and demands on time such as how the rent/mortgage and household bills will be paid; inexperience of arranging funerals; and social pressures further impact decision-making, and consumers are likely to be affected by multiple factors in parallel.
- 3.190 For many, clear and rational judgments can be very difficult to make in the few days after the death of a loved one. Some people may be particularly negatively affected and emotionally vulnerable, for example, where the death is sudden, where it involves a child or where the person making the arrangements has been particularly physically or emotionally reliant on the deceased. Even those people who are not negatively impacted by bereavement and grief are still likely to be affected by contextual factors such as time pressures and inexperience.
- 3.191 Generally, people do not obtain information to compare the offers of different suppliers for themselves, instead relying on short-cuts to make decisions, such as recommendations or previous experience. This is not a failure on the part of funeral customers – rather, a natural response in the circumstances. People thus commit to a significant financial outlay without a careful assessment of alternative options. Social pressures to 'do the right thing' and having to make decisions 'on behalf of the deceased' may make people err towards more expensive options (as proxy for respect and love).
- 3.192 People often simply go to a funeral director that is in very close proximity to the home of the deceased, and the basis on which the choice is made is

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<sup>401</sup> [The Association of Private Crematoria and Cemeteries response to the PDR](#), section 8.

narrow – familiarity/recommendation and the perception that the funeral director will look after you are the main considerations. Price is not an important factor in many customers' choices – with some people relying on ballpark estimates to guide their decisions – and they do not generally seek price information from suppliers for comparable funerals. Moreover, customers do not assess quality differentials between suppliers (but rather rely on recommendations as a proxy for quality). When it comes to the quality of funeral directors' mortuaries, customers assume that funeral directors have to meet certain industry standards.

- 3.193 Similarly, even though the largest disbursement for funerals involving a cremation is the cremation fee, there is very limited awareness, or exercise, of choice, with the crematorium taken as a given because location and family connections are the overriding drivers of choice.
- 3.194 Having made the decision, under pressure and at speed, of which funeral director to contact about collecting the body of the deceased, people will not often consider switching once the body has been moved into the care of the funeral director.
- 3.195 Once the customer has entered the premises of the funeral director, they do not generally shop around. They are then generally committed emotionally and mentally to that funeral director. They commit formally to the purchase during the arrangement meeting, sometimes without having any idea about how much it is going to cost them, and there is limited (or no) negotiation over prices.<sup>402</sup> People place their trust in the funeral director, wishing to hand over control, so as to avoid making decisions themselves.
- 3.196 We therefore conclude, based on our research, that people who organise a funeral do not generally exercise some of the most basic commercial judgments that customers typically display in other high-cost consumer purchases. We find that the funerals sector is characterised by market-specific vulnerability: the psychological effects of grief and bereavement, and a variety of contextual factors, including time pressures, conflicting priorities, inexperience and social pressure – individually, and particularly in combination – make it very challenging for consumers to engage in the market and make informed choices, even where tools (such as the internet) are available to assist such choices.

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<sup>402</sup> We discuss in Section 5 how this can also mean the funeral director plays a key role in shaping what services the customer receives.

## 4. Markets and their structures

- 4.1 As explained in the CMA's market investigation guidelines, any assessment of the working of competition usually begins with an overview of the market structure and the possible implications of this structure for the conduct of the firms within the market.<sup>403</sup> In particular, the calculation of market concentration measures can provide background data for the assessment of the levels of firms' market power.<sup>404</sup>
- 4.2 We start this Section with a consideration of the scope of the relevant markets, before setting out the analysis we have carried out to assess the level of concentration within these markets.

### Market definition

- 4.3 The CMA's market investigation guidelines state that defining the market helps the CMA to focus on the sources of any market power and provides a framework for the assessment of the effects on competition of features of a market.<sup>405</sup>
- 4.4 The guidelines also state that market definition is a useful tool, but not an end in itself, and that identifying the relevant market involves an element of judgement. The boundaries of the market do not determine the outcome of our competitive assessment of a market in any mechanistic way. The competitive assessment (discussed in Sections 5 and 6 of this report) takes into account any relevant constraints from outside the market, segmentation within it, or other ways in which some constraints are more important than others.<sup>406</sup>
- 4.5 In the following paragraphs, we first summarise our consideration of product market definition for funeral director services at the point of need and crematoria services, before turning to geographic market definition for both types of services. This will usually be determined by looking at the degree of demand-side substitution and, where relevant, supply-side factors (including supply-side substitution and the similarity of the competitor set and conditions of competition).<sup>407</sup> More detail is provided in Appendix E.

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<sup>403</sup> CC3 (Revised), paragraph 99.

<sup>404</sup> CC3 (Revised), paragraph 101.

<sup>405</sup> CC3 (Revised), paragraph 132.

<sup>406</sup> CC3 (Revised), paragraph 133.

<sup>407</sup> CC3 (Revised), paragraphs 134 and 137; CC2 (revised). paragraph 5.2.17.

## **Product market definition**

- 4.6 The product market refers to the pool of products considered to be substitutes for the relevant product(s).
- 4.7 Our starting point is the set of products and services identified in the market investigation terms of reference,<sup>408</sup> ie the supply of services by funeral directors at the point of need; and the supply of crematoria services. In considering the substitutability of goods or services set out in the terms of reference, the CMA may conclude that the relevant product market goes wider than those goods or services.<sup>409</sup>

### *Services provided by funeral directors*

- 4.8 The supply of services by funeral directors at the point of need is described as follows in the terms of reference (see paragraph 1.15):

*services provided by a funeral director in connection with the arrangements for a funeral, and including, but without limitation:*

- *guidance and support to the family and/or persons arranging the funeral;*
- *collection, storage and care of the deceased;*
- *organisation and services carried out on the day of the funeral;*
- *the supply of goods and services to facilitate the arrangements, including, for example, the coffin, hearse and limousine(s);*
- *intermediary services between the customer and third parties, such as the crematorium or burial site, a doctor or medical practitioner, a minister or celebrant;*
- *discretionary services that are provided by the funeral director directly or as an intermediary between the customer and third parties, such as memorials, death notices, venue hire and catering, flowers, Order of Service etc.;*
- *the provision of services by funeral directors in connection with the redemption of a pre-paid funeral plan,*

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<sup>408</sup> [Terms of reference.](#)

<sup>409</sup> [CC3 \(Revised\)](#), paragraph 131.

*but excluding:*

- *the provision of pre-paid funeral plans.*

4.9 In defining the relevant product market, we have considered:

- (a) Whether pre-paid funerals should be part of the same product market as at-need funerals;
- (b) whether funeral director services at the point of need should be segmented into separate, narrower markets, eg by type of funeral; and
- (c) the extent to which discretionary services (eg the provision of flowers), are in the same product market as the core funeral director services (which comprises eg the provision of mortuary services and the organisation of the funeral), or whether these discretionary services are separate product markets.

#### *Pre-paid funerals*

4.10 The terms of reference exclude the provision of pre-paid funeral plans from the market investigation. As further explained in Appendix E paragraphs 3 to 7, there are two reasons why we consider the market for at-need funerals should not be expanded to include the provision of funerals against these plans:

- (a) On the demand side, the purchase of a pre-paid funeral is largely determined by the plan holder in different circumstances and likely based on different considerations from those of at-need funeral customers arranging a funeral; at the point of need, purchasers of funerals do not have the option of purchasing a pre-paid funeral. Purchasers of pre-paid funerals and purchasers of funerals at the point of need therefore belong to different customer groups;
- (b) The competitive processes involved in the provision of at-need funerals and the provision of pre-paid funerals are different, with the latter involving the funeral director either contracting with the plan customer ahead of the point of need, or contracting with a plan provider to deliver the funeral at the point of redemption, where competition to serve the customer appears more akin to competition for a largely pre-defined contract.<sup>410</sup>

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<sup>410</sup> According to the Market Investigation consumer survey, for 46 out of 84 respondents who activated a pre-paid plan since J/A/S/O 2017, the plan already named the provider. Only 11 out of the 84 respondents said, 'the plan

- 4.11 While over the last 15 years there has been an increase in the proportion of pre-paid funerals relative to at-need funerals in the overall funeral mix (although this has stabilised more recently) and there is some interaction between pre-paid and at-need funeral prices, for the reasons set out above and based on the evidence on price interaction set out in Appendix F and Section 5, we consider that the competitive constraints of pre-paid funerals on at-need funerals are limited and, as such, they do not fall within the same market. However, since the services provided by funeral directors at the point of need are likely to be largely the same irrespective of whether that service was paid for under a pre-paid plan or at the time of need, aspects of the competitive assessment set out in Section 5 are relevant to both.

*Different types of at-need funerals*

- 4.12 We have considered whether, and to what extent, different types of funeral service (ie standard funerals, simple funerals and unattended services) are substitutes for one another.
- 4.13 Our view is that standard and simple funerals are in the same product market. Based on the evidence we have seen, while there appear to be some limits on the degree of demand-side substitution between standard and simple funerals, on the basis of supply-side considerations (ie similarity of competitor set and conditions of competition as well as supply-side substitution) we consider that simple and standard funerals should be part of the same market.
- 4.14 We have also considered whether unattended services are in the same product market as attended funerals and note the following:
- (a) On the demand side, unattended services are unlikely to be substitutes for attended funerals given customer preferences; and
  - (b) on the supply side, although some additional investment may be required by those providers who focus on unattended services, funeral directors could generally switch capacity relatively easily between attended funerals and unattended services in response to changes in their relative prices. While we note some funeral directors focus more on unattended

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provider left the choice of funeral director entirely to me/us when I/we activated the plan'. Other responses were, 'the plan provider chose a funeral director when I/we activated the plan' (n=5/84) and 'the plan provider asked me/us to choose a funeral director from the shortlist they supplied when I/we activated the plan' (n=1/84). [Market Investigation consumer survey](#), Tables 277-279, Question PFP3. Base: All 18+/UK who activated a pre-paid funeral plan (PFP) since J/A/S/O 2017 (n=84).

services and some funeral directors do not offer unattended services, the competitor sets and conditions of competition appear largely similar.

- 4.15 We therefore consider that unattended services and attended funerals should be included within the same product market. The same applies to the variants of these services that are emerging.
- 4.16 However, we recognise that funerals are differentiated products<sup>411</sup> and the boundaries between different types of funerals are not clear-cut. In the competitive assessment we assess the extent of the constraints imposed by simple funerals on standard funerals as well as by unattended services on attended funerals. We are aware that there are some specialist providers who only offer unattended services and typically do so online and without a network of funeral home branches (see paragraph 2.101). These are considered as part of our competitive assessment in Section 5.

#### *Additional optional services*

- 4.17 In addition to professional services, such as care of the deceased, funeral directors provide a number of products and services that customers, if they wished, could purchase separately from another source, such as the coffin, and additional optional services such as flowers, memorials, death notices etc.
- 4.18 The propensity for customers to buy such products and/or services from the same supplier appears to vary depending on the product/service involved.
- 4.19 Our view is that these items are within the relevant market where they are provided by the funeral director, as this would be part of the service the funeral director offers to the customer in organising logistical arrangements on their behalf. Where customers choose to purchase additional services directly from a third-party provider, these would fall outside of the relevant market.

#### *Conclusion*

- 4.20 We conclude that the relevant product market for the purpose of the competitive assessment (Section 5) is the provision of all types of funeral director services at the point of need.

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<sup>411</sup> For example, due to different approaches in whether funeral directors offer packages or more bespoke approaches, the way such packages are formulated, and the degree of personalisation requested by customers.



## *Crematoria services*

4.21 Crematoria services are defined as follows in the terms of reference:

*the services provided by a crematorium in connection with the cremation of the deceased, including the provision of a chapel or specific place for attended cremations, the committal and the associated sales of additional products and services, such as memorials, audio-visual support and hospitality.*

4.22 In defining the relevant product market, we have considered:

- (a) Whether burial services, the other major type of funeral, are part of the same product market as crematoria services;
- (b) whether crematoria services should be segmented into separate, narrower markets for different types of services (for example, reduced fee services and standard fee services); and
- (c) whether additional optional services should be in the same product market as the main cremation service.

## *Burial and crematoria services*

4.23 Our current view is that burial services are not in the same product market as crematoria services for the following reasons.

4.24 First, there appears to be little, if any, demand-side substitution:

- (a) Customers may not choose between burials and cremations at the point of purchase given that the deceased may make their wishes explicitly or implicitly known in advance (this may be due to faith or tradition);<sup>412</sup> and
- (b) there are large price differentials between burials and cremations (see Figure 6), which makes it unlikely that customers would switch from cremation to burial in the event of a small but significant price rise in cremation fees.<sup>413</sup>

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<sup>412</sup> We note in paragraph 3.26 that 58% of funeral arrangers knew whether their loved one wanted a burial or cremation. The Market Study consumer research found that when a burial was chosen, the deceased had typically made this known and chosen the burial ground themselves ([Market Study consumer research](#), paragraph 4.2.10).

<sup>413</sup> We note that the cremation rate has gradually increased (from 71% in 2000 to 78% in 2018 – see [Cremation Society, Cremation Statistics 2018](#)). As such, a lower proportion of the deceased are buried. In considering the constraints on crematoria, we have focussed on the extent to which customers would switch from cremation to burial in response to a small but significant increase in price (as opposed to whether customers would switch from burial to cremation).

- 4.25 Second, supply-side substitution from burial to crematoria services is also unlikely to exist as, in the event of an increase in the price of a cremation, burial providers would not be able to easily switch from providing burials to cremations given the significant cost and time required to for a provider of burials to start or expand cremation capacity.

*Different types of cremation service*

- 4.26 In paragraph 2.9 we have identified three major types of cremation: standard fee services, reduced fee services and unattended services. Standard fee services are those services charged at the full fee, normally during peak hours. Reduced fee services are attended services held in off-peak hours (ie services typically held at 9am or 9.30am). Unattended services are cremations without a service (also referred to as direct cremations). We have considered:

- (a) Whether standard fee services are in the same product market as reduced fee services and weekend services; and
- (b) whether attended and unattended services constitute separate product markets (we also note that other types of service are available, such as direct cremations that can be attended but with restrictions on aspects of the cremation service such as the numbers of mourners, service lengths, and/or service locations).

- *Standard, reduced fee and weekend services*

- 4.27 On the demand side, given the significantly lower fees charged for reduced fee services (further details in Section 7) and the fact that the service involves an off-peak time slot, it is unlikely that a large proportion of customers would switch between a standard fee service and a reduced fee service in response to a small change in their relative prices. Customers have a preference for booking slots in the middle of the day such that the cremation service is held at a time convenient to mourners.<sup>414</sup> Customers may choose weekend services for similar reasons of convenience, and weekend services are typically more expensive than standard fee services. As such, it is unlikely

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<sup>414</sup> Memoria notes that “increasingly... customers want the cremations to take place in the middle of the day during the week”. ([Memoria response to the Issues Statement](#), page 2- 3) Dignity notes that “customers often prefer slots...at certain times of day, regardless of lower cost options being available at alternate times on the same day” ([Dignity response to the Issues Statement](#), page 8, paragraph 3.12 (i)). The Planning Inspectorate noted: “the fact that ... crematorium, for example, has plenty of availability in the summer months, or at 1630 hours on a winter’s afternoon is of little comfort or use to those needing to book a funeral at the busiest time of the year at a time of day that would actually allow friends and family to attend” (Appeal Decision, Land east of Derby Road, Swanwick, Derbyshire, paragraph 31).

that a large proportion of customers would switch between a weekend service and a standard fee service in response to a small change in their relative prices. Our provisional view is therefore that there is likely to be limited demand-side substitution between these three types of services.

- 4.28 However, most crematorium operators provide the three types of cremation service,<sup>415</sup> and, as such, conditions of competition are likely to be broadly similar across these services. In addition, within the limits of slots existing for each service type (given the specific time of the day/week of each), it is relatively easy for suppliers to switch between the provision of different types of cremation service given that no additional investments are required and suppliers can easily utilise the same facilities and move staff between the three types of service<sup>416</sup> (the main constraint is whether capacity is available such that suppliers could accommodate customers' demand for each type of service).<sup>417</sup>
- 4.29 We therefore consider that the three types of services should be included in the same product market on the basis of supply-side considerations, namely that the conditions of competition across each type of service are similar and suppliers can relatively easily switch between providing the different types of service. We will consider the constraint from reduced fee services on standard fee services in our competitive assessment, but, in any event, we note that reduced fee services account for a low proportion of crematorium operators' revenue.

- *Unattended services*

- 4.30 On the demand side, we do not consider that attended and unattended services are likely to be close substitutes for many customers and, as such, there appears to be little demand-side substitution between them.<sup>418</sup> This is because:

- (a) Attended and unattended services have different characteristics (in particular, unattended services do not have services, and this is likely to be important to many families/mourners); and

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<sup>415</sup> We estimate that nearly 70% of crematoria offer a form of reduced fee service (based on 249 observations) and 66% of crematoria offer weekend services (based on 290 observations).

<sup>416</sup> Many crematoria have told us they have recently started offering reduced fee services in addition to offering standard fee services.

<sup>417</sup> We note in paragraph 4.91 that capacity constraints do not appear to be widespread.

<sup>418</sup> Any behavioural changes seen in the current COVID-19 pandemic (in particular, any higher uptake of unattended services) do not alter our current view, as the increase in the number of unattended services is not a customer response to a change in relative prices or quality, but a change in behaviour likely driven by temporary restrictions on the holding of attended services.

(b) there is a large price differential between these types of service (see Section 7) which indicates it is unlikely that many customers would switch between unattended and attended services in response to a small change in their relative prices.

4.31 On the supply side, however, most crematorium operators offer both attended and unattended services. Given that broadly the same suppliers are present in the supply of attended and unattended services, and, as noted above, it is relatively easy to switch between providing different types of cremation given that suppliers do not have to make additional investments in order to provide a different type of service, we consider there to be a single product market for the supply of attended and unattended services. We will consider the constraint from unattended services on attended services in our competitive assessment, but, in any event, we note that unattended services account for a very low proportion of crematorium operators' revenues.<sup>419</sup>

#### *Additional optional services*

4.32 In addition to the main service offered by a crematorium (chapel time and actual cremation of the deceased), crematorium operators also offer additional optional services (such as the use of an organist or bearers when an additional charge is levied) in the same product market.

4.33 In this case, given that customers generally buy the main service and add-on services from the same supplier together, and we understand that there are no third-party suppliers of such add-on services, we consider them to be in the same market.

#### *Conclusion*

4.34 We conclude that the relevant product market for the purpose of the competitive assessment (Section 6) is the provision of all types of crematoria services, including additional optional services.

#### ***Geographic market definition***

4.35 The geographic market is the area covering a set of suppliers which compete closely because enough customers consider them to be substitutes.<sup>420</sup>

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<sup>419</sup> Crematorium operators derive a low proportion of their income from unattended services compared with attended services (around 1% of their total revenues). Based on 2018 data from the four largest crematorium operators (see Figure 4).

<sup>420</sup> CC3 (Revised), paragraph 145.

- 4.36 As set out below, given customers' preferences for funeral directors or crematoria that are in close proximity to them, the geographic markets for funeral director services and crematoria services are local. The precise delineation of a given local geographic market is shaped by a variety of local factors. For the purpose of collectively analysing a very large number of local markets, we consider it appropriate to define geographic markets in the provision of funeral director services and crematoria services respectively based on an average scope, drawn from a range of evidence as to how far customers are typically willing to travel for these services which holds across all local markets. For crematoria, when carrying out concentration analyses we have, however, considered sensitivities around the average geographic market scope (and, similarly, around the average catchment area), and in the competitive assessment we have considered the existence and strength of competitive constraints within and outside the market where relevant (for example, in the analysis of the number and location of rivals in crematoria catchment areas in Section 6).

#### *Funeral directors*

- 4.37 Customers generally arrange a funeral to take place close to where the deceased lived and make decisions, such as which funeral director to choose, within a local area (as discussed in Section 3). As set out in further detail in Appendix E, various sources of evidence indicate that most customers travel for up to 20 minutes to a funeral director, although it also appears that a significant proportion do not travel for as long as this. The Market Investigation consumer survey found that two-thirds of customers (65%) said the deceased lived within 15 minutes' drive time of the premises of the funeral director they used, and four-fifths of customers (80%) told us that the deceased had lived within a 20-minute drive time of the premises of the funeral director they used.<sup>421</sup> This is consistent with evidence gathered from funeral directors during both the Market Study and Market Investigation (although some of this evidence also indicates customers travel less than this).
- 4.38 We have considered whether the geographic market for unattended services may be wider, given the restrictions that apply to this type of offering and the effect of this on the need for the customer to interact with the funeral director in person (eg no viewings or attendance at a service, limited

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<sup>421</sup> [Market Investigation consumer survey](#), Tables 103-105, QFD3a+FD9a+FD15a (SUMMARY). Base: all UK adults 18+ involved in making at-need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279).

arrangements).<sup>422</sup> However, the evidence does not suggest there is a material difference. While the number of respondents to the Market Investigation consumer survey who arranged a direct cremation funeral was very small, most used a local funeral director (ie within a 20-minute drive time).<sup>423</sup> There may also be logistical challenges for a funeral director in transporting the deceased over long distances (either collecting from the place of death or taking to the crematorium), particularly where the funeral director does not have a wide network of branches.

- 4.39 To the extent that some competitive actions are taken across a wider area (for example, where Dignity and Co-op monitor or respond to competitive changes on a national level) we take this into account in the competitive assessment in Section 5.

### *Conclusion*

- 4.40 We conclude that the geographic markets for funeral director services at point of need are local. As noted in paragraph 4.36, the precise scope of each local market is likely to vary depending on local factors. The evidence set out above suggests local markets are generally in the range of 15 to 20 minutes' drive time from the funeral director location, although they can be narrower. For the purpose of the concentration analysis, we use the narrower delineation of 15-minute drive time from the funeral director branch.

### *Crematoria*

- 4.41 Customers generally use a crematorium local to where the deceased lived and make decisions over a local 'home area', as described in paragraph 3.114.
- 4.42 The following sources of evidence indicate that customers are generally willing to or do travel up to approximately 30 minutes to use a crematorium<sup>424</sup> (a full description of the evidence is included in Appendix E):
- (a) Internal documents and commentary from private crematorium operators;

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<sup>422</sup> We also note that some providers set prices for unattended cremations on a national basis.

<sup>423</sup> CMA analysis of consumer survey dataset. Indicative finding; very small base size (n=14).

<sup>424</sup> This evidence generally relates to the drive time from the address of the deceased to the crematorium but in some instances relates to the drive time from the funeral director branch used to the crematorium (in particular the evidence at 4.42(f)) or the drive time from one crematorium to another (in particular the evidence at 4.42(e)).

- (b) planning applications and appeals for new crematoria, in which a 30-minute drive time is recognised as an industry standard for travel time to a crematorium;
- (c) survey evidence from Westerleigh, which suggests customers would experience distress from having to travel over 30 minutes to a crematorium;
- (d) the Market Investigation consumer survey, which suggests that four-fifths of customers travelled up to 30 minutes to use a crematorium;
- (e) entry analysis which indicates that crematoria who experience entry lose limited volumes when the entrant is over 30 minutes away; and
- (f) catchment area analysis which indicates that, on average, the majority of a crematorium's customers travel around 30 minutes to the crematorium.

4.43 We considered whether our analysis of local concentration should be based on normal driving speeds, or the slower speeds taken by a funeral cortege (accepted as 60% of normal driving speeds). The evidence above refers to 30-minute drive time based on cortege speeds, with the exception of the Market Investigation consumer survey where the survey question did not specify whether respondents should answer in terms of normal or cortege speeds. Given the widespread use of funeral corteges, and the use of cortege drive times by crematorium operators in their internal documents and planning applications, we consider this to be an appropriate measure when considering local concentration (further detail on the use of cortege speeds is included in Appendix E).

4.44 We received representations that some of the evidence indicates that the geographic market is wider than a 30-minute cortege drive time (full details of representations made are included in Appendix E). In particular:

- (a) Westerleigh conducted a survey of its customers which reported that [80-90%] of those surveyed travelled up to 50 minutes at cortege speeds to the crematorium they used. Westerleigh's survey also found that, on average, the deceased lived [X] minutes (at cortege speeds) from the crematorium; and
- (b) Westerleigh and Memoria argued that our entry analysis (described in Appendix M) shows that incumbent crematoria are affected by entry and

lose volumes, even when an entrant opens over 30 minutes (at cortege speeds) from them.<sup>425</sup>

- 4.45 In relation to point (a) above, we note that, based on Westerleigh's own data, Westerleigh's average catchment area (which measures how far its customers actually travelled) is [X] minutes at cortege speeds when measured from the location of the funeral director (and the average catchment area could potentially be up to [X] at cortege speed if measured from the address of the deceased).<sup>426</sup> There is therefore a slight inconsistency between the shorter distances actually travelled by customers based on Westerleigh's data, and what customers reported in its survey.
- 4.46 In relation to point (b), our entry analysis estimates the effect of entry on incumbent crematoria volumes, and how this varies with the cortege drive time between the incumbent and entrant. Our analysis shows that crematoria experiencing entry from an entrant that is located between 33 minutes and 42 minutes away (at cortege speeds) lose volumes, although the loss of volume is significantly smaller than for those crematoria located closer to an incumbent (see Appendix M). Our analysis also shows that for crematoria experiencing entry from an entrant that is located between 42 and 50 minutes away there is no statistically significant effect on volumes. As such, to the extent that new entrants have an effect on incumbents' volumes, this effect is significantly reduced beyond 33 minutes and is not statistically significant beyond 42 minutes.
- 4.47 In their responses to the PDR, Memoria and Westerleigh submitted that the geographic scope used for our consideration of local concentration and competitive constraints remained too narrow.<sup>427</sup> As explained above, we have considered a range of evidence and looked at this in the round in reaching our conclusion. We have also applied sensitivities in our analysis below, with respect to both drive times and the catchment areas of individual crematoria.<sup>428</sup>

### *Conclusion*

- 4.48 We conclude that the geographic markets for crematoria services are local. As noted in paragraph 4.36, the precise scope of each geographic market is

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<sup>425</sup> Westerleigh, [Westerleigh's response to the CMA's entry analysis](#), paragraph 2a and Memoria's [response to the CMA's working papers published on 30 January 2020](#), page 10.

<sup>426</sup> Westerleigh has argued that catchment areas based on the address of the deceased are [X]% per cent larger than catchment areas based on the location of the funeral director. Adjusting the average Westerleigh catchment area ([X] minutes) to take account of this argument leads to an average Westerleigh catchment area of [X] minutes.

<sup>427</sup> [Memoria's response to the PDR](#), section 3.3.2. [Westerleigh's response to the PDR](#), paragraphs 58-61.

<sup>428</sup> Including both 30-minute and 40-minute drive times, and both 80% and 90% customer catchment areas.



likely to vary depending on local factors. Based on the evidence set out above, for the purpose of our analysis of concentration and the assessment of competitive constraints, we have adopted an average geographic scope of 30 minutes' drive time at cortege speed from the crematorium. However, recognising that some evidence (in particular, survey evidence and the entry analysis) points towards a scope wider than a 30-minute drive time we have also considered a sensitivity of 40 minutes' drive time at cortege speed (given the arguments set out in the preceding paragraphs) in our analysis of concentration and in the assessment of local competitive constraints.

## **Local concentration in the supply of funeral director services at the point of need**

- 4.49 As set out in Section 2, the three Largest funeral directors (by branch numbers) operate around one-third of all funeral director branches across the UK and conducted around 30% of funerals in 2018. This indicates that overall, at national level, concentration is relatively low. We consider below levels of concentration at a more local level.
- 4.50 Our review of evidence from funeral directors and industry professionals indicates that barriers to entry and expansion into the provision of funeral director services are generally low, though the level of costs involved in setting up a funeral director business depends on the business model adopted (see Appendix G for a review of the evidence). In addition, evidence received from incumbent funeral directors indicates that they have faced new entrants in many local areas (see Appendix G). Our view is therefore that barriers to entry for the provision of funeral director services are generally low.
- 4.51 Given the low barriers to entry, we would not expect there to be major and sustained concentration issues within the local markets. We have tested this hypothesis through the analysis that follows.
- 4.52 Using the dataset of funeral directors compiled by GTS (see paragraph 2.72) which was updated in August 2019,<sup>429</sup> we have estimated the level of local concentration in the supply of funeral director services at the point of need, on a 15-minute drive time basis, as set out in paragraph 4.40.<sup>430</sup> While we consider it unlikely that GTS's dataset captures every funeral director company or branch, given the highly fragmented nature of the sector and

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<sup>429</sup> This data set listed 6,168 branches as open, operated by 2,294 companies as of August 2019 (see Appendix G for further details). These figures are in line with previous estimates of the number of funeral director branches in the UK. See paragraph 2.72 for previous estimates.

<sup>430</sup> See Appendix G for further details.

complexity of synthesizing multiple sources of information, we consider this dataset to be the best available source of this kind of data and sufficient to enable us to make an appropriate assessment of local concentration.<sup>431</sup>

4.53 The analysis we have carried out indicates that:

- (a) The vast majority (93%) of funeral director branches are in areas with four or more rival fascia<sup>432</sup> within a 15-minute drive time;
- (b) the funeral director branches in areas with three or fewer rival fascia are disproportionately in rural areas<sup>433</sup> compared with the total funeral director branch population in the dataset;<sup>434</sup> and
- (c) for those funeral director branches with three rival fascia within 15 minutes, 74% of the funeral director branches have a nearest rival fascia within 5 minutes (increasing to 86% within 10 minutes).

4.54 We acknowledge that the fascia count measure we have used in the concentration analysis attaches equal weight to each competitor, even though there may be customer groups for whom the effective choice of funeral directors is more limited than this may indicate (for example, where not all funeral directors may be able to meet the religious or cultural requirements of some customers). The data available to us does not enable us to segment the funeral director population according to their ability to meet different customers' needs, but we note that, if there was a mismatch between the demand from a specific community and the supply of funeral director services, we would expect new entry into the local area to meet that demand. Therefore, and notwithstanding this limitation, based on the evidence in paragraph 4.53 above, our view is that the supply of funeral director services at the point of need is generally not locally concentrated.

## Local concentration in the supply of crematoria services

4.55 As indicated in the CMA's market investigation guidelines, both barriers to entry and market concentration may be structural features that harm competition.<sup>435</sup>

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<sup>431</sup> We note there are small differences between the number of branches in GTS's dataset which the Largest companies operate and the number of branches these parties have told us they operate (as set out at paragraphs 2.75 to 2.77). This may be due to inconsistencies in the time period to which the numbers relate. See Appendix G for details.

<sup>432</sup> By fascia we mean a competitor under different ownership.

<sup>433</sup> As defined by the [Office for National Statistics](#).

<sup>434</sup> 57% of areas which have three or fewer rival fascia within a 15-minute drive time are in rural areas; this compares with 18% of all areas in the dataset being in rural areas.

<sup>435</sup> [CC3 \(Revised\)](#), paragraph 157.

- 4.56 Entry or expansion by firms will often stimulate competition. Therefore, a major source of competitive discipline is generally eliminated or reduced if there is any barrier to market entry and expansion (whether an absolute barrier, or some other form of restriction, such as aspects of the market that deter entry). To test the effects on competition of any barriers to entry for crematoria, we have assessed the impact that the entry barriers identified have had, are having, or may have in the future.
- 4.57 In particular, barriers to entry can be an underlying cause of sustained high levels of concentration, which is itself a potential source of market power, where a single firm or a small number of firms supplies all, or nearly all, of a market for a product or service.<sup>436</sup>

### ***Barriers to entry and expansion***

#### *Economic barriers to entry*

- 4.58 The main economic barriers to entry relate to the high initial sunk costs required to enter in a given local area and the need to find a suitable area where the new crematorium will be able to conduct sufficient volumes to cover their fixed costs.
- 4.59 A new crematorium will incur high sunk costs in gaining planning approval and in construction:
- (a) Planning costs for successful new-build crematoria are, on average, £372,000 (and unsuccessful attempts to gain planning permission cost are, on average, £267,000);<sup>437</sup> and
  - (b) the cost of recently built crematoria has ranged from £3.4m to £8.5m.
- 4.60 Dignity, Westerleigh and Memoria have identified these high sunk costs as a barrier to entry and a significant factor impeding the development of new crematoria. However, Horizon Crematoria, a new entrant, has noted that once planning permission is in place, raising capital is not intrinsically difficult as, “banks will loan money for construction at normal commercial rates and venture capitalists are prepared to supply funding to help obtain planning permission and buy land. They are attracted by the intrinsic security of the sector with its actuarially measurable income streams.”<sup>438</sup>

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<sup>436</sup> CC3 (Revised), paragraph 179 (a)-(b).

<sup>437</sup> CMA analysis of 33 successful entry attempts and seven unsuccessful attempts; data from Dignity, Westerleigh and Memoria.

<sup>438</sup> Horizon response to Issues Statement, paragraph 41.

4.61 Crematoria, given their high fixed costs, need to conduct a sufficient volume of cremations (at a particular fee) for entry to be profitable. Dignity, Westerleigh and Memoria have all told us that a certain level of demand is required to enter, with Westerleigh stating: “a crematorium would need to be situated where a population requires additional provision. Crematoria can only be downsized to a small degree to reflect reduced level [sic] of expected demand. All new crematoria will require a minimum level of infrastructure, as even a crematorium expecting a small number of funerals in a year would need to be able to accommodate large sized services and have the appropriate site size, chapel size, car parking and other facilities necessary [sic]”.<sup>439</sup> We have a range of evidence on the number of cremations that a crematorium needs to conduct in order to be viable/profitable:

- (a) Dignity stated that a typical new crematorium would need to conduct 800 cremations per year in order to break even;
- (b) Memoria stated that a crematorium would need to conduct 800 cremations per year (at £800 per cremation) in order to service its debt;<sup>440</sup>
- (c) LCC stated that its model is [redacted];
- (d) a former bereavement services manager stated that the baseline for a profitable crematorium is 800 cremations per year;<sup>441</sup>
- (e) The FBCA stated that, in the past, a crematorium would need to conduct between 900 and 1,000 cremations per year to be financially viable, although this has fallen to around 600 cremations given the current level of cremation fees; and
- (f) Westerleigh provided slightly different evidence arguing that crematoria carrying out 1,000 cremations per year would not be busy enough to be efficient.

4.62 New crematoria face barriers to entry through both high sunk costs and high fixed costs. Profitable entry will only occur in an area where a new crematorium can conduct a sufficient number of cremations. As such, crematoria tend to enter in areas where there is high demand, and where existing crematoria are operating well above break-even volumes.

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<sup>439</sup> Dignity notes the need for a ‘clear market opportunity’ in its [response to the Issues Statement](#).

<sup>440</sup> [Memoria response to Interim Report](#), p13.

<sup>441</sup> [Ken West response to Issues Statement](#).

## *Planning process*

- 4.63 There are two specific aspects to the planning regime which can act as a barrier to entry: it constrains the potential location of new sites and crematorium operators will have to support their planning applications with evidence of a local 'need' for new crematorium provision.
- 4.64 In England and Wales, the 1902 Act states that, "No crematorium shall be constructed nearer to any dwelling-house than two hundred yards, except with the consent, in writing of the owner, lessee and occupier of such house, nor within fifty yards of any public highway, nor in the consecrated part of the burial ground of any burial authority".<sup>442</sup> This reduces the potential areas in which a crematorium development will be permitted and rules out many urban areas, and thus can push new crematoria into rural or Green Belt areas.<sup>443</sup> In London this limit is reduced to 100 yards. In Scotland there is no minimum distance and it is a matter for the planning system to consider development applications for new crematoria in the general context of a given location.<sup>444</sup>
- 4.65 Crematorium operators have to prove a 'need' for a new crematorium to planning authorities. Whilst LPAs will determine each planning application on its own specific facts, some past planning decisions in England and Wales have defined the level of quantitative and qualitative need which providers should show as part of their planning application:
- (a) 'Quantitative' need is considered to be the number of people who will be closer to the new crematorium compared with any other. Recent appeal decisions have defined an area to have a quantitative need where there will be 136,000-171,000 people for whom the new crematorium will be the closest crematorium;<sup>445</sup> and
  - (b) 'Qualitative' need is typically the number of people who will now have less than a 30-minute cortege drive time to the crematorium, who used to have greater than a 30-minute cortege drive time, although other factors such as waiting times have also been considered by planning authorities. Recent decisions have considered a qualitative need exists where there will be 59,000-95,000 people who will, for the first time, have a crematorium within a 30-minute cortege drive time.<sup>446</sup>

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<sup>442</sup> The 1902 Act, section 5.

<sup>443</sup> We note that even if these restrictions did not apply, this would not be likely to significantly increase the types of area over which crematorium operators would consider building a crematorium as areas close to highways or housing may not provide the secluded and private settings that a crematorium requires.

<sup>444</sup> Appendix B, paragraph 94.

<sup>445</sup> Appendix B, paragraph 100.

<sup>446</sup> Appendix B, paragraph 100.

4.66 The requirement to demonstrate a ‘need’ can raise a number of specific barriers:

- (a) Entry can generally only occur where a ‘need’ exists, which reduces the number of potential suitable locations where entry can occur;
- (b) demonstrating a need involves sunk costs and engaging in a planning process where the outcome is uncertain. As noted in paragraph 4.59(a) these costs can be relatively high. Dignity has noted that, “the majority of applications for planning consent of new private sector crematoria tend to go through a rejection first and then approval on appeal” and that many of their recent planned openings have been subject to an appeal;<sup>447</sup> and
- (c) private providers have argued that local authority planning departments may have an incentive to prevent entry by private providers to protect their own crematoria.<sup>448</sup> However, we note that if this were to occur, it would likely be challenged or resolved through the appeals process (and we have seen no example of challenges on such grounds being made).<sup>449</sup> Westerleigh told us that “a local authority cannot refuse an application on the grounds that it has a crematorium of its own in the local area”.

4.67 Despite the barriers mentioned above, crematorium operators do not tend to consider the planning regime to be a significant barrier to entry. Westerleigh notes that, “whilst there are barriers to the development of a new crematorium, recent experience has shown that these can be overcome”. Memoria notes that “although ... the time and costs associated with the planning process for crematoria is an important factor in the analysis, Memoria does not believe the planning process is the main reason impeding the development of new crematoria”.<sup>450</sup> Plymouth City Council has stated that, in the construction of new crematoria facilities, there are “significant planning constraints”<sup>451</sup> but it does “not consider the planning regime as such ... the barrier”.<sup>452</sup>

4.68 However, Westerleigh and Dignity both note that the risk of failing to gain planning permission affects the potential range of sites that they consider when deciding where to develop a new crematorium. Westerleigh states that, “frequently as part of the site searching process, specific site locations are not pursued, despite considering that a ‘need’ existed ... The significant cost and

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<sup>447</sup> [REDACTED].

<sup>448</sup> [Horizon response to Issues Statement](#), paragraph 35. [Dignity response to Issues Statement](#), paragraph 4.19.

<sup>449</sup> [REDACTED].

<sup>450</sup> [Memoria response to Issues Statement](#), page 3.

<sup>451</sup> [Plymouth City Council response to Issues Statement](#), paragraph 4.4.

<sup>452</sup> [Plymouth City Council response to Issues Statement](#), paragraph 5.

scale of risk involved limits the number of site applications that can be pursued at any time and results in the careful selection and prioritisation of those sites that are pursued". Dignity states that, "the planning process and the historical failures of private operators to secure planning permission directly affect their future site search and selection criteria employed".<sup>453</sup>

- 4.69 We note that the planning regime is not focused on competition but serves a purpose to ensure that wider societal needs are met (for example, considering the possible impact new build crematoria may have both on the local environment and residents living within a local area).

#### *Effect of the planning regime combined with volume requirements*

- 4.70 We have considered the extent to which the planning regime, which requires a 'need' assessment, and the economic need to conduct a certain volume of cremations interact. In its response to the PDR, Memoria recognised that, 'Crematoria will naturally try to locate in areas that are currently underserved ... due to both the need to find sufficient demand to offer a return on capital investments, and the nature of needs assessments and the local planning process, which makes it difficult to locate new crematoria close to existing sites in population centres...' <sup>454</sup> In particular, we have considered whether there are areas where entry would be economically viable but has not occurred because it was difficult to prove a 'need.' We asked Dignity, Westerleigh and Memoria to identify areas where they may have entered but did not do so because they could not prove a 'need' for the purposes of the planning regime. Dignity provided one example of an area where they did not enter because of the requirement to demonstrate a need (in [redacted], as the site was too close to existing crematoria). Dignity provided a further example where they did not enter because the site could not pass the '200 yard rule'. Memoria provided one instance (noting that it tries to avoid the expense of progressing a development that through experience it considers unlikely to gain planning permission). More frequently, Dignity and Memoria did not proceed with developments because an alternative crematorium operator gained planning permission first (making the proposed development uneconomic). As noted in paragraph 4.68, Westerleigh carefully selects and prioritises sites, and will only attempt to enter areas where it considers there is a strong probability of being able to prove a need for planning purposes and where cremation numbers will justify the investment. Westerleigh told us that there have been only a few instances where it has withdrawn from a firm

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<sup>453</sup> [Dignity plc response to the CMA's working papers on cremation services of 30 January 2020](#), p19, 27 February 2020.

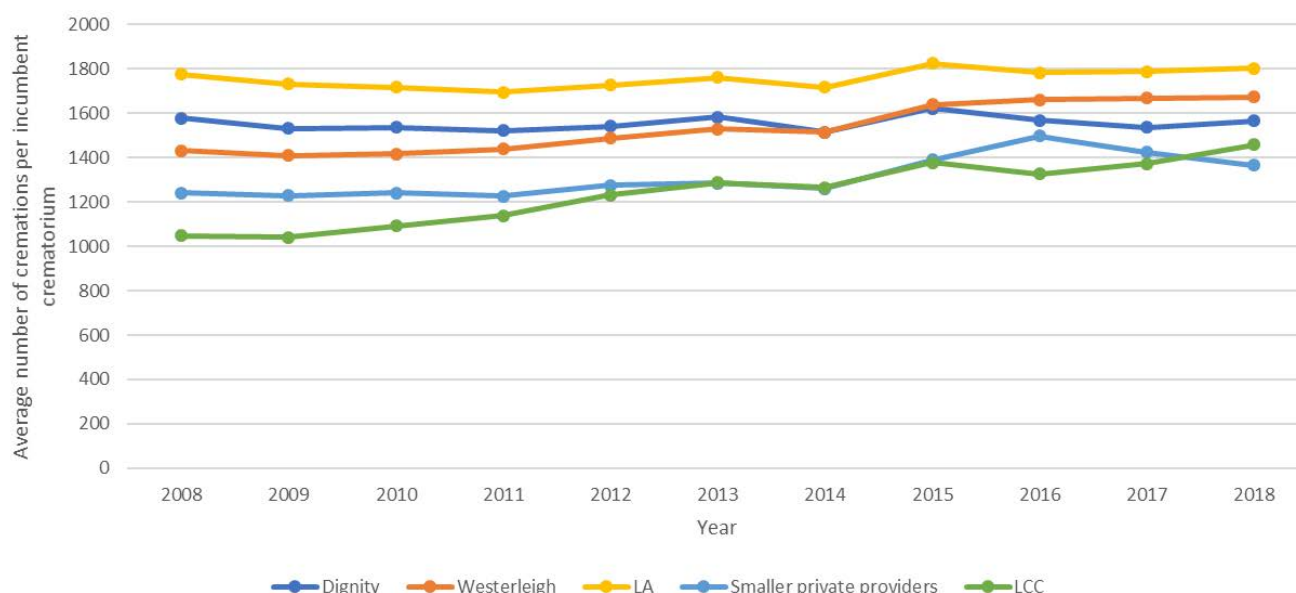
<sup>454</sup> [Memoria's response to the PDR](#); section 3.3.4, page 28.

opportunity due to a competitor scheme, and noted this is due to a combination of “the increased planning risk ... as well as changes to the economics of the potential investment”.

4.71 As such, we consider that the ‘needs’ test is broadly aligned with the economic incentives to open a new crematorium, which has to conduct a sufficient number of cremations to cover its high fixed costs. There are very few cases where the planning regime has prevented entry by a crematorium that could have otherwise been economically viable.

4.72 As discussed in paragraph 2.21, despite these barriers to entry, new crematoria have been built over time. Our analysis of cremation volumes across crematoria over time shows that the average number of cremations per crematorium has remained either relatively stable for providers or has increased slightly for some suppliers. This is shown in Figure 10 below.

**Figure 10: Average number of cremations per crematorium (that opened during or before 2008), 2008 to 2018**



Source: CMA analysis of Cremation Society data.

4.73 The above data indicates that new crematoria have delivered additional capacity to meet growing demand, as opposed to reducing average volumes at existing crematoria. We consider further how incumbent operators have responded to entry in paragraphs 6.149 to 6.185.

### *Barriers to expansion*

4.74 We have considered whether there are any specific barriers to expansion for existing crematoria. We note that Westerleigh has expanded three of its crematoria (Westerleigh in 2016 and West Suffolk and Basildon in 2018) by



adding an additional chapel and/or café/hospitality suites. Existing crematoria may be able to add an additional chapel on their grounds in order to provide additional chapel capacity. Memoria states: “the level of difficulty in relation to significantly expanding capacity at a crematorium completely depends on each individual site and building layout. For example, if you have unused land within your existing site, it may be possible to extend buildings leading to another chapel or cremator being constructed. However, given the fact that you can’t develop on consecrated ground (where human remains have been placed) and you already need significant space in the successful operation of a crematorium, it is very unusual that you have space available to perform significant expansions.”

### *Scope for future entry*

4.75 We have gathered evidence on the scope for new entry:

- (a) Dignity told us that, “at current death rates large areas of the UK are not suitable for such an investment”, and it noted that there is probably scope for around a dozen new crematoria;
- (b) Westerleigh told us that, “whilst a number of new crematoria have been developed in recent years, overall, the crematorium market is mature” where “as a result the market opportunity is limited” since the “stock of crematoria in the UK are well established in their local markets”;
- (c) Memoria stated that “identifying new build crematoria opportunities is ... challenging”; and
- (d) the FBCA has stated that, “there [are] potentially around ten opportunities left in England, Scotland and Wales to introduce new crematoria that are viable to carry out sufficient numbers of cremations a year”.<sup>455</sup>

4.76 Westerleigh,<sup>456</sup> Memoria,<sup>457</sup> and LCC<sup>458</sup> have subsequently argued that there remains scope for new crematoria entry.

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<sup>455</sup> [MHCLG Crematoria Provision and Facilities: Government Response to the Review](#), page 8.

<sup>456</sup> Westerleigh states: “This [limited opportunities for further development] is incorrect. In fact, development of new crematoria continues at pace, in line with recent trends”. Westerleigh, [Westerleigh Group’s response to the CMA’s working papers published on 30 January 2020](#), paragraph 20a.

<sup>457</sup> Memoria notes that statements in relation to the scope for new crematoria: “only relate to the ability of current supply to meet current demand”. Memoria Ltd, [Response to the CMA’s working papers published on 30 January 2020](#), page 27.

<sup>458</sup> LCC states: “However, the LCC strongly disagrees with the assertion that the market is mature, and that there are only 10-12 viable sites for entry. This does not accord with the LCC’s experience, which is that there are significant possibilities for entry, particularly for smaller scale crematoria”. [London Cremation Company response to working papers](#), paragraph 38.

- 4.77 We gathered information from crematorium operators in relation to the number of crematoria that they have in their pipelines. In total, we estimate there are about 30 crematoria at various stages of development (some under appeal, some currently without planning permission, and some where no land has been obtained).<sup>459</sup>
- 4.78 While there is some uncertainty around the scope for new entry given uncertainty over future changes in the population, death rate and cremation rate, the evidence set out above points toward a limited number of crematoria potentially entering the crematoria market across the UK in the foreseeable future.

### *Conclusions on barriers to entry and expansion*

- 4.79 We have found that barriers to entry in the provision of crematoria services are high. The key barriers to entry are economic barriers (the high sunk cost of entry and the high fixed costs of operating a crematorium) and planning barriers (in particular, the requirement to demonstrate that any new crematorium meets a need and meets specific locational requirements). While some entry has occurred over recent years, we have found that crematorium operators had to be selective with the sites/areas that they chose to target in order to reduce the risks associated with the planning regime and the high sunk costs of entry.<sup>460</sup> We consider that the 'needs' test is broadly aligned with the economic incentives to open a new crematorium, which has to conduct a sufficient number of cremations to cover its high fixed costs. This means that removing any barriers to entry arising through the planning regime (in particular the 'needs' test) is unlikely to significantly affect the likelihood of entry.

### ***Level of local concentration***

- 4.80 As explained in paragraph 4.43, the analysis in this section is based on cortege driving speeds (and cortege drive times between locations), rather than normal driving speeds.

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<sup>459</sup> Given that some of these plans may be from different operators in the same area, and/or the risk of planning refusal, the number of crematoria that will actually be developed may be less.

<sup>460</sup> Westerleigh submitted that significant new entry into the crematoria sector in recent decades contradicts a finding of high barriers to entry ([Westerleigh's response to the PDR](#), paragraphs 15-16). However, we note that previous episodes of entry do not necessarily prove that entry was easy, that it is likely to take place again, or that the possibility of entry is imposing a competitive constraint (see [CC3 \(Revised\)](#), paragraph 234).

- 4.81 We have assessed local concentration based on a fascia count measure,<sup>461</sup> by looking at:
- (a) The extent to which crematoria have rival fascia within a 30-minute and a 40-minute drive time (see paragraph 4.48);
  - (b) the extent to which crematoria have rivals within their 80% and 90% catchment areas;
  - (c) the extent to which customers have a choice of rival crematoria within a 30-minute and a 40-minute drive time, through an analysis of where customers are located relative to crematoria; and
  - (d) the extent to which funeral directors have a choice of rival crematoria in their local area, through an analysis of the crematoria that Dignity funeral director branches use.
- 4.82 When considering the degree of concentration in a local area the CMA has often considered that a merger that leads to a fascia count of three or fewer competitors in a local area, or four or fewer competitors depending on the sector, may raise *prima facie* competition concerns.<sup>462</sup> We have adopted a threshold of three or fewer competitors to identify local areas that are concentrated, and note that a more conservative threshold has been adopted by the CMA in some cases. In the analyses at points (a) and (b) above, we have used a supplier-centred approach counting the number of rivals that a crematorium faces in the local area: on this approach, an area is considered concentrated when the ‘focal’ crematorium faces fewer than three rival crematoria (which corresponds to three or fewer competitors in total in the area). In the analyses at points (c) and (d), we have used a customer-centred approach counting the number of rival crematoria that customers have in their local area: on this approach, an area is considered concentrated when customers have three or fewer alternative crematoria in their local area.
- 4.83 We assess the distances between rivals in our assessment of geographic closeness of competition in Section 6.

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<sup>461</sup> By rival we are referring to crematoria operated by different crematorium operators. We note an analysis where common ownership is not taken into account will not significantly alter our analysis given that there are a limited number of areas where there are crematoria under common ownership.

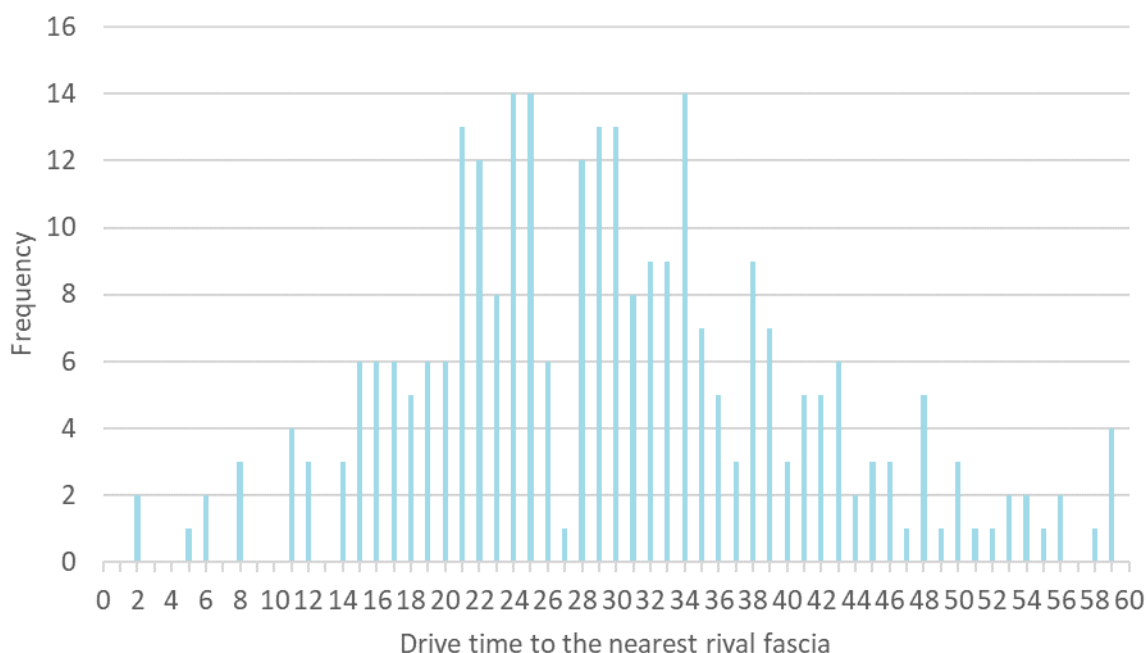
<sup>462</sup> CC2, paragraph 5.3.5. [Retail Mergers Commentary](#), paragraph 3.35: “The CMA has used a ‘four to three’ fascia count threshold in mergers in the grocery sector. That is, the CMA has identified overlaps as potentially problematic where the merger reduces the number of fascia in the market from four to three. In other sectors, the CMA has often used a ‘five to four’ fascia count threshold”.

## Supplier-centred concentration analysis

### Number of rivals in certain time bands

4.84 We have looked at the distribution of crematoria against the drive time to the nearest rival crematorium. This is shown in Figure 11 below.

**Figure 11: Number of crematoria with their nearest rival within a given drive time**



Source: CMA analysis of ICCM data.

Notes:

(1) 281 crematoria are included in this chart. Twenty-two crematoria without rivals within a one-hour cortege drive time are not included on this graph.

(2) Drive times are cortege drive times.

4.85 Figure 11 shows that the majority of crematoria have their nearest rival fascia within 20 to 40 minutes.

4.86 We have also considered the proportions of crematoria that have no rival fascia within 20, 30 and 40 minutes and found that:

- (a) 84% of crematoria (254 crematoria) have no rival within a 20-minute drive time;
- (b) 50% of crematoria (150 crematoria) have no rival within a 30-minute drive time; and
- (c) 24% of crematoria (73 crematoria) have no rival within a 40-minute drive time.

- 4.87 Table 12 shows the number of rivals that crematoria face within a 30-minute and a 40-minute drive time. Table 12 shows that the majority of crematoria are in concentrated local areas on either basis, and many are in highly concentrated areas:
- (a) Only 8% of crematoria face three or more rivals on a 30-minute basis, whilst 32% face three or more rivals on a 40-minute basis;
  - (b) 92% of crematoria face fewer than three rivals and, as such, are in concentrated local areas on a 30-minute basis. The equivalent proportion is just over two-thirds on a 40-minute basis; and
  - (c) 80% of crematoria face no or only one rival on a 30-minute basis, whilst 50% of crematoria face no or only one rival on a 40-minute basis.

**Table 12: Percentage of crematoria with a certain number of rival fascia within a 30-minute and 40-minute drive time**

<i>Number of rival fascia in addition to focal crematorium</i>	<i>Proportion of crematoria facing number of rivals within 30 mins</i>	<i>Proportion of crematoria facing number of rivals within 40 mins</i>	<i>%</i>
0	50	24	
1	30	26	
2	13	18	
3 or more	8	32	

Source: CMA analysis of ICCM data.

Notes: Based on 303 crematoria. Totals may not sum to one hundred due to rounding.

- 4.88 We have considered whether there are differences between the number of rival fascia that private and local authority crematoria face within a 30-minute and 40-minute drive time. We note that, overall, 61% of crematoria are local authority crematoria and 39% of crematoria are operated by private operators. We note that:
- (a) Of those crematoria with no rivals within 30 minutes, 59% are operated by local authorities and 41% are operated by private operators;
  - (b) of those crematoria with only one rival within 30 minutes, 59% are operated by local authorities and 41% are operated by private operators;
  - (c) of those crematoria with two rivals within 30 minutes, 66% are operated by local authorities and 34% are operated by private operators; and
  - (d) of those crematoria with three or more rivals within 30 minutes, 78% are operated by local authorities and 22% are operated by private operators.
- 4.89 Therefore, relative to their overall share in the market, private crematoria are less likely to be in areas with two or more rivals. This holds also on a 40-minute basis. For example, 69% of crematoria facing three or more rivals

within 40 minutes are operated by local authorities and 31% of crematoria facing three or more rivals are operated by private operators.

- 4.90 We have assessed whether the 8% of crematoria facing three or more rivals within a 30-minute drive time (23 crematoria in total) face capacity constrained rivals, such that they can be considered to face fewer than three 'effective' rivals and, as a result, to be in concentrated local areas.
- 4.91 We consider, on a conservative basis, a crematorium using 75% of its booking slots to be capacity constrained.<sup>463</sup> We recognise that a crematorium may have more than their 75% of their booking slots used but still be able to accommodate customers in peak hours if some customers are using reduced fee booking slots. We find that, on average, crematoria use 54% of their available booking slots,<sup>464</sup> indicating that capacity constraints, even on this basis, are not widespread.
- 4.92 We find that, of the 23 crematoria facing three or more rivals, only one has a rival who uses more than 75% of its booking slots. We note, however, that the capacity constrained rival is using 76% of its available booking slots, which is only marginally above the conservative threshold of 75% capacity utilisation that we have used. We therefore consider that the rival may still be able to act as a constraint to some degree.
- 4.93 Based on the analysis set out above, we consider that capacity constraints are not particularly widespread and that crematoria in the least concentrated areas do not appear to face fewer 'effective' rivals due to capacity constraints to any material degree.

#### *Number of rival fascia in catchment areas*

- 4.94 We recognise that catchment areas may vary across crematoria due to factors such as population density, the number of rivals etc. To complement the analysis of concentration based on 30-minute and 40-minute drive time set out above, we have therefore considered, for those crematoria for which we have catchment area data, the extent to which they face rivals in their 80%

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<sup>463</sup> Customers generally prefer slots in the middle of the day (see paragraph 4.27) and prefer to avoid early morning and later booking slots. A crematorium offering eight one-hour slots between 9am and 5pm will have 75% of those slots as standard fee slots during peak times (10am-4pm, 6 out of 8 slots). A crematorium operating at 75% capacity may therefore not be able to accommodate customers who want a standard fee slot in the middle of the day.

<sup>464</sup> Based on data from 169 local authority crematoria and 103 private crematoria.

catchment areas. As a sensitivity test, we have assessed the extent to which they face rivals in their 90% catchment areas.<sup>465</sup>

**Table 13: Percentage of crematoria with a certain number of rival fascia within their 80% and 90% catchment area**

<i>Number of rival fascia in addition to focal crematorium</i>	<i>Proportion of crematoria facing number of rivals in their 80% catchment</i>	<i>Proportion of crematoria facing number of rivals in their 90% catchment</i>	<i>%</i>
0	63	35	
1	27	38	
2	2	16	
3 or more	8	10	

Source: CMA analysis of ICCM data and data provided by Dignity, Westerleigh, Memoria and local authorities.  
Notes: total number of observations is 93 crematoria. Totals may not sum to one hundred due to rounding.

4.95 Table 13 shows that:

- (a) Only 8% of crematoria have three or more rivals in their 80% catchment area, whilst only 10% of crematoria have three or more rivals in their 90% catchment area;<sup>466</sup>
- (b) around nine in ten crematoria face fewer than three rivals on either catchment area basis and, as such, are in concentrated local areas; and
- (c) 90% of crematoria have at most one rival in their 80% catchment area and 73% of crematoria have at most one rival in their 90% catchment area.

4.96 We have calculated the size of average catchment areas using the 93 crematoria for which we have catchment area data. We found the average 80% catchment area does not vary significantly depending on the crematorium ownership (private or local authority) or whether the crematorium is in an urban or rural area. We found the average 80% catchment area to be 33 minutes.<sup>467</sup> The average local authority catchment area is 29 minutes compared with an average private crematoria catchment area of 34 minutes. The average rural catchment area is 36 minutes compared with an average urban catchment area of 30 minutes.

4.97 We applied the average catchment area to all crematoria in the UK to understand the extent to which crematoria face rivals within the average 80%

<sup>465</sup> We have calculated catchment areas for 93 crematoria. A full description of how we calculated catchment areas is included in Appendix E.

<sup>466</sup> Two out of 21 (10%) local authority crematoria have three or more rivals, while five out of 72 (7%) of private crematoria have three or more rivals on an 80% catchment basis.

<sup>467</sup> Twelve crematoria had an 80% catchment smaller than 20 minutes, 32 crematoria had an 80% catchment between 20 and 30 minutes and 49 crematoria had an 80% catchment larger than 30 minutes.

catchment area.<sup>468</sup> We have also broken down this analysis by local authority and private crematoria, and by urban and rural crematoria by using the corresponding average catchment. The results are summarised in Table 14 and do not reveal significant variations. These results show that, overall and in all breakdowns, a low proportion (between 8% and 14%) of crematoria face three or more rivals in the average catchment areas. The majority of catchment areas are highly concentrated. Across all crematoria, 74% have at most one rival within the average catchment area of 33 minutes. The results range from 67% of rural crematoria facing at most one rival in the average rural catchment to 84% of local authority crematoria facing at most one rival in the average local authority catchment.

**Table 14: Proportion of crematoria with rival fascia within the average 80% catchment area**

	<i>Proportion with no rival fascia</i>	<i>Proportion with one rival fascia</i>	<i>Proportion with two rival fascia</i>	<i>Proportion with three or more rival fascia</i>	<i>%</i>
Average catchment (33 mins)	46	28	13		13
Average local authority catchment (29 mins)	55	29	8		8
Average private catchment (34 mins)	45	34	11		9
Average urban catchment (30 mins)	49	29	8		14
Average rural catchment (36 mins)	38	29	19		14

Source: CMA analysis of ICCM data and data provided by Dignity, Westerleigh, Memoria and local authorities.

Note:

(1) totals may not sum to one hundred due to rounding.

(2) For the average catchment analysis, the total number of observations is 303. For the average local authority catchment analysis, the total number of observations is 184. For the average private catchment analysis, the total number of observations is 119. For the average urban catchment analysis, the total number of observations is 198. For the average rural catchment analysis, the total number of observations is 91.

### *Customer-centred concentration analysis*

4.98 We recognise that a concentration analysis centred on the location of crematoria ('supplier-centred' analysis) rather than on the location of customers ('customer-centred analysis') cannot always reflect the alternatives available to customers and, therefore, could under- or over-estimate the constraints that a crematorium faces to serve a certain population. Westerleigh has stated that often, "there is a significant town/city in the geographic area between rival crematoria ... In such circumstances, there may be several crematoria which are each more than 30 minute cortege drive time away from each other, but compete over a common population centre".<sup>469</sup> Memoria notes that, "even those sites without very closely co-located rivals will still face competition from more distant rivals, with significant

<sup>468</sup> Where we have data on catchment areas for crematoria, we use their catchment area, otherwise we use the relevant average catchment area.

<sup>469</sup> Westerleigh, [Westerleigh Group's response to the CMA's working papers published on 30 January 2020](#), paragraph 56.



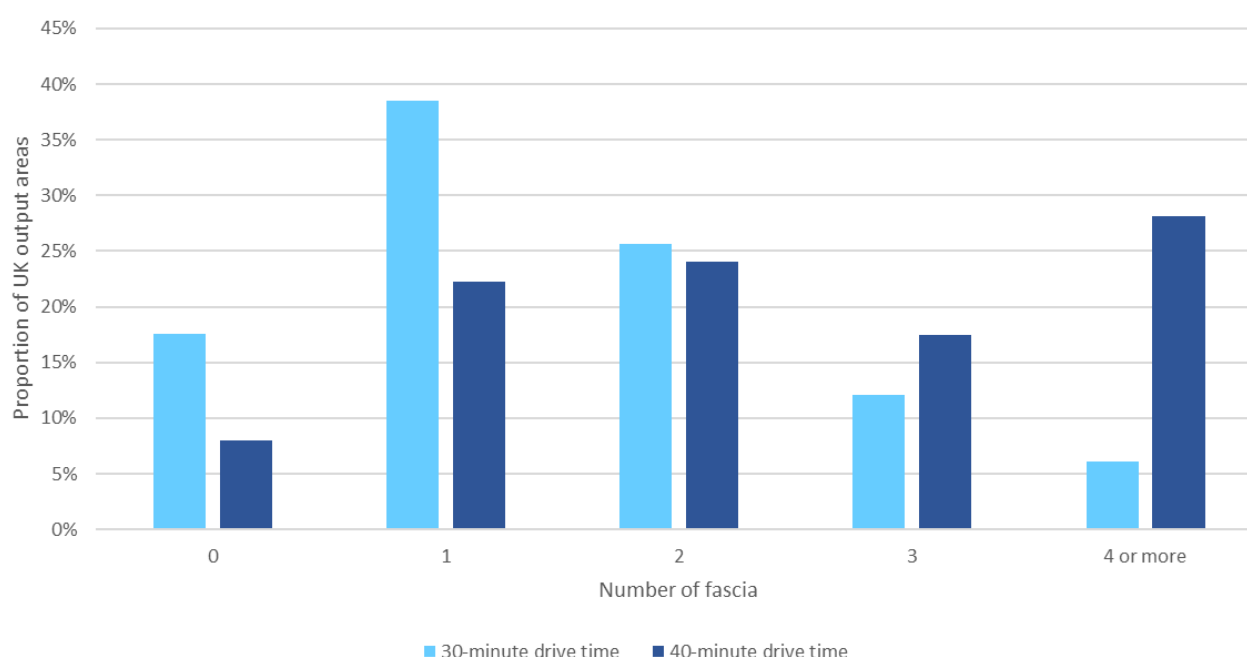
centres of population choosing between alternative crematoria that are each a significant drive away".<sup>470</sup>

- 4.99 To address this, we have extended the concentration analysis set out above by considering the number of rival crematoria that customers have within a 30-minute drive time, based on the location of customers, and the number of crematoria that funeral director branches use.

*Number of rival crematoria that customers have in their local area*

- 4.100 We have assessed the number of rival crematoria that UK 'output areas'<sup>471</sup> have within a 30-minute and 40-minute drive time. An output area (OA) consists of approximately 300 people in England and Wales, 100 in Scotland and 400 in Northern Ireland (referred to as 'small areas' in Northern Ireland).<sup>472</sup> Given the large number of OAs (there are around 230,000 in total)<sup>473</sup> and the relatively small number of people that each OA includes, we consider OAs to be a good approximation for the location of customers in the absence of data on the precise location of crematoria customers.

**Figure 12: Percentage of UK output areas with rival fascia within 30-minute and 40-minute drive time**



Source: CMA analysis of ICCM data and ONS, National Records of Scotland (NRS) and Northern Ireland Statistics and Research Agency (NISRA) data.

Notes: Drive times are cortege drive times.

<sup>470</sup> Memoria Ltd, [Response to the CMA's working papers published on 30 January 2020](#), page 4.

<sup>471</sup> A description of output areas (OAs) and small areas is provided by the [ONS](#).

<sup>472</sup> The average population of 2011 OAs in England and Wales, Scotland and Northern Ireland is 309, 114 and 400 respectively.

<sup>473</sup> The exact number of total 2011 UK OAs is 232,296.

4.101 Figure 12 shows that the vast majority of OAs are concentrated, with only 6% of customers having a choice of four or more rival crematoria on a 30-minute basis and 28% of customers having a choice of four or more rival crematoria on a 40-minute basis. The figure also shows that a high proportion of OAs are highly concentrated – over half of customers have at most one crematorium within a 30-minute drive time, and 30% of customers have at most one crematorium within a 40-minute drive time.<sup>474</sup>

*Number of crematoria used by funeral directors*

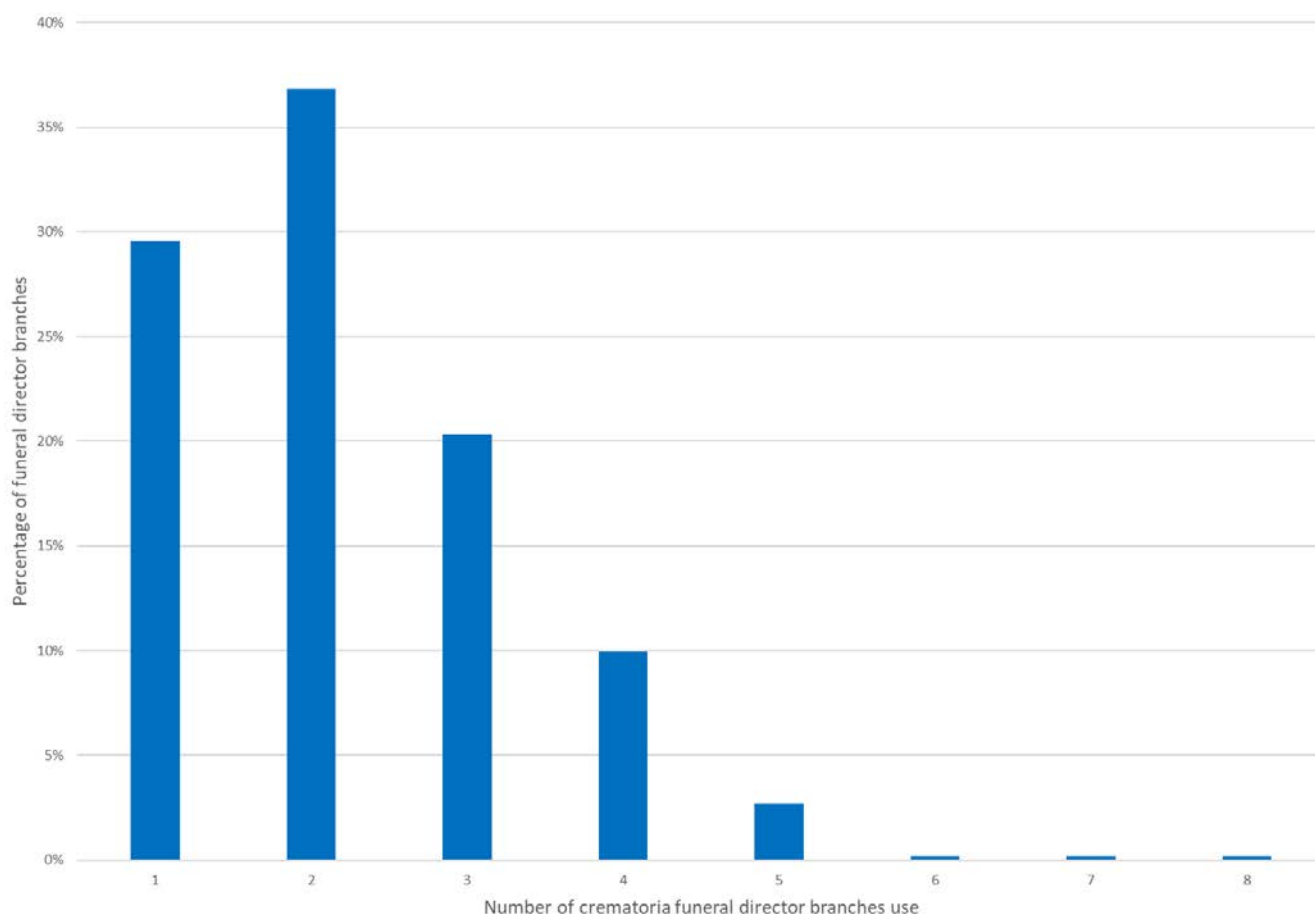
4.102 We have assessed the number of crematoria that Dignity funeral director branches have used. This analysis is based on data gathered during the Market Study provided by Dignity in relation to the 259 crematoria (out of 288 open in 2017) used by 521 funeral director branches.<sup>475</sup>

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<sup>474</sup> Westerleigh noted that 43% of its customers are within a 33-minute cortege drive time of another crematorium, ie the customer is within 33-minutes of two or more crematoria. A similar proportion of Westerleigh's customers have a choice of crematoria compared with our analysis for the population more generally (we find that 44% of the population have a choice of two or more rival crematoria within a 30-minute drive). However, we note that (i) Westerleigh used a wider area over which to assess the number of crematoria its customers have access to (33 minutes compared to the 30-minutes that we have used) and (ii) Westerleigh has included a number of rival crematoria that have not yet opened in its assessment of the number of crematoria its customers have access to. As such Westerleigh's analysis will overstate the proportion of its customers that have access to two or more rival crematoria compared with our analysis.

<sup>475</sup> In this analysis we have: (i) excluded 295 funeral director branches that conducted less than [~~3~~] cremation funerals and (ii) excluded crematoria that the funeral director used only once in 2017 from our count of the number of crematoria used. Dignity provided data in relation to 816 funeral directors branches in total. There were 823 Dignity branches open at the end of 2017. We are interested in the number of crematoria used relatively regularly by the funeral director, so we have excluded crematoria that the funeral director branch has used only once in 2017 as this is likely to reflect exceptional circumstances rather than regular use.

**Figure 13: Number of crematoria used by Dignity funeral director branches, 2017**



Source: CMA analysis of Dignity data.  
Notes: Based on 521 Dignity branches.

4.103 Figure 13 shows that a small percentage of Dignity funeral director branches use four or more crematoria (13%). Over half of Dignity funeral director branches use at most two crematoria, just under a third of branches use only one crematorium, and just over a third of branches use only two crematoria. These findings are consistent with the results of the other concentration analyses set out above and indicate that, when centring on funeral director branches, most local areas are concentrated, many highly so.

### ***Conclusions on local concentration***

4.104 Consistent with the existence of high barriers to entry, we find that the vast majority of local markets for crematoria services are concentrated, many highly so. We have considered concentration levels based on a fascia count measure using different approaches: we have used a 30-minute drive time basis (at cortege speed) centring on the crematorium and centring on the customer (both end-customers and funeral director branches) as well as 80% catchment areas. We found that the vast majority of local areas are concentrated, with fewer than four rival crematoria (this is the threshold at

which we would typically find prima facie competition concerns due to concentration): only 8% of crematoria have three or more rivals within 30 minutes and only 6% of customers have a choice of four or more crematoria within a 30-minute drive time. We found that many local areas are highly concentrated. For example, 50% of crematoria do not have a rival within 30 minutes and 80% of crematoria have at most one rival, while 57% of the population have no choice of crematorium within a 30-minute drive time (having only one or no crematorium within a 30-minute drive time). We have also considered sensitivities, including using a 40-minute drive time and 90% catchment areas to test our concentration results. Whilst the degree of concentration somewhat reduces when we expand the scope of the local area over which we assess concentration, we found that the majority of local areas remain concentrated, many highly so, under all sensitivities considered.

## **Conclusions on market definition and market structure**

### ***Supply of funeral director services at the point of need***

- 4.105 We conclude that the relevant product market for the purpose of the competitive assessment (Section 5) is the provision of all types of funeral director services at the point of need. This is referred to as the ‘funeral director market’ in the remainder of this document.
- 4.106 Funeral director markets are local, and we have adopted a drive time of 15 minutes for our analysis of concentration.
- 4.107 On this basis, using a drive time of 15 minutes, there are low levels of concentration in the majority of local areas in the UK. This is consistent with our observation that barriers of entry in the provision of funeral director services appear low.

### ***Supply of crematoria services***

- 4.108 We conclude that the relevant product market for the purpose of the competitive assessment (Section 6) is the provision of all types of crematoria services, including additional optional services. This is referred to as the ‘crematoria market’ in the remainder of this document.
- 4.109 Crematoria markets are local, and we have adopted a drive time of 30 minutes at cortege speeds for our base analysis of local concentration. We have considered a range of approaches and sensitivities to take into account potential constraints from rivals located further away.

- 4.110 We conclude that barriers to entry (economic and planning) in the provision of crematoria services are high.
- 4.111 Consistent with the existence of high barriers to entry, we found that, on a 30-minute drive time basis, the vast majority of local markets for crematoria services are concentrated, many highly so. Our findings on concentration are consistent across a range of approaches (using a fascia count measure centring on the crematorium and centring on the customer – both funeral directors and end-customers). Whilst the degree of concentration somewhat reduces under sensitivities which expand the scope of the local area over which we assess concentration, including the use of a 40-minute drive time, we found that the majority of local areas remain concentrated, many highly so, under all sensitivities considered.
- 4.112 This level of concentration raises *prima facie* concerns that competitive constraints on the supply side may be absent or weak in the vast majority of local markets. To the extent that there is competition, we explore how it manifests itself in Section 6.

## 5. How funeral directors compete

### Introduction

- 5.1 Competition is a process of rivalry as firms seek to win customers' business. It creates incentives for firms to meet the existing and future needs of customers as effectively and efficiently as possible—by cutting prices, increasing output, improving quality or variety, or introducing new and better products, often through innovation; supplying the products customers want rewards firms with a greater share of sales. Beneficial effects may also come from expansion by efficient firms and the entry into the market of new firms with innovative products, processes and business models, and the exit of less successful ones.<sup>476</sup> Customers have an important part to play in stimulating rivalry between suppliers by making informed decisions which reward those firms that best satisfy their needs or preferences. Markets work best when both the supply side (the firms) and the demand side (the customers) interact effectively.<sup>477</sup>
- 5.2 Where customers are not able to engage effectively, their response to any degradation in the competitive offering may be lessened or delayed, which undermines the competitive signals firms receive. This results in firms having weakened incentives to compete and improve their relative competitive offerings and may lead to worse outcomes for customers than would occur with a more active demand side.
- 5.3 We described in Section 3 the challenging circumstances in which funerals often are purchased and the factors, including the psychological vulnerability of many customers, that hamper funeral customers' ability to engage effectively with the funeral purchasing process. Building on the observations made in Section 3, this Section describes our assessment of how funeral directors compete. In particular:
- (a) We set out how customers approach the choice of funeral director and what factors are important to them in making such a choice;
  - (b) we consider the interaction between the customer and the (chosen) funeral director and the role of the funeral director in shaping the customer's choice of funeral;
  - (c) we consider the implications of points (a) and (b) on how funeral directors compete, including which dimensions of competition they focus on (eg

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<sup>476</sup> CC3 (Revised), paragraph 10.

<sup>477</sup> CC3 (Revised), paragraph 12.

price, range, quality, service etc) and to what extent they respond to changes in each other's competitive offer;

- (d) we then focus on the funeral range and assess whether and how the introduction and availability of low-cost funerals affect competition between funeral directors across their funeral range;
- (e) we consider whether at-need funeral prices are set with reference to pre-paid funeral prices; and finally,
- (f) we separately assess customer and funeral director behaviour with respect to the quality of back of house facilities (such as mortuaries) and services (ie care of the deceased), due to the unobservable nature of the service provided and the specific issues that may arise as a result.

5.4 In assessing how, and to what extent, the competitive process works with respect to funeral director services, we have analysed a wide range of evidence including: the Market Investigation consumer survey; information and commentary from the three Largest funeral directors, including a wide range of internal documents; information from some of the larger regional co-ops, including internal documents; a questionnaire sent to branches of a variety of funeral directors other than the three Largest, located in many different local areas; and site visits and telephone calls with 15 smaller funeral directors operating in various parts of the UK (including in rural areas, mid-size towns and large cities, and in different nations). Overall, we have sought to gain an understanding of how competition works across the UK and across the full spectrum of funeral directors, from very large to very small; from premium priced to low cost; and from 'traditional' to 'modern'.<sup>478</sup>

## **Customers' approach to choosing a funeral director**

### **Context**

5.5 We explain in Section 3 that the circumstances in which customers purchase funeral services are unique and mean that most customers are not in a position to make choices as effectively as they might in other markets. Absent such circumstances, one would expect effective competition between funeral directors to be to a large extent driven by customers choosing between alternative funeral directors, and their offerings, at the time this choice has to

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<sup>478</sup> We have sought to gather information from smaller companies through a number of approaches. We sent questionnaires which included both quantitative questions (as discussed further in Appendix S) and qualitative questions as to how competition works (discussed in Appendix H), as well as holding calls and site visits which focused to a greater extent on gathering such qualitative evidence (discussed in Appendix H).

be made. How customers take that decision, and what considerations they take into account, are therefore essential for driving competition and achieving good outcomes for customers.

- 5.6 The majority of customers neither shop around nor consider more than one funeral director when choosing their provider.<sup>479</sup> In the Market Investigation consumer survey, only a minority of consumers (17%) compared the services of two or more funeral directors when deciding which one to use.<sup>480,481</sup> There are understandable reasons for this behaviour (which are described in Section 3), but it is unlikely to drive a strong competitive process. Further, as detailed below (paragraphs 5.8 to 5.18), customers' decisions over which funeral director to use are unlikely to take into account all relevant factors.
- 5.7 Once the funeral director is chosen, there is limited scope for competition. In the majority of cases, customers do not consider switching after the funeral director has collected the body of the deceased.<sup>482</sup> The main decisions customers face at that point are between options within the chosen funeral director's range. While there may be some constraints between options derived from the necessity to present customers with a reasonable hierarchy of services at different price points,<sup>483</sup> this is a significantly weaker constraint on funeral directors than the constraint they would face if there was a material risk of losing the customer to another provider. The constraints which different options might impose on each other are discussed in more detail in relation to the implications of the growth in low-cost options (from paragraph 5.102 to paragraph 5.156).

### ***Factors that customers take into account when choosing a funeral director***

- 5.8 In paragraphs 3.91 to 3.119, we explained how customers go about selecting a funeral director. We focus in paragraphs 5.9 to 5.16 on the factors they take into account in making their choice.

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<sup>479</sup> See Section 3, paragraphs 3.95 to 3.100.

<sup>480</sup> [Market Investigation consumer survey](#), Tables 40-42, Question FD1+FD2 (SUMMARY). Base: all UK adults 18+ involved in making at need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279).

<sup>481</sup> This is also supported by findings by the Largest funeral directors that a small proportion of customers (20-30%) are attainable (eg through marketing) with the rest already having implicitly or explicitly decided which provider to use [38].

<sup>482</sup> Our Market Investigation consumer survey found that the funeral director who collected the body also took care of the rest of the arrangements in over four-fifths of cases (81%). [Market Investigation consumer survey](#), Tables 139-141, Question FD21. Base: all UK adults 18+ involved in making at need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279). See paragraphs 3.120 to 3.125 for more detail.

<sup>483</sup> Co-op explained that its customers wanted the ability to personalise more, either adding to a simple funeral package or removing things from a Traditional Funeral package, so the pricing architecture between its Simple Funeral and its Traditional Funeral had to make sense. ([Co-op Hearing summary](#), paragraph 20).



5.9 In the Market Investigation consumer survey, customers with a choice of funeral director reported a variety of factors as being the most important in their choice. Broadly, the most important factors that respondents raised without prompting were:<sup>484</sup>

(a) Personal experience of using the funeral director before, or of attending a funeral that the funeral director concerned had arranged (30%).<sup>485</sup>

Amongst respondents who had used the funeral director before, aspects most frequently identified as influential related to confidence in and familiarity with the funeral director, and the expected level of customer care.<sup>486</sup>

(b) Recommendations (28%), the funeral director's good reputation in the area (11%) and/or good customer reviews/ratings (3%). Amongst these respondents, aspects relating to quality of service were the most frequently mentioned as influencing the choice of funeral director.<sup>487</sup>

(c) As discussed further at paragraphs 5.13 to 5.16, price plays a limited role in customer decision-making, although it is more important for those who compare funeral directors.<sup>488</sup>

5.10 Many of the funeral directors that we have been in contact with emphasised that quality is very important to customers.<sup>489</sup> Funeral directors have argued that customers are aware of (and respond to) the quality of a funeral director's offer, including through their own past experience or the recommendations they receive.<sup>490</sup>

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<sup>484</sup> [Market Investigation consumer survey](#), Tables 55-57, Question FD6a. Base: all with a choice of funeral director (n=242).

<sup>485</sup> [Market Investigation consumer survey](#), Tables 55-57, Question FD6a. Base: all with a choice of funeral director (n=242).

<sup>486</sup> 'Confidence/familiarity (knew they were a safe pair of hands/could rely on them/could trust them/it would all go smoothly/satisfied with them on previous occasions etc.)' was mentioned by 17 of 74 consumers who said previous personal experience was the most important factor in choosing the funeral director they used. 'Level of customer care I/we knew I/we could expect' was mentioned by 15 of 74 such consumers. [Market Investigation consumer survey](#), Tables 58-60, Question FD7b.

<sup>487</sup> 'Level of customer care I/we could expect' was mentioned by 32 of 68 consumers who said recommendation(s)/reviews/reputation was the most important factor in choosing the funeral director they used. 'Level of quality I/we could expect' (16 of 68 consumers) and 'Confidence (felt they would be a safe pair of hands/could rely on them/could trust them/it would all go smoothly)' (14 of 68 consumers) were the next most frequent answers. [Market Investigation consumer survey](#), Tables 61-63, Question FD8b.

<sup>488</sup> This is also supported by the limited use of price comparison websites in this sector. Few respondents with a choice of funeral director (1%) had used a price comparison website to find out about the funeral director they used. Source: [Market Investigation consumer survey](#). Tables 49-51, Question FD4. Base: all who compared, did not compare but had a choice or don't know/can't remember whether they compared (n=207).

<sup>489</sup> For example: Co-op response to the issues statement paragraph 5.3; Dignity response to the issues statement paragraph 4.19; Funeral Partners response to the Market Study interim report, page 6.

<sup>490</sup> For example, [Dignity response to the interim report](#), [Funeral Partners response to the interim report](#), [Rowland Brothers Hearing summary](#) paragraph 11.

- 5.11 As noted at 5.9(b) above, among respondents who said recommendation(s)/reviews/reputation was the most important factor in choosing the funeral director, aspects related (collectively) to quality of service were most frequently mentioned.<sup>491</sup> Information received as part of a recommendation was more likely to include information on less tangible aspects of service<sup>492</sup> than on facilities or vehicles.<sup>493</sup> This indicates that certain quality aspects play some role in consumer decision-making. However, many of the dimensions of quality that are most valued by customers (see paragraphs 3.130 and 3.131) may be difficult to evaluate prior to actually using the funeral director (hence the customer's reliance on past experience, or recommendation and reputation). Having someone the customer feels they can trust and who is known to themselves or others can therefore be a powerful motivator in choosing a funeral director.
- 5.12 As set out in Section 3, price plays a more limited role in customer decision-making than quality. Where the use of a particular funeral director was not pre-determined by the deceased, relatively few respondents said that either value for money (3%), prices (2%) and/or the range of funeral options on offer (1%)<sup>494</sup> were the most important factors in their choice.<sup>495</sup>
- 5.13 Information on price was relatively less likely to be part of the information received as part of a recommendation,<sup>496</sup> and while the influence of 'knowing what to expect' was frequently reflected in the reasons given by respondents for saying that a recommendation or review was the most important factor in

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<sup>491</sup> One or more aspects of quality (tangible or intangible) were mentioned by 46 out of 65 such respondents. On an individual basis, however, the type of information most frequently provided was the firm's name (n=42/65) and/or contact details (n=26/65). Source: CMA analysis of consumer survey dataset.

<sup>492</sup> 'Local knowledge/word of mouth about them, their reputation' was mentioned by 22 out of 65 who found out about the funeral director they used through a recommendation. 'An idea of what the staff were like' was mentioned by 19 out of 65 such customers, with 'Level of customer care they provided/could be expected' and 'Level of quality they provided/could be expected' mentioned by 16 and 14 out of 65 such customers respectively. Altogether, 45 out of 65 respondents mentioned one or more of these aspects of intangible quality. Source: CMA analysis of consumer survey dataset.

<sup>493</sup> 'Standard of their vehicles' was mentioned by five out of 65 who found out about the funeral director they used through a recommendation. 'Standard of their customer-facing facilities' was mentioned by three out of 65 such customers and 'Standard of their behind-the-scenes facilities' was mentioned by two out of 65 such customers. Altogether, 18 out of 65 such respondents mentioned one or more aspects of tangible quality or 'level of quality they provided/could be expected' (which could relate to either tangible or intangible aspects). Source: CMA analysis of consumer survey dataset.

<sup>494</sup> The funeral director's range may be indirectly related to price considerations, as a wider range may give options at different price points for customers to choose between.

<sup>495</sup> [Market Investigation consumer survey](#), Tables 55-57, Question FD6a. Base: all with a choice of funeral director (n=242).

<sup>496</sup> When respondents found out about the funeral director they used through a recommendation (n=65), 7/65 received general information on prices and 5/65 received specific information on prices. [Market Investigation consumer survey](#), Tables 52-54, Question FD5.

their choice of funeral director, few of these respondents cited cost aspects (n=4/68 mentioned “price” and/or “value for money”).<sup>497</sup>

- 5.14 For the minority in the Market Investigation consumer survey who compared the services of two or more funeral directors when deciding which one to use (n=48), the point of comparison most frequently mentioned was specific price information (n=15). Availability/waiting times, location and/or reputation/customer ratings were also mentioned by at least one in five as something they had compared on.<sup>498</sup> Specific price information, availability/waiting times or reputation/customer ratings were reported most frequently by those comparing as the most important criterion for them against which to compare funeral directors.<sup>499</sup> This indicates that price is a more important factor for customers who compared funeral directors than for customers on average, although reputation was also still important.
- 5.15 Further evidence of the limited role of price in customer decision-making comes from the internal documents of funeral directors and the Market Investigation consumer survey which indicates that most customers are unlikely to access pricing information prior to choosing a funeral director to collect the deceased or before the arrangement meeting itself. For example, only 5% of all respondents to the Market Investigation consumer survey stated that they got an idea of the likely cost of the funeral directly from the funeral director prior to the arrangement meeting (eg via an estimate/quote or an example of costs).<sup>500</sup>
- 5.16 Once they have chosen their funeral director, a minority of customers may make choices over the funeral arrangements without having full information on the costs involved.<sup>501</sup> Despite this, nearly all respondents to the Market

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<sup>497</sup> [Market Investigation consumer survey](#), Tables 61-63, Question FD8b.

<sup>498</sup> [Market Investigation consumer survey](#), Tables 76-78, Question FD11.

<sup>499</sup> [Market Investigation consumer survey](#), Tables 79-81, Question FD12. Base: all who compared funeral directors on more than one factor (n=25).

<sup>500</sup> This included those who got indicative costs from the funeral director’s website or from the funeral director during the telephone call or visit to set up the arrangement meeting and/or who received a verbal/written estimate or a written quote prior to the arrangement meeting. CMA analysis of consumer survey dataset. Further evidence and sources relating to the role of price after the funeral director has been selected are set out in our discussion of the role of funeral director sales practices in paragraphs 5.19 to 5.31 and Appendix H.

<sup>501</sup> For example, we asked respondents how the actual cost of the funeral they were arranging was discussed during the arrangement meeting. The results suggest that a minority of consumers (17%) did not take prices into account while making choices that had an impact on the total cost of the funeral: 10% stated that the funeral director told them a total price at the end of the arrangement meeting but did not set out prices as they went along and 7% stated that costs were not discussed at all in the arrangement meeting. [Market Investigation consumer survey](#), Tables 169-171, Question FD30. Base: all UK adults 18+ involved in making at need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279).

<sup>501</sup> [Market Investigation consumer survey](#), Tables 196-198, Question FD39\_1. Base: all UK adults 18+ involved in making at need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279). See Appendix H for information on funeral director policies and practices for the arrangement meeting.

Investigation consumer survey felt they had received the right amount of information about funeral options and costs<sup>502</sup> and at the right time.<sup>503</sup>

- 5.17 Co-op argued that our analysis with regard to customers' approach to choosing a funeral director is not forward-looking, as it does not take into account, in particular, trends in the use of the internet.<sup>504</sup> In Section 3, we note that use of the internet is growing and is likely to become more prevalent, but is currently low and few customers use it to compare funeral directors or find prices; in addition, as discussed at paragraph 5.21, information available online may often be incomplete or unclear, limiting the extent to which customers could use this to compare providers even if they were so inclined. We therefore consider our analysis holds, taking these trends into account.

## **Summary**

- 5.18 Our evidence indicates the majority of customers neither shop around nor consider more than one funeral director when choosing their provider. Personal experience of using or attending funerals arranged by the funeral director, recommendations or the reputation of the funeral director are often important factors in customers' choice of funeral director, which may be a mechanism, albeit indirect, for customers to take into account quality factors which are difficult to observe or judge before the purchase (although not relevant for factors that are non-observable even after the purchase has been made). Price plays a more limited role in decision-making for most customers, although is more important for the limited number of customers who consider more than one funeral director.

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<sup>502</sup> 88% of respondents felt that they received the right amount of information about funeral options and costs. Only 2% said they got too little, and 1% too much information. [Market Investigation consumer survey](#), Tables 227-229, Question FD40a. Base: all UK adults 18+ involved in making at need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279).

<sup>503</sup> 87% of respondents felt that they received information about options and costs at the right time. Only 2% stated that they received it too soon and 1% that they received it too late. [Market Investigation consumer survey](#), Tables 230-232, Question FD40b. Base: all UK adults 18+ involved in making at need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279).

<sup>504</sup> [Co-op: Response to PDR](#), paragraph 3.49. Co-op also refers to trends in personalisation and secularisation as having an effect. It is not clear to us that personalisation and/or secularisation would significantly affect choice of funeral director in many cases, as opposed to the choice of funeral options, as most funeral directors from whom we have gathered evidence seek to meet customers' requirements for funerals to be meaningful to them.

# The role of the funeral director in shaping customer choice of funeral

## *General approach*

- 5.19 As discussed in Section 3, customers may struggle to understand and articulate their preferences over different options for the funeral. In this context, the funeral director has an important role in advising and assisting customers to identify the right options for them.<sup>505</sup> Different funeral directors take different approaches to this but, as set out below, these are often informed by their own preferences or opinions over how to serve the customer best (in the absence of clear market signals coming from customers, as discussed in Section 3).<sup>506</sup> The funeral director therefore has a particularly key role in shaping what the customer receives. We set out a number of examples of this below.
- 5.20 In particular, funeral directors may try to follow what they perceive to be customer preferences over the level of pricing information to provide at what point in the process (or simply what they judge to be appropriate given the emotional state of the customer). As a result, funeral directors often do not give price information until it is requested and may need to be prompted further to provide detail of all costs involved (and may still not always do so ahead of the arrangement meeting) as set out below.
- 5.21 We commissioned Ipsos MORI to undertake a website audit and telephone mystery shop of a randomly selected sample of 120 funeral director branches (the Market Investigation mystery shopping). Their audit found that around half of websites contained no price information on at-need funerals.<sup>507</sup> Where information was available, it was often incomplete or unclear. Where, in the same mystery shopping research, calls were made to funeral directors to request pricing information, some funeral directors did not provide information, some required prompting to provide an explanation of what services were included in the price, and others provided information that appeared incomplete or potentially confusing.<sup>508</sup>

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<sup>505</sup> Funeral directors themselves recognise the importance of their role. For example, a Co-op document from 2019 which described the pre-2017 position (prior to the introduction of Funeral Choices) noted, 'Our research had found that arranging a funeral was complex and clients often felt overwhelmed by the process'. Another Co-op document noted, 'The vast majority of clients want a full service provider who can offer support, advice and guidance, they place a great deal of trust in their Funeral Director'.

<sup>506</sup> This is illustrated by this comment from one of the Large funeral directors: 'Funeral directors have habitually relied on intuitive understanding of their business, knowing that clients are far less focused on products and services than they are on themselves and their loved ones'.

<sup>507</sup> [Market Investigation mystery shopping.](#)

<sup>508</sup> [Market Investigation mystery shopping.](#)

- 5.22 While this approach may meet the preferences of the majority of customers (given most respondents to the Market Investigation consumer survey felt they had received the right information at the right time, as discussed in paragraph 5.16), it also implies that customers make important decisions over which funeral director to choose (and which funeral options to take up) without having a clear idea on how much the funeral will (or is likely to) cost or whether they could have achieved the same results for a lower price. Further, the minority of customers who try to gather price information may struggle to get clear and complete information to facilitate comparisons or prepare them for the arrangement meeting.
- 5.23 Some funeral directors have resisted putting their prices online due to concerns that customers would then not make judgements on the basis of quality as well as price, undermining the quality provided.<sup>509</sup> This could be interpreted as funeral directors imposing a judgement that customers should not have price information as they would not be able to properly interpret it (rather than funeral directors making efforts to provide better information as to their quality). Nevertheless, the FSCSR has noted that, ‘... at present, even a motivated consumer could struggle to make a useful comparison of different funeral service options available to them’ and has sought to identify ways in which transparency could be improved for the benefit of consumers.<sup>510</sup>
- 5.24 Funeral directors’ sales practices vary in the extent to which they offer their services via packages, a menu of options, or in some other manner. With regard to packages, practice also varies in the extent to which elements can be added/removed.<sup>511</sup> This may reflect different funeral directors’ approaches to trying to deal with the effect of grief on people’s cognitive functions, as described in Section 3. For example, Co-op submitted that it uses packages to help customers understand the overall cost of the funeral;<sup>512</sup> a long-

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<sup>509</sup> Rowland said that requiring firms to put their prices on the internet would increase the risk that customers would base the service purely on price and not on the professionalism and capability of the people who would be looking after them ([Rowland hearing summary paragraph 29](#)). Funeral Partners highlighted a concern with price comparison websites because they might only tell you the price side of the equation, not objective quality. Funeral Partners said that if there was a way of measuring and communicating objective quality online, that would go some way to addressing its concerns about price comparison websites (Funeral Partners hearing summary paragraph 37). [X] commented, ‘I am not in favour of being forced to publish prices on-line because there is little scope to judge quality. A budget company with limited experience or facilities and staff could have a fancy website and be able to undercut an established professional family business hugely. I am not sure how different any company would describe levels of quality.’

<sup>510</sup> FSCSR [Consultation document: Transparency](#), February 2020, page 5.

<sup>511</sup> See [Aggregated summary of interviews with independent funeral directors](#) paragraph 23, as well as other references in this paragraph.

<sup>512</sup> In a 2019 description of the reasons behind the introduction of its Choices framework in 2017, it set out that ‘examples/ illustrations of cost helped aid understanding of the funeral arrangement and also cost transparency, with the consumer being able to understand before the funeral arrangement the typical cost’ but ‘There was a risk that unless these illustrations were positioned clearly by the funeral director that clients could perceive the funeral arrangement as not being tailored to their needs’. There is evidence that its employees have different views as to whether packages are helpful in their role, [X]. A report prepared by Oxera for Co-op set out considerations



established family firm in a mid-size town [X] said that it used to have a full price list on its website but has since changed the website to show some example package prices as it came to a decision that the price list was too complicated; and a long-established firm in a large conurbation [X] has separated the cost of professional services from cars since the 1980s because it found that some people wanted more flexibility around the hearse and limousines. It had previously sold complete packages.

- 5.25 Some funeral directors place great significance on the fleet of vehicles they offer and appear to see this as a significant source of differentiation,<sup>513</sup> even though it does not appear to be a material driver of customer choice, according to the Market Investigation survey<sup>514</sup> and research carried out for some of the three Largest funeral directors.<sup>515</sup> This perception among many funeral directors that the brand of vehicles is important can be a significant driver of a funeral's price (as it can amount to several hundred pounds).<sup>516</sup>

### ***The arrangement meeting***

- 5.26 The arrangement meeting is the (typically) face-to-face, detailed discussion of the funeral arrangements that occurs between the customer and funeral director, usually in-branch or at the customer's home.<sup>517</sup> At this meeting the customer is typically presented with information about, and makes a range of decisions regarding, the funeral. The vast majority of customers have a

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around disclosing information to customers given their emotional state, highlighting the role packages can play in helping customers navigate choices (Oxera (2018) Disclosure in at need funerals provided 19 October 2018).

<sup>513</sup> A long-established family firm in a mid-size town [X] noted that there is 'a certain prestige in owning your own vehicles'. A new entrant in a large conurbation [X] noted that funeral directors who owned their fleet would argue that the quality is better because they have their own vehicle and staff, but it disagreed because the staff he hires in are of a high standard and he always uses the same people, who he has employed for years and come from another small, local, family firm.

<sup>514</sup> In the Market Investigation consumer survey, five out of 65 respondents had received information on 'standard of vehicles' as part of a recommendation ([Market Investigation consumer survey](#), Question FD5). Separately, of 48 respondents who compared funeral directors, only one compared the standard of their vehicles ([Market Investigation consumer survey](#), Tables 76-78, Question FD11).

<sup>515</sup> For example, Co-op [X]; Dignity (2018). [Time to talk about quality and standards](#), page 23. We note that this research by Trajectory on behalf of Dignity (in keeping with most of the consumer survey evidence submitted by parties to the market investigation) was conducted with an online panel sample. Typically, we consider that online surveys with members of pre-recruited respondent panels, where sample recruitment does not rely on randomisation, may be subject to bias and may not be sufficiently robust (see: Appendix C, paragraphs 32 to 35). As such, we place limited weight on this type of evidence but note that its findings align broadly with other evidence we have considered in the course of our investigation.

<sup>516</sup> Data from a price comparison website (Beyond) showed as of May 2019 that the average price of a limousine was around £200 and for a hearse was around £400. There was significant variation in both sets of prices, with interquartile ranges of around £450 for both.

<sup>517</sup> 83% of respondents said they had the arrangement meeting face-to-face either at the branch (65%) or in their own home (18%). A further 3% had the meeting face-to-face somewhere else. [Market Investigation consumer survey](#), Tables 148-150, Question FD23. Base: all UK adults 18+ involved in making at need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279).

discussion of this kind, most with just one funeral director.<sup>518</sup> Moreover, as noted earlier (paragraph 3.123), over half of respondents to the Market Investigation consumer survey (53%) committed to using the funeral director in the arrangement meeting, for instance, by paying a deposit or signing a contract.<sup>519</sup>

5.27 With respect to arrangement meetings, we reviewed staff training materials (and internal documents discussing sales practices) from a number of the Large funeral directors, as well as the NAFD Manual of Funeral Directing that was in use until a new one was issued in 2020. Details of the documents that we considered the most informative are set out in Appendix H.

5.28 Our review of training materials and internal documents indicates that:

- (a) There is no ‘one size fits all’ approach to conducting an arrangement meeting. Funeral directors may tailor their approach to the customer’s perceived state of mind, including with regard to the amount and order of information provided and the choices presented.
- (b) Funeral directors have a dual role of providing guidance to customers on the most suitable funeral (or funeral elements) for them, while also ensuring customers realise there are alternative choices.
- (c) Funeral directors may provide or refer to materials containing information on prices and options (eg brochure; price list) in the arrangement meeting, but the extent to which they are used, and how, is sometimes unclear.
- (d) Customers may not have a good idea of total funeral costs when making choices in the arrangement meeting about individual items or elements of the funeral that affect the price. Information on costs (or total costs) may be provided only towards the end of the arrangement meeting. For instance, the 2013 NAFD Manual of Funeral Directing advised members

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<sup>518</sup> 72% of respondents did not have a detailed discussion of the funeral arrangements (an arrangement meeting) with more than one firm of funeral directors. Market Investigation consumer survey, Tables 199-201, Question FD39\_2. Base: all UK adults 18+ involved in making at need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279). There was no evidence that those who compared funeral directors (n=12/48) or those who switched funeral director (n=5/30) were more likely than average to say they had an arrangement meeting with more than one firm of funeral directors. (Source: CMA analysis of consumer survey dataset – indicative findings: small base sizes.) Taken together, this suggests that consumers’ choice of funeral director is largely decided by the time the arrangement meeting goes ahead.

<sup>519</sup> Market Investigation consumer survey, Tables 196-198, Question FD39\_1. Base: all UK adults 18+ involved in making at need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279).



to provide cost information only once the ‘majority of arrangements have been discussed and chosen’.<sup>520</sup>

5.29 We consider that there is evidence of some sales practices which could influence customers’ decision-making, including potentially steering them towards higher-cost options. It is unclear how often customers are steered in this way in practice and difficult to determine whether or not this is the result of well-intentioned or unconscious efforts on the part of the funeral director to respond to a customer who is finding it difficult to articulate their own needs in a face-to-face meeting. Nevertheless:

- (a) The combined evidence from our survey and our review of internal documents suggests that some funeral directors do not explain costs clearly, or do not when decisions are being made that have an impact on the total bill. In such cases, customers may not have a good idea of total funeral costs until late in, or at the end of, the arrangement meeting (and potentially not before the customer has committed to using the funeral director). Of those respondents in the Market Investigation consumer survey who committed to using the funeral director during the arrangement meeting, around half (52%) did so without knowing the full cost (or likely cost) of the funeral.<sup>521</sup>
- (b) There is a wide variation in embalming rates across funeral directors, and this appears to reflect the funeral director’s own personal views about embalming (which vary dramatically among funeral directors).<sup>522</sup> This indicates that the funeral director may have a significant influence over customer decisions on whether to purchase particular products or services.
- (c) We have seen evidence which, in our view, indicates that one regional manager at Co-op instructed branch staff (in the context of the firm’s concerns about that region’s underperformance and declining revenue per

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<sup>520</sup> The NAFD stated that this was to ensure the funeral director had a full understanding of customer expectations before providing an estimate. It also advised that the guidance should not be read in isolation, and members should already have a price list on display, so customers have access to this information by the time they sit down to discuss arrangements. The NAFD indicated that future guidance may refer to discussing the client’s budget at the outset of the arrangement meeting so that options outside their budget are not discussed. A new manual was issued by the NAFD in 2020, but because of its recent publication, it is not informative in the context of the analysis we have carried out.

<sup>521</sup> Over a third (37%) of all respondents said they committed to using the funeral director before they were told what the full cost (or likely cost) of the funeral would be. Market Investigation consumer survey, Tables 208-210, Question FD39\_5. Base: all UK adults 18+ involved in making at need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279). A total of n=78 respondents – 28% of all respondents – both committed to using the FD during the arrangement meeting and committed to using the funeral director before they knew what the full cost of the funeral would be/was likely to be. Source: CMA analysis of consumer survey dataset.

<sup>522</sup> See: [Aggregated summary of interviews with independent funeral directors](#), paragraph 6.

funeral during the pandemic) to employ practices that encouraged higher spending for each funeral.<sup>523</sup> A number of these practices were discussed in an investigative article in a national newspaper.<sup>524</sup> Our own subsequent assessment of Co-op's internal documents indicated practices consistent with those reported in the newspaper, including:

- (i) Encouraging staff to promote the benefits of a higher-cost package over a low-cost package to customers as doing so will 'cure the problem [of reduced profitability] overnight', with this message being supported by restricting the low-cost funeral option to an early morning timeslot.<sup>525</sup>
- (ii) Stating to staff, 'when you talk to your families about limos, don't ask IF they need any, ask HOW MANY THEY REQUIRE' [emphasis in original].
- (iii) Circulating among branch staff performance tables (indicating the sales performance of each region in terms of funeral types and optional add-on services);
- (iv) Informing staff that they would be subject to disciplinary action if they were found to be pointing families towards florists directly (through which Co-op would lose the margins earned on organising floral arrangements for clients itself); and
- (v) Promoting an 'opt-out' sales approach, whereby funeral arrangers were instructed to work with families to develop a full 'wish list' of elements to be included (with reference to all available services), before providing a price for these; the process then called on families to remove items from their wish list if the resulting quote was more than they could afford.<sup>526</sup> In addition, we saw evidence that this regional manager established a scheme of non-cash incentives for staff to increase the sale of floral tributes.

5.30 Co-op submitted that, 'evidence of substitution between simple and other funeral packages within Co-op branches is informative to the extent that it represents a case study for how consumers react when funeral packages are presented clearly alongside each other, and include price information

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<sup>523</sup> Co-op stated that this regional manager acted outside Co-op's established practices for a short time, [X].

<sup>524</sup> D. Foggo, C. Adams and K. Rushton, 'Co-op Funeralcare staff use 'tricks' to boost profits after lockdown'. The Telegraph (28 September 2020).

<sup>525</sup> According to funeral arrangers in one Co-op branch, the main reason customers choose Traditional over Simple is the flexibility to choose the date and time.

<sup>526</sup> Co-op informed us that this was a local initiative and has been since phased out.

transparently'. Conversely, we saw evidence within one of Co-op's regions that using different sales techniques, including encouraging staff to promote standard funerals over simple funeral options,<sup>527</sup> and telling customers about the various additional services that Co-op offered had a significant positive impact on sales of such services. This is consistent with the view that the way in which funeral directors frame their discussions with customers can affect customer choices dramatically.

- 5.31 In many markets companies both have a role in informing customer decision-making and an incentive to maximise profits or revenues (as noted by Co-op).<sup>528</sup> However, in contrast to other markets, we have found that bereaved customers purchasing funerals generally do not exercise some of the most basic commercial judgments that customers typically display in other high-cost consumer purchases, for the reasons set out in Section 3.

## **Summary**

- 5.32 The above indicates that funeral directors play a very important role in shaping customer decision-making, with advice and guidance being an important part of the service funeral directors provide. The advice provided may reflect the funeral director attempting to use their own experience and personal values to deliver the products and services they perceive (rightly or wrongly) are likely to best meet the customer's preferences. However, there is also potential scope for conflicting incentives acting on funeral directors, balancing a professional role to support and guide the bereaved in their choices between the many different funeral options available against business and financial incentives to maximise their revenues and/or profits, and/or for the former to be used to rationalise the pursuit of the latter, even unintentionally. Regardless of what the funeral director's motivations are, it appears likely that the outcomes delivered by the funeral director (in terms of quality, price etc) reflect their own judgement as to these potential trade-offs (between meeting the customer's preferences and their own incentives), rather than necessarily those determined by competitive forces (as further discussed in the following sections).

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<sup>527</sup> These emails indicated such efforts would affect their relative take-up by customers.

<sup>528</sup> Co-op: Response to PDR, paragraph 3.52.

## **Competitive interactions between funeral directors**

- 5.33 In this section (paragraphs 5.35 to 5.101) we set out how funeral directors compete with respect to different aspects of their service, and how this shapes competition overall across their business.
- 5.34 We first consider the different dimensions over which funeral directors compete, before turning to whether and how competition across these dimensions together affects firm performance and firms' competitive responses to changes in performance. As a preliminary observation, we note that the effectiveness of competition, and the resulting outcomes for customers, is not 'all or nothing' – competition may work better on some measures than on others. For example, the fact that competition on certain quality measures may be stronger due to customers placing greater emphasis on this aspect of funeral directors' offerings, does not mean that there cannot be areas relating to other dimensions where competition is weaker and does not deliver good customer outcomes (such as in relation to prices). It is for this reason that we assess both individual dimensions of competition, and competition overall.

### ***Dimensions of competition***

- 5.35 In this section we consider a number of dimensions potentially relevant to competition between funeral directors: price and range, quality, reputation and brand awareness, location, and whether there is evidence of competitive pressure over these dimensions.
- 5.36 We first set out the evidence on each dimension and summarise the analysis across all dimensions together at paragraphs 5.96 to 5.100.

### ***Price***

- 5.37 As price plays a more limited role than other factors in most funeral customers' decision-making, this can lead to funeral directors putting less emphasis on this aspect of their offering in the sales process. Price still plays a role in how funeral directors position themselves in terms of the price/quality combination they offer, eg whether they position themselves as providing a premium service for a high price, or they focus on value for money while still providing a quality service.

5.38 The internal documents of some of the Large funeral directors<sup>529</sup> identify a broad hierarchy of prices and industry participants that has been in place for a considerable number of years. In this hierarchy:

- (a) Dignity is at the premium end, positioning itself as offering ‘distinctive caring, personal service’ and ‘high quality facilities and consistent protective standards of care for the deceased’. This is reflected by premium pricing (discussed further in Section 7).
- (b) Co-op’s pricing is ‘middle-of-the-road’ and is slightly higher than that of the regional co-ops.
- (c) Traditional ‘independent funeral directors’, of which many are lower priced than Co-op and Dignity (sometimes significantly so), but are perceived as being better integrated into their local community and to provide a more personal, caring service.<sup>530</sup> It has been noted that the ‘leading independents’ sought to charge just below Co-op,<sup>531</sup> a pricing strategy which was confirmed to us by one such firm (Rowland Brothers), who indicated it sought to keep its charges 10% lower than those of Co-op.<sup>532</sup> However, this observation should not be generalised, as our analysis shows that some ‘independent’ funeral directors charge higher prices than this comment implies, as discussed further in Section 7.

5.39 There are two other groups of funeral directors that have emerged outside of this simple hierarchy:<sup>533</sup>

- (a) Funeral directors who position themselves as ‘progressive’ or ‘modern’. They typically have small operations and identify themselves as working in a different way from the ‘traditional’ funeral companies. This can manifest itself in the range of services they offer, the facilities they use, the way they present their prices and the way they interact with the bereaved. They account for a relatively small proportion (less than 5%) of funeral directors and can be found throughout the UK.
- (b) Low-cost funeral directors. This group can include a diverse range of suppliers, including Fosters in Scotland, which is seeking to develop a

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<sup>529</sup> Funeral Partners (see Appendix N paragraph 149).

<sup>530</sup> For example, 2015 research for [§] noted, ‘Independent providers are judged to provide a more personal service, and have better local knowledge’. See also [§] which noted: ‘[§] independent funeral directors, many of whom are preferred by consumers because they are seen as more personal and trustworthy’. [§] noted (based on [§]) ‘Negative perception of “corporate chains” (generically) in terms of prices, service flexibility and personal rapport’. [§].

<sup>531</sup> Funeral Partners (see Appendix N paragraph 149).

<sup>532</sup> Rowland Bros hearing summary paragraph 17.

<sup>533</sup> Based on various sources of evidence, including interviews with industry participants.

high-volume efficient quality operation; former employees of the Largest firms that seek to provide a similar (or higher) quality of service to their former employers but with the lower cost base that comes with being a sole trader; and other funeral directors who compete strongly on price.

- 5.40 This indicates different funeral directors take different price positions, including some whose strategy is to charge slightly less than the Largest funeral directors.<sup>534</sup> While relative pricing between differentiated providers is not necessarily evidence of weak competition, such practices can lead to weak competition when they result in prices increasing together and/or when they reduce the incentives for price leaders to cut prices. In this context, we note one Co-op internal document commenting on its approach to pricing in the years to 2015 which says, '[§]'.<sup>535</sup>
- 5.41 Funeral directors generally employ some means of understanding how their prices compare to others. This can be through centralised research (eg large-scale mystery shopping),<sup>535</sup> ad-hoc monitoring of rivals in specific local areas, eg around poorly performing branches or where a new branch was proposed,<sup>536</sup> or through knowledge of their local area and informal channels rather than active efforts to monitor rivals.<sup>537</sup>
- 5.42 However, this does not necessarily feed through into a reaction where their price position or performance worsens.

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<sup>534</sup> Rowland explained that its pricing policy was to make its prices ten per cent cheaper than the Co-op ([Rowland Bros hearing summary](#) paragraph 17); an established firm [§] in a large conurbation said that it is aiming to keep a differential of prices [§]% below the market leader in its area, although it varies by funeral type.

<sup>535</sup> As discussed in Appendix H paragraphs 13 to 17, all three of the Largest funeral directors have undertaken research of this kind. East of England Co-op stated that it monitors prices and services from a selection of its competitors on a quarterly basis. Those compared are a representative cross section of its actual competitors, both locally and nationally owned, as relating to specific geographical areas and the locations of its branch network.

<sup>536</sup> As discussed in Appendix H, we have examples of such ad hoc monitoring from the Largest funeral directors, although it is not clear how common they are. Co-op stated that when considering opening a new home, it undertakes a number of competitor analyses and mystery shopping, covering non-price as well as price factors. Central England Co-op noted its homes may complete mystery shop phone calls on an ad-hoc basis and may also receive feedback from customers or potential customers shopping around. It also noted it does not actively monitor competitors' prices, quality or range through a defined process, but will learn when the larger funeral directors announce new products and pricing.

<sup>537</sup> For example, Midcounties Co-op monitors competitors' activities in relation to at-need funeral services on a day-to-day basis at a local level eg through local teams, local media, conversations within the community, and/or local observation, as well as more formal mystery shopping. A long-established family firm in a rural area [§] showed good understanding of how its prices compared to local competitors and said that all funeral directors know what their competitors were charging. Another smaller funeral director [§] noted it speaks to the other independent funeral directors in Scotland to be aware of what is working well for them and what challenges they have experienced. A well-established firm [§] stated that it will keep an eye on what its competitors are doing, and talk to other funeral directors to have an awareness of what they are doing. A well-established family firm in a rural area [§] noted its main way of monitoring competitors was through what clients told it about their experience with other funeral directors.

- (a) As set out in Appendix H (paragraphs 62 to 80), there are examples of the Largest funeral directors seeking to improve (or avoid worsening) their position by taking rivals' prices and actions into account when setting their own prices (as well as other responses, such as increased marketing or pricing trials), particularly in more recent years. On the other hand, there are also examples of them not being responsive to rivals' pricing and/or local competitive conditions in their pricing decisions.<sup>538</sup> In many cases, price responses have focused more on promoting or adjusting prices of simple funerals or on selective discounting and price matching rather than changing the base price of standard funerals.<sup>539</sup>
- (b) Discounting can provide a more targeted response to specific or local competitive threats. Overall, we observe that a consistently low proportion of funerals sold by the three Largest funeral directors appear to have been discounted.<sup>540</sup> However, we are aware of instances where funeral directors have reacted more strongly to aggressive price competition (an example of which is discussed in paragraph 5.43).
- (c) As evidence of the actions it has taken on price, Co-op submitted that it has not increased its standard funeral prices since 2017 (and has introduced an additional price band to provide more flexibility). It also stated that it has absorbed the cost increases throughout the COVID-19 pandemic thus far.<sup>541</sup> We noted at paragraph 5.42(a) that there are examples of the Largest funeral directors seeking to improve (or avoid worsening) their pricing position, particularly in more recent years. With regard to lack of pass-through of cost increases resulting from the COVID-19 pandemic, we have not assessed in detail the changes the pandemic has caused in Co-op's costs and prices or those of any other

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<sup>538</sup> This discounts reactions such as those described at paragraph 5.40 of funeral directors increasing prices in tandem.

<sup>539</sup> For example, as set out in Appendix H paragraph 79, Funeral Partners' 'tactical pricing' led to greater changes in Basic prices than standard funeral prices (in terms of both number of branches affected and percentage changes in prices). Co-op described its response to increased competition as including improving its low-cost propositions and 'a range of other strategies such as: enhancing our offer to Coop members through discounts, introducing an additional price band in our structure, to allow us to address competition from lower priced rivals, introducing a "Guaranteed to Beat" offer'. It is only more recently that widespread changes to standard prices have been made by Dignity through its price trials and with trials of [X] by Co-op, Dignity and Funeral Partners (although the size and scope of these trials has varied between providers).

<sup>540</sup> This is set out further in Appendix H paragraphs 81 to 103. We acknowledge that, in some years, the value and number of Co-op price discounts is considerably higher if their member discounts are included. Members discounts appear to be a way for Co-op to attract customers who use its other services, as customers must be Members at the time the deceased died, or the deceased must have been a Member ([Co-op Membership](#)). It has made various changes to the size and approach to its Member discounts over time, balancing making the proposition attractive and clear with the effect on its revenues. It is not clear these changes have been driven by specific competitive pressures, rather than reflecting differentiated pricing for a particular customer group (from which it earns additional revenue in relation to non-funerals products).

<sup>541</sup> [Co-op: Response to PDR](#), paragraph 4.4 (a) and (e). It also highlighted discounting, price matching and price trials, which we have considered in paragraph 5.42(b) and 5.43.

funeral director. In any event, in our view, Co-op's pricing behaviour during the first wave of the COVID-19 is more likely to have been driven by general concerns about risks to its public image than competitive pressures as such.

- (d) Some smaller funeral directors we received evidence from described their positioning by reference to others (eg not wanting to be either the most or least expensive in their local area and/or being cheaper than certain providers),<sup>542</sup> but did not necessarily respond or react to what others do where they felt their approach was still reasonable.<sup>543</sup> Others explicitly emphasise their lower prices (but are also careful not to suggest that this is due to lower quality), although those we received information from had not felt pressure to further change their price or positioning as a result of actions by other funeral directors.<sup>544</sup>
- (e) Some smaller funeral directors also indicated that they considered price to be less important to monitor than quality, and were less likely to react through price adjustments.<sup>545</sup>

5.43 An example of where there has been a stronger pricing response has been Co-op's response to price competition from Fosters through price trials undertaken in Glasgow during 2019, which reduced Co-op's prices to be much closer to Fosters'.<sup>546</sup> Co-op noted it has found it difficult to draw conclusions from the analysis of the trials, as the trials are limited in time and in size, were changed over time and therefore volatile. However, while the

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<sup>542</sup> [X]'s aim is to provide the best service in the area at a price that is neither the highest priced or the lowest priced locally; [X] would not want pricing to be higher than Dignity's price even if the quality is gives is better; Rowland explained that its pricing policy was to make its prices ten per cent cheaper than the Co-op (Rowland hearing summary paragraph 17); an established firm [X] in a large conurbation said that it is aiming to keep a differential of prices [X]% below the market leader in its area, although it varies by funeral type. [X] said that he did feel some competitive pressure from a funeral directors in the local town, explaining that this company will regularly market in his local area, but [X] always tried to keep its prices a long way under this competitors.

<sup>543</sup> A well-established family firm in a rural area [X] has not reacted to what competitors are doing as it considers its prices are fair and that it is open about how and what it charges; an established firm in a mid-size town [X] said if Dignity, for example, made changes to their offerings it would be aware of it but would not necessarily respond to the changes as it feels that its priority is its own service offering. Central England Co-op said it would not necessarily react to competitor developments on a national scale as it will take into account the quality of service and degree of price transparency of the offerings.

<sup>544</sup> [X] would be very reluctant to reduce prices further as profits are already so low; [X] said its prices are lowest and not prepared to decrease further unless the family is in real financial difficulty.

<sup>545</sup> In a questionnaire sent to a sample of funeral director branches, 12 provided responses on the single most important aspect of competitors to monitor. Ten branches indicated service quality was most important and two indicated prices. This questionnaire also asked the funeral directors how the information they monitored was used in decision making in the last three years. Ten out of 17 respondents to this question used the monitoring information to help inform decisions on improving quality, while five out of ten used the information in pricing decisions. See Appendix H, paragraphs 158 and 159.

<sup>546</sup> Co-op described that initially its planned trial prices were to be [X]. Just prior to launch, Fosters increased their prices however, shortly after the beginning of the trial, Fosters lowered prices again to be £50 below Co-op's trial prices, which Foster's actively advertised, showing their engagement with price competition.



reduction in price does appear to have [REDACTED].<sup>547</sup> [REDACTED]. Such pricing responses appear to be relatively rare,<sup>548</sup> and the observations above indicate this is unlikely to be sustainable competition.

- 5.44 Funeral directors have argued that customers are becoming more sensitive to price. Funeral Partners said the vast majority of families chose funeral directors on the basis of reputation and recommendation, but an increasing number were interested in price and this acted as a constraint.<sup>549</sup> Dignity commented that price competition was becoming more vigorous, expressing some concern that the outcome of the market investigation could create a race to the bottom in terms of professional standards.<sup>550</sup> It also stated more consumers were using the internet to research and arrange their funeral options and that was, in turn, driving increased visibility of options and prices, which was making consumers more price sensitive and more inclined to shop around.<sup>551</sup> Co-op said that it was increasingly seeing customers shop around, considering price as well as quality and service factors.<sup>552</sup> Two smaller funeral directors also noted similar trends.<sup>553</sup>
- 5.45 While we accept that a greater number of customers may be becoming more concerned about prices than in the past, our evidence indicates (as set out above) that it is not a significant driver of the decision-making for most customers at present, and it is not clear it will become so in the foreseeable

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<sup>547</sup>Co-op initially began the trial just in East Glasgow, but subsequently extended it to the Greater Glasgow and Clyde area. A summary analysis of the trial found 'The results of the trial appear to indicate [REDACTED].

<sup>548</sup> Co-op also highlighted it had undertaken separate trials in [REDACTED] and in [REDACTED] which was curtailed by COVID-19 (as was another planned trial on packages and personalisation).

<sup>549</sup> [Funeral Partners hearing summary](#) paragraph 11. This is also noted in a document providing pre-reading for a Board away day where it states 'Changing consumer attitudes/behaviours in relation to death and funerals: When arranging a funeral most people ([REDACTED]%) do not shop around and for the over 50s, prior knowledge and recommendations remain the most influential "channels" when searching for a funeral provider. However, there is evidence of a shift in consumer behaviour and preference with respect to (i) the increasing popularity of simple, no-frills funeral options and (ii) the increasing importance of price and on-line channels when finding and selecting a funeral provider'.

<sup>550</sup> [Dignity hearing summary](#), paragraph 3. This is also noted in Dignity's Board decision to change its price strategy which stated 'It was noted that the funerals market is changing. There is more competition in the market based on the absolute number of funeral directors who are trading in the market. In addition, there has been an increased focus on the overall price of funerals driven by a combination of the Co-op reducing their price for a 'Simple Funeral', the development of price comparison sites on the internet and general publicity around cheap funerals'.

<sup>551</sup> [Dignity hearing summary](#), paragraph 67. We consider evidence on use of the internet and shopping around in Section 3.

<sup>552</sup> [Co-op hearing summary](#), paragraph 3. This is also noted in research by [REDACTED] for Co-op in 2019 which stated 'Customer decisions are driven by service factors, but there is evidence of pricing becoming more important in decision making' and 'Pricing is becoming more important to a proportion of market with [REDACTED]% shopping around and price factors emerging higher up KPC ranking than previously'.

<sup>553</sup> [REDACTED] noted customers were now more willing to pick the phone up and discuss what they wanted and what the cost will be with the funeral director. It said that most funeral directors had put their prices on their websites, in part as a response to this trend. In response to the PDR, Silletts noted 'Consumers are more aware than ever. In our own area there is more choice than ever. We are weekly contacted by new clients who have been into the offices of the larger firms and been prepared to leave once they realise that the advertised leading price is not really a full funeral as they expect.' [segment amended] (Source: [NAFD Supplementary submission](#)).

future. Further, this may be a reaction to a long series of price increases (as described in Section 7) putting pressure on affordability, rather than a reaction which will push prices down to more competitive levels.

- 5.46 The evidence described in paragraphs 5.37 to 5.45 above indicates that competition on price remains muted.

#### *Range of products and services offered*

- 5.47 While range does not in itself appear to be a significant driver of the customer choice of funeral director,<sup>554</sup> providers can use range and the introduction of new products as a competitive response to meet the needs of different customer groups (eg to offer a cheaper option for price-conscious customers while maintaining high prices for the rest). There are two aspects to the range offered by funeral directors:

- (a) The funeral types the funeral director offers (such as simple funeral packages, unattended cremations, and natural/woodland burials); and
- (b) Options for elements of the funeral (eg types of cars and hearses, coffins).

- 5.48 The core range of products and services offered by funeral directors often appears relatively similar, although with variants increasingly being introduced.<sup>555</sup> There appears to have been a degree of competitive response involved in this, particularly with regard to the development and evolution of low-cost options such as direct cremation in the recent past, and particularly since early 2018 (although the initial drivers behind launching low-cost options included concerns over affordability and public scrutiny of prices rather than narrow competitive considerations)<sup>556</sup>.

- (a) Internal documents from the Largest funeral directors show monitoring of developments in each other's simple funeral prices, unattended funeral offering etc. as well as a degree of repositioning and response to each other following changes in the prices of simple funerals or the launch of direct cremation, albeit with some time lags involved. Funeral Partners

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<sup>554</sup> As noted at paragraph 5.12, relatively few respondents to the Market Investigation consumer survey who did not have a pre-determined choice of funeral director said that the range of funeral options on offer (1%) were important factors in their choice.

<sup>555</sup> For example, [§§].

<sup>556</sup> See discussion of factors influencing Co-op's relaunch of its simple funeral set out in Appendix I paragraphs 6 to 19.

has been less active in this regard.<sup>557</sup> Southern Co-op also noted it launched a simple funeral in response to Co-op's simple offering.

- (b) Some smaller funeral directors also indicated they had monitored and responded to other funeral directors through changing their range.<sup>558</sup> Funeral directors may also change their approach in response to what customers want. For example, one smaller funeral director considered that it had found a gap in the market but is now doing more of what it would describe as 'mainstream' funerals and religious funerals.<sup>559</sup> It has also been noted that smaller funeral directors on the whole may offer a greater degree of flexibility in contrast with larger providers.<sup>560</sup>

5.49 The evidence above indicates that product range, in particular in relation to the development of low-cost options, can be used and has been used by some funeral directors as a competitive response. We consider in more detail the effect of low-cost funerals offered within funeral directors' ranges, particularly for the Largest companies, in paragraphs 5.102 to 5.156.

### *Quality*

5.50 Given the relevance of experience and recommendations to customer choice,<sup>561</sup> we can expect that funeral directors will attach importance to observable aspects of service quality, ie aspects that they can control and describe objectively and that customers can observe, experience and respond to.<sup>562</sup> As described in the following paragraphs,<sup>563</sup> this appears to be the case.

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<sup>557</sup> This is discussed in more detail in Appendix I paragraphs 32 to 35.

<sup>558</sup> In a questionnaire sent to a sample of funeral director branches, we asked whether the funeral director monitored their competitors, and what they monitored. We also asked whether they used this information in their decision making in the last three years. From those who specified what they monitored, six of the seven Smaller funeral directors and four out of ten branches of Other Large funeral directors monitored funeral range. This is lower than the number who monitored quality, and similar to the number who monitored price (slightly lower for branches of the Other Large funeral directors). Three out of seven of the Smaller funeral directors and two out of ten of the Other Large funeral director branches which monitored competitors said they used the information in funeral range decisions, with two of the respondents specifically identifying the decision to offer direct cremations. See Appendix H paragraphs 158 and 159. From our site visits and calls, a long-established firm in a large conurbation [X] introduced the 'simple choice' package in response to observing changes in the market and responding to what it perceived to be changes in customers' needs, as reported in the press.

<sup>559</sup> [X].

<sup>560</sup> A new entrant in a large conurbation [X] said that Co-op, for example, does not have the flexibility to offer coffins beyond their existing range and also tend to rush the arrangement meeting. Another funeral director ([X]) said that hiring vehicles from a carriage master enabled it to offer a broader selection of vehicles to customers for the same price.

<sup>561</sup> See paragraph 5.9.

<sup>562</sup> We consider issues around unobservable quality (specifically that relating to back of house services) separately below.

<sup>563</sup> Some further detail is provided in Appendix H.

### *Monitoring of own quality*

- 5.51 The Largest funeral directors' quality level is typically set at a company rather than local level (see paragraph 5.58). The Largest funeral directors have a number of formal means of monitoring their own quality. These include audits of facilities, vehicles, and process adherence including in relation to health and safety, and identification and management of the deceased, belongings, donations, and ashes.
- 5.52 They also carry out frequent monitoring of customer survey and complaints data, and online reviews, which is shared with branches, including so that branches can take action in response to complaints. Each of the Largest funeral directors sends a survey to every (or almost every)<sup>564</sup> customer.
- 5.53 Some Other Large funeral directors provided us with evidence of their own regular customer surveys, focus groups, own-branch mystery shopping, and operational audits of front (and back) of house, as well as details of their training activities and performance management for staff.
- 5.54 As part of the information we obtained from the Smaller funeral directors, customer feedback was identified as a key way in which funeral directors would gauge and monitor their quality levels, with many using an after-funeral survey.

### *Competitor monitoring and response*

- 5.55 In terms of competitor monitoring, many funeral directors told us that they monitor rivals over a range of parameters, including service quality.<sup>565</sup> The extent and nature of this monitoring behaviour appears to vary widely – some funeral directors undertake mystery shopping exercises and others simply maintain 'an awareness' of rival activity.<sup>566</sup>
- 5.56 Local Dignity, Co-op and Funeral Partners branch managers that we spoke to, when describing the quality of their rivals, were able to comment on vehicles, premises, and, to an extent, the quality of staff, primarily defined by the extent of their experience and the strength of their links to the local community.<sup>567</sup> Internal documents from two of the Largest funeral directors suggested that some consumers perceive the Largest funeral directors as being less caring

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<sup>564</sup> Dignity told us that all clients are contacted except in circumstances where contact for feedback is deemed inappropriate, for instance: [X].

<sup>565</sup> As well as other factors including price and volumes.

<sup>566</sup> Co-op submitted that, 'Monitoring activity is ... a reflection of the information that is more readily available rather than an indication of the relevance of those factors to competition between funeral directors'.

<sup>567</sup> CMA calls held with local branch managers.

and personal than 'independent' funeral directors (though this may not influence provider choice).<sup>568</sup>

5.57 In relation to other funeral directors:

- (a) In response to our questionnaire, eight out of 15 of the Smaller funeral directors and ten out of 11 branches of the Other Large funeral directors indicated that they monitored their local competitors in some form, with those that do monitor competitors indicating that service quality was the most important aspect that they monitor (from those who specified what they monitored, all seven of the Smaller respondents and eight out of ten branches of the Other Large funeral directors monitored service quality).
- (b) Some of the smaller funeral directors, from whom we have received evidence via calls and site visits, indicated that they did not pay much attention to what competitors were doing. Others among these providers still showed an awareness of competitor positioning/pricing in their responses (including in some cases aspects of the quality of their services).

5.58 In terms of competitive response, overall, we have seen only limited evidence of funeral directors improving their levels of quality in response to local competition. The Largest funeral directors' quality level is typically set at a company level, rather than as a direct response to local competitive conditions, limiting the flexibility of locally-focused responses.<sup>569</sup> Dignity, Co-op and Funeral Partners all indicated that their internal quality measures do not vary across their branches depending on the conditions of local competition, and that staff training and quality monitoring and targets are the same across branches. They all indicated that the quality of their facilities may vary across branches, and that such variances may be due to factors such as whether there has been an opportunity to refurbish (eg following an acquisition) or a desire to maintain particular aspects of pre-acquisition services (such as slightly different uniforms or personalised registration numbers of vehicles). We have seen very little evidence of feedback from local management influencing central decisions on quality.<sup>570</sup>

5.59 In relation to other funeral directors:

- (a) Questionnaire responses indicated that of those that monitor their competitors, four out of seven of the Smaller funeral directors and eight

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<sup>568</sup> For instance, an internal document from one funeral director (based on qualitative research) stated that "independent providers [are] perceived as more personal and caring". [§<].

<sup>569</sup> Albeit that centrally-set quality decisions can be a response to aggregated local competitive conditions.

<sup>570</sup> See Appendix H, paragraph 121.

out of ten branches of the Other Large funeral directors said that they use that monitoring information in their decision-making in some capacity. Again, the most common response was that information was used to help inform decisions on service quality. Responses detailed that the quality improvement decisions related to a wide variety of aspects such as staff training, refurbishment of premises, mortuary facilities and upgrading their fleets.

- (b) In our site visit and telephone conversations, in some cases funeral directors indicated that they did not pay much attention to what competitors were doing. In other cases, funeral directors indicated that they made decisions on their own positioning in a way which implied comparison with others (for example, aiming to offer the highest quality or to set prices which are lower than some others).

5.60 Overall, given the relevance of experience and recommendation to consumer choice, we consider that there is a degree of competitive pressure acting on the observable aspects of quality in funeral director services. Nevertheless, we have observed only limited evidence of scope for flexible quality-based responses to local competition.

### *Building reputation and brand awareness*

5.61 Given the importance of recommendations and previous experience in customer choice of funeral director (as set out in Section 3 and paragraph 5.9), building a reputation locally and ensuring customers are aware of the funeral director at the right time can give it an important competitive advantage. In this regard, we consider below the following three aspects: brand name, marketing and relationship with intermediaries.

#### *Brand name*

5.62 Given the importance of reputation and recommendation, funeral directors want to build a well-known 'brand' name within their community to be able to attract and retain customers. Many funeral directors have highlighted their involvement/standing in the local community as important to gaining business.<sup>571</sup> One highlighted that the store front had been a traditional way of

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<sup>571</sup> For example, [X] said that being simply part of the local community was also a factor in gaining funerals; [X] told the CMA that it did not get much business via its website and that it largely relied on 'word of mouth and reputation locally; and having a presence'; [X] said that it emphasised its local connections.

attracting custom.<sup>572</sup> These channels rely heavily on – and reinforce – having names that are associated with good funeral services.

- 5.63 This is demonstrated through the strategies of Funeral Partners and Dignity (and historically Co-op)<sup>573</sup> of expanding by buying established firms and retaining the existing name, rather than focusing on their own national brand.<sup>574</sup> The key criteria in identifying acquisition targets include the strength of the business' name and reputation.<sup>575,576</sup> Dignity told us that, in the past, the main way of acquiring new customers was buying the goodwill of well-established businesses. Dignity said it was now looking at acquiring customers in a different way, through digital and other forms of promotion.<sup>577</sup> Funeral Partners told us that it had not seen evidence of bereaved families shopping around on price having the impact of undermining the goodwill of its business acquisitions.<sup>578</sup>
- 5.64 Dignity and Funeral Partners stated they aim to maintain or improve quality post-acquisition and have also increased prices in acquired branches.<sup>579,580</sup> Loss of customers post-acquisition suggests the balance between these changes did not necessarily suit all customers. In the case of Dignity at least, this was based on the calculation that the strength of a local brand and importance of 'word of mouth' would enable it to 'harvest the goodwill' of the

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<sup>572</sup> A new entrant in a large conurbation [X] said that funeral directors used their shop as the main advertising tool.

<sup>573</sup> Co-op has in recent years abandoned this strategy in favour of organic growth and adoption of its national brand across its network of branches. Co-op stated: 'tCG has historically continued to trade acquisitions as a private name business for a short period to protect the value of its associated goodwill with planned integration and investment to refit and migrate to tCG branding, leveraging the name the local home is known by. However, we have recently completed a programme to migrate all of our private name funeral homes in Great Britain to tCG's "Pioneer" brand'.

<sup>574</sup> For example, one Funeral Partners document notes the importance of, 'Protecting the local brand, whilst retaining a consistent brand image within our Funeral Partners brand framework'. A Dignity document notes, 'When we acquire businesses what we are really buying is the local goodwill built up over many years. 66% of people who use our businesses have used them previously or come to us through recommendation. So the traditional business name is important. However we also do not want to hide the fact that the business is part of Dignity, hence the clear signage'. Until recently, Dignity had spent very little on brand marketing, relative to other national businesses.

<sup>575</sup> Dignity's key criteria for acquisitions was set out as having sufficient volume, being a 'well established funeral home with strong local reputation' and locations which would help it evolve its network.

<sup>576</sup> Funeral Partners stated the most important considerations in acquiring a business were its scale, reputation and having a good, strong trading name. [Funeral Partners hearing summary](#), paragraph 25.

<sup>577</sup> [Dignity hearing summary](#), paragraph 13.

<sup>578</sup> [Funeral Partners hearing summary](#), paragraph 26.

<sup>579</sup> Funeral Partners stated it generally increased the prices of the businesses it acquired to reflect the investment it was making (for example, in back of house facilities) and the ongoing commitment to legislative compliance, but sometimes it was necessary to increase prices because the businesses were considered to be under-priced. [Funeral Partners hearing summary](#), paragraph 23. Funeral Partners has stated more recently, 'The increasingly competitive price environment ... is being seen in reducing levels of price increases being applied following acquisitions of new businesses by Funeral Partners' ([Funeral Partners response to issues statement](#), page 9).

<sup>580</sup> Dignity said that price was an important element in achieving a return on its investment and that, in some instances, business volumes would go down post-acquisition (ie some customers would go elsewhere). [Dignity hearing summary](#), paragraph 10.

business.<sup>581</sup> Strength of reputation allowed significant price increases to be a profitable strategy despite a degree of volume erosion post-acquisition. For Funeral Partners, volume decline has been at least partially due to other aspects of the acquisition process (and in particular loss of key staff, often setting up in competition in the local area following the acquisition) rather than a customer reaction to price changes.<sup>582</sup>

## *Marketing*

5.65 Funeral directors use a variety of measures to market their services:

- (a) Many funeral directors reported using relatively traditional forms of advertising, such as through community or local newspapers or involvement/standing in the local community.<sup>583</sup>
- (b) Funeral directors may also advertise their services within bereavement literature provided by intermediaries.<sup>584</sup> We are aware of examples of advertisements by funeral directors and other organisations being included within such booklets in return for funeral directors contributing to the cost of printing and publication of the booklet, or collectively funding the booklets, along with examples of NHS Trusts stating in their booklets that the Trust does not endorse any of the organisations included.<sup>585</sup>
- (c) The Largest funeral directors use a variety of approaches (including broadcast, print and community activity).<sup>586,587</sup> They have also noted the importance of community engagement,<sup>588</sup> including with care providers such as care homes or hospices. Evidence from the Largest funeral

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<sup>581</sup> Dignity has more recently changed its approach and limited its acquisitions of new companies, in part to [X]. However, [X].

<sup>582</sup> [X].

<sup>583</sup> A new entrant in a large conurbation [X] advertises in parish magazines, some local papers and in churches, and most of the funerals have come through these connections – friends, friends of friends and people introduced through church. A long-established family firm [X] stated that it does advertise in the local papers but does not know how effective it is because fewer people are reading newspapers. A well-established family firm in a rural area [X] said their main way of attracting customers was advertising, recommendation and community involvement. For advertising, it gave examples such as placing adverts on the obituary page in the local newspapers, in church diaries and magazines as well as its website and giving out calendars. For importance of role in local community, see paragraphs 5.62 to 5.64.

<sup>584</sup> For example, [X] and a well-established family firm in a rural area [X] noted they advertise in booklets on bereavement.

<sup>585</sup> See Appendix D.

<sup>586</sup> For example, research commissioned by Funeral Partners in February 2019 examined advertising expenditure and media used by Co-op and Dignity in 2018, which showed these funeral directors had used a mix of TV, radio, press and digital advertising.

<sup>587</sup> In response to the PDR, Gillotts Funeral Directors stated that ‘firms like the Co-op and Dignity benefit from huge economies of scale when it comes to Advertising, and can also make use of more expensive media such as TV and radio which smaller independent firms cannot.’ (Source: [NAFD Supplementary submission](#)).

<sup>588</sup> One Funeral Partners document notes, ‘Community activity and relationship building is the most important marketing tactic we have at hand for the funeral business’. For Co-op, ‘community’ is one of four key areas in communication (along with customer, colleague and commercial).



directors indicates that they carry out marketing activity designed to build relationships with or generate business via care providers.<sup>589</sup>

- (d) An increasing area of focus for the Largest funeral directors has been online presence and advertising.<sup>590</sup> As set out in Appendix H, the Largest funeral directors take some effort to understand their rankings in search engine results including in relation to rivals.<sup>591</sup> Some (generally more ‘traditional’) funeral directors indicated their online presence did not play a significant role in attracting many customers.<sup>592</sup> However, some smaller funeral directors have also noted using some form of online advertising, either through their website or Google ads.<sup>593</sup>

5.66 The overall level of marketing expenditure by the Largest funeral directors is relatively low – generally less than 5% of operating expenditure is on marketing.<sup>594</sup> [X] has been more proactive in marketing than many funeral directors, spending significantly more on marketing than its competitors which helps it gain a large amount of pre-paid funerals. It said it considered Co-op and Dignity to be its only serious competitors as it saw them as the only businesses really investing anything significantly in marketing.<sup>595</sup> However, [X] also commented that as it built up more pre-paid funerals it would require less marketing ‘because one flows into the other’.

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<sup>589</sup> Further information is provided in Appendix D.

<sup>590</sup> For example, Dignity stated, ‘[X]. In 2014, the local spend accounted for [X]% of the total marketing spend while in 2018 it accounted for [X]. This shift in spend reflects the change in Dignity’s marketing strategy which is has begun to be more focussed on online marketing in the last few years. Dignity notes that although the marketing spend is centrally controlled, it ultimately affects all the branches’.

<sup>591</sup> See Appendix H paragraphs 114, 116 and 120.

<sup>592</sup> [X] told us that it did not get much business via its website and that it largely relied on ‘word of mouth and reputation locally; and having a presence’. [X] said that only a small percentage of potential customers came through its website. [X] thought that more customers came through its high street presence or people noticing the company’s cars. [X] said that a very small proportion, maybe 10 per cent, of its customers found it through its website. Others indicated more customers were looking at their websites, but local knowledge still played a greater role: [X] said that customers were looking at the website more, however, it thought that most customers came to it through local knowledge as they had been using the company for years; [X] said that prospective customers had been looking more at its website but that most customers relied on local knowledge of funeral directors, and that many customers had been coming to [X] for years.

<sup>593</sup> A new entrant in a large conurbation [X] said it used its website as its marketing method to attract customers from [X]. [X] has invested in a new website and has started running Google ads. [X] said that the website is very important, and it put substantial effort and investment in getting it right. [X] said that a big driver for it was its website and online reviews. [X] estimated that 70 per cent of its customers have looked at its website. [X] said that its website was key to building the business up. [X] was founded in November 2013 and in the first year, all advertising had been internet-based. [X] said that customers come across the business on the internet – it said that people refer to having seen the website. [X] said that it knew that a lot of customers look at reviews and have taken these into account when making their choice. [X] said that customers wanted some first-hand knowledge or confidence when they were choosing a funeral director.

<sup>594</sup> Between 2014 and 2018, Co-op spent [X]% of opex on marketing each year, while the figures for Dignity were [X]% and Funeral Partners were [X]%. Calculated based on CMA analysis of financial templates and marketing spend.

<sup>595</sup> Separately, an established firm in a mid-size town [X] has also tried television advertising and considered it had been successful, but it would generally not want to emulate the approach of the corporate funeral directors to marketing as it is on a different scale.

5.67 We have seen evidence of marketing being used as a defensive manoeuvre, particularly by the Largest funeral directors. Considering the internal documents of the Largest funeral directors, the most common response to new entry or poor branch performance was increased marketing activity. This is set out in more detail in Appendix H paragraphs 104 to 120 and 122. A relatively small number of other funeral directors also reported deciding advertising activity based on how others were behaving or performing.<sup>596</sup> Increased marketing brings some benefits to customers through raising their awareness of alternative funeral directors and (depending on the content of the marketing) alternative funeral options and prices available, although these benefits will only have a positive effect where customers are engaged and willing to act on such information.

#### *Services to coroners and care providers*

- 5.68 As well as providing services for those arranging a funeral, funeral directors may provide services to others who have the deceased in their custody at the time and/or shortly after the death. In particular, funeral directors may have contracts to transport (and in some cases store) the deceased where a coroner needs to investigate the death.
- 5.69 End of life care providers such as care homes and hospitals may also request a funeral director to remove the deceased from their care, although this is usually done following consultation with someone known to the deceased. Care providers may also play a role in prompting customers to think about which funeral director they would like to use, or by making a recommendation.
- 5.70 We set out below how such relationships with intermediaries may influence customer behaviour, and the implications this may have. We note that these issues (pertaining to consumer choice being removed or limited by intermediary and funeral director behaviour) in part arise and are exacerbated by the broader problems of lack of transparency and shopping around, and customer vulnerability.

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<sup>596</sup> From our questionnaire, of those that monitor their competitors, two out of seven of the Smaller funeral directors and six out of ten branches of the Other Large funeral directors used the information gathered through monitoring to decide on advertisement/promotional activity, with one company detailing that it increased the quantity of funeral plan leaflets and another invested in its website.

- *Care homes, hospices and hospitals*

- 5.71 As noted above, evidence from the Largest funeral directors indicates that they carry out marketing activity designed to build relationships with or generate business via care providers.<sup>597</sup>
- 5.72 Although one of the main trade association's code of practice has in the past included restrictions<sup>598</sup> on payments, donations or other inducements to third-party intermediaries for recommendations, such restrictions have now been removed from the code. We have seen evidence that some of the Largest funeral directors (Co-op, Dignity) are seeking to deepen their relationships with palliative care providers:
- (a) In 2018 Dignity developed [REDACTED] to be offered to NHS Trusts, hospitals, care homes and bereavement services free of charge, in exchange for that funeral director signposting in the document its pre-paid and at-need funeral services to palliative care patients.
  - (b) Early in 2020, Co-op agreed heads of terms with [REDACTED] Hospice in connection with an 'innovative preferred partnership arrangement' which would involve direct referral payments for at-need funerals (and funeral plans) where the hospice facilitates an introduction to Co-op and a service is taken up. The proposal was exclusive in so far as it anticipated that the hospice would not introduce its patients to Co-op's competitors.<sup>599</sup> Co-op told us that it had put the partnership on hold so that it could be considered fully in light of the findings of our investigation, and both parties have since mutually agreed to cease discussions about the partnership. Co-op also stated that [REDACTED]. More detail on these arrangements is provided in Appendix D.
- 5.73 We consider that, by leveraging the trust that palliative care patients and their families place in their carers, such partnerships are intended to channel customers towards a given funeral director, thus reducing these customers' choices. This is particularly concerning, given the vulnerability of the people involved. Although we are aware of only two such initiatives,<sup>600</sup> they are by the two largest suppliers, and if developed or replicated more widely<sup>601</sup> could

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<sup>597</sup> Further information is provided in Appendix D.

<sup>598</sup> Specifically, this was Clause 9.2 of the NAFD Code of Practice.

<sup>599</sup> As noted in Appendix D, this is evident in the draft contract which stipulates that [REDACTED].

<sup>600</sup> Due to the limited transparency around such contracts there may be other similar arrangements in operation elsewhere.

<sup>601</sup> We note in this context that evidence from Co-op's internal emails shows that it envisaged that more such agreements like the one with [REDACTED] Hospice would be sought in future and that there would be substantial financial benefits arising to the hospice for promoting the model. Co-op envisaged its arrangement with [REDACTED] as '[REDACTED]', and that under its draft contract with [REDACTED], [REDACTED] was [REDACTED].

have an impact in many parts of the country in the future. We therefore consider that such arrangements may be expected to have distorting effects on customers' choices.

- 5.74 There is evidence that some staff in care homes, hospices and hospitals provide recommendations to their residents and the relatives of their residents, although our survey evidence indicates that this is not currently common practice. The Market Investigation consumer survey found that only 4% of all respondents found out about the funeral director they used from care home, nursing home, hospice or hospital staff.<sup>602</sup> It also found that only 1% of all respondents reported that a recommendation by such staff was the most important factor when choosing a funeral director.<sup>603</sup> This is supported by the evidence we received from care providers.<sup>604</sup>
- 5.75 In general, where care homes or hospices need to arrange for a funeral director to collect the deceased, the funeral director is chosen by the family. This view is based on what we have been told by care provider representative organisations, Large funeral directors and the trade associations, and is supported by our Market Investigation consumer survey responses.<sup>605</sup>
- 5.76 There is evidence – from our funeral directors call for evidence and from submissions made directly to us – of cases of the deceased being moved from care homes or hospices either without families' consent or with families finding it difficult to assert their own preferences, with this perhaps not always being justified by practical reasons.<sup>606</sup>
- 5.77 Dignity, Co-op<sup>607</sup> and Funeral Partners told us that they have very few informal arrangements with care providers.<sup>608</sup>
- 5.78 In relation to hospitals, the evidence from the Large funeral directors and a small number of direct submissions and our call for evidence suggests that arrangements for removal from hospitals to a funeral director's premises are affecting very small numbers of families at the moment,<sup>609</sup> but it is possible that the impact on affected customers could be material.<sup>610</sup> It is also possible

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<sup>602</sup> Source: CMA analysis of consumer survey dataset.

<sup>603</sup> Source: CMA analysis of consumer survey dataset.

<sup>604</sup> See 'Consumer survey and other evidence' in Appendix D.

<sup>605</sup> See 'Consumer survey and other evidence' in Appendix D.

<sup>606</sup> See Appendix D.

<sup>607</sup> Co-op noted that its submission on this point is based on the information they were able to collate, which may not be complete.

<sup>608</sup> See Appendix D.

<sup>609</sup> Evidence from Co-op and Funeral Partners suggest that such arrangements are not common, and Dignity clarified that in their experience, it is rare for hospitals to make first contact with a funeral director. See Appendix D.

<sup>610</sup> Further information is provided in Appendix D.

that these arrangements might become more common in future if hospital mortuary facilities become more capacity constrained, or are closed.<sup>611</sup>

- *Coroners*

- 5.79 We have set out in Section 2 the role coroners sometimes play following a death. Coroners have the power to have a body brought into the public mortuary and keep it there while they carry out investigations. It is in this context that local authorities (and in some cases the police) have ongoing contracts or informal arrangements and ad-hoc agreements with funeral directors to provide services to the coroner or the Procurator Fiscal.<sup>612</sup> The evidence we have obtained indicates that both large and small funeral directors compete for such contracts and that smaller funeral directors win some, thus implying that scale does not pre-empt the winning of such contracts.<sup>613</sup>
- 5.80 We know that some funerals are performed by the same funeral director who has an arrangement with the coroner. The evidence we have seen is mixed as to whether conversion rates are high,<sup>614</sup> although the fact that some funeral directors bid for coroners' contracts below cost implies that there is at least some benefit to funeral directors from these contracts.<sup>615</sup> We understand that many contracts have non-solicitation clauses. However, we were made aware that a clause of this type (ie banning solicitation) may not be enforced and it is alleged that the contracting funeral director is actively using the contract to gain customers despite being strictly forbidden from doing so. This indicates such clauses may not be being respected or enforced.

### *Expanding geographic coverage*

- 5.81 In recent years, some funeral directors have adopted strategies aimed at achieving greater geographic coverage and penetration (either organically or

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<sup>611</sup> See Appendix D.

<sup>612</sup> [General information about the Coroners Service.](#)

<sup>613</sup> For example, one new entrant serving a mid-sized town [X] won the local coroners' contract shortly after starting the business and retained it for several years, despite operating from a converted residential property.

<sup>614</sup> We heard from one new entrant funeral director [X] who gained a significant proportion of its customers through contacts it established while fulfilling a coroner's contract. Dignity and Funeral Partners submitted conversion rates which do not appear particularly high, which is detailed further in Appendix D.

<sup>615</sup> We note that below-cost bidding is not inherently harmful to the consumer (and has clear financial benefits to the contracting authority), but rather appears to be evidence that supports the theory that contact with the funeral director increases the likelihood that the bereaved person uses that funeral director for the funeral (and could be consistent with a competitive procurement process). See Appendix D.

through acquisitions), for example, targeting local areas where they were not present or had a relatively low market share. We have seen evidence.<sup>616</sup>

- (a) That, as part of these broad strategies, funeral directors compete with each other for specific acquisition targets;
- (b) of expansion aimed at deterring entry by rivals;<sup>617</sup>
- (c) of expansion aimed at responding to the threat of competition,<sup>618</sup> including where this was not expected to win any incremental customers;<sup>619</sup> and
- (d) that expansion has also been used to compensate for falling volumes in existing branches.<sup>620</sup>

5.82 As set out in Appendix G, a significant number of the new branches opened between 2013 and 2018 were accounted for by the Large funeral directors, indicating geographic coverage and expansion has been an important part of their strategy.

5.83 Therefore, geographic expansion (through both acquisitions and organic openings) has been an important aspect of the strategy of some of the Large funeral directors in particular. In some instances, this has been a response to entry, or the threat of entry.

### ***Competition/entry and performance***

5.84 In this section we consider whether and how competition across the various dimensions together affects firm performance and firms' competitive responses to changes in performance.

5.85 In a competitive market we would expect firms' performance to be influenced by their competitive position (eg by changes they make to their price or quality, or changes made by rival firms to theirs) and for firms to monitor and respond to changes in their performance.

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<sup>616</sup> [REDACTED], focusing on both in-fill to existing network and expansion to increase geographical reach. Co-op said that its growth strategy was based on organic growth, opening new satellite branches off existing care facilities, as well as building new care centre facilities (Co-op hearing summary paragraph 8).

<sup>617</sup> [REDACTED].

<sup>618</sup> Co-op said it was most cost effective for it to open a new branch off an existing care centre to infill or partially infill into new opportunities off an existing care centre, sometimes as a defensive response to a competitor opening (Co-op hearing summary paragraph 8). [REDACTED]. [REDACTED].

<sup>619</sup> An internal document from one funeral director stated, with regard to a proposed new funeral home, that [REDACTED].

<sup>620</sup> [REDACTED]. Similarly, [REDACTED]. This is also evident in the comparison of total market share compared to market share per branch set out in Appendix J.

- 5.86 The three Largest funeral directors monitor their performance in terms of volumes, profits and market share, as well as on the specific dimensions of competition (like price, customer satisfaction and community engagement etc) discussed above. The most common action taken in response to poor performance has been increased marketing, with relatively little pricing or quality response as noted above.<sup>621</sup>
- 5.87 We are aware that there have been some instances where providers have had a more significant reaction to competitive threats (see discussion of Co-op's reaction to Fosters<sup>622</sup> at paragraph 5.43). Co-op highlighted that it has faced different pressures on its market shares in different areas, often as a result of aggressive entry or competitor behaviour.<sup>623</sup> Funeral Partners has undertaken reviews to understand changes in performance at branch level, which show differing outcomes, with competitors mentioned as a reason for deterioration in many cases. The most commonly mentioned 'action taken' to address the poor performance related to marketing or community/influencer engagement, with price, staff and standards also mentioned.<sup>624</sup> We set out in Appendix H (see paragraphs 104 to 122) that, while there are examples of responses by these funeral directors in terms of prices (and to a lesser extent quality), a greater focus appears to be on marketing responses.
- 5.88 Evidence from the internal documents of the three Largest funeral directors indicates that many factors affect performance, but these documents indicate that only significant price reductions have had a material positive effect on volumes/share (at the expense of profit).<sup>625</sup> This is consistent with our analysis of changes in these funeral directors' market shares set out in Appendix J, which show that in the short term there are only minor changes in market share. However, as discussed in paragraph 5.89, Dignity and Co-op have experienced long-term decline in their market shares ([§]).<sup>626</sup> This reduction in market share has been driven particularly by a decrease in their volume of standard funerals, which may indicate a longer term effect of repeated standard funeral price increases leading to customers switching to

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<sup>621</sup> See Appendix H paragraphs 32 to 59 and 112 to 122 for further detail.

<sup>622</sup> Co-op has also noted its reduction of simple prices in Scotland was a reaction to Fosters. Co-op response to working paper on firm level price and market share analysis, paragraph 2.15 a)(i) and documents referred to.

<sup>623</sup> Co-op stated: 'For example, in Scotland, where [§], our total market share declined from [30-40]% in 2012 to [20-30]% in 2018 (a decline of [5-10]% compared to [0-5]% in England and Wales and [0-5]% in Northern Ireland). Similarly, within England, areas where regional players have been active have seen sharper market share declines. For example, in Manchester North and South where the decline from 2012 to 2018 was respectively [§]% and [§]%, independent funeral homes (eg [§]) have been active and exerted strong competitive pressures'.

<sup>624</sup> See Appendix H paragraphs 117 to 119 for more detail.

<sup>625</sup> This is discussed in Appendix H paragraphs 123 to 150. We note that this evidence includes analysis over both short term and longer term time periods.

<sup>626</sup> As discussed in paragraph 5.81(d).

other providers.<sup>627</sup> As noted previously and in Section 7, these funeral directors have more recently sought to reduce or hold their prices flat.

- 5.89 Co-op highlighted that lack of response to their declining position by the largest funeral directors reflected ‘the “relative inflexibility” of the national business model [redacted]’ (but also stated that such national business models come with other benefits for customers)<sup>628</sup> and that ‘the CMA has ignored the consequences of the Largest funeral directors’ past actions on their performance’.<sup>629</sup> We recognise that the two Largest funeral directors in particular have experienced long-term market share declines. However, we do not accept that the lack of response to such decline by both Co-op and Dignity is an inherent characteristic of managing a large/national funeral director business. It appears instead to have been a course of action that was deliberately chosen (and pursued without concern for a considerable number of years) to maximise profits/generate cash, at least in the short term (by increasing local prices at the expense of volumes).<sup>630</sup> As such, we consider it relevant to our assessment of the effectiveness of competition in the funeral directors market that there was a significant lag between the two Largest funeral directors observing a deterioration in volumes and market shares (which they have noted began many years ago)<sup>631</sup> and attempting to address this through improving their competitive offering (as opposed to other strategies to compensate for market share loss such as expanding their funeral business estate).
- 5.90 Smaller companies we obtained information from were aware of what was going on in their local area and what competitors were doing, including

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<sup>627</sup> Funeral Partners experienced an increase in its market share, but this was driven primarily by an increase in the number of funeral homes. Its market share per funeral home has decreased since 2013.

<sup>628</sup> It stated such benefits include ensuring customers receive a consistent level of quality across the entire network and providing flexibility and portability across the UK when redeeming pre-paid plans where customers know what product they are buying and have the confidence to know they will receive it wherever they live at the time of redemption. [Co-op: Response to PDR](#), paragraph 4.9a. We discuss evidence on consistency of Co-op’s back of house quality in paragraph 7.82.

<sup>629</sup> Co-op noted lack of low-cost options had also been part of the reason for its market share loss, to which it responded by re-launching its Simple funeral product and launching Cremation without Ceremony ([Co-op: Response to PDR](#), paragraph 4.9b). We discuss the factors behind Co-op’s change in strategy around low-cost funerals in paragraphs 5.104-5.105 and Appendix I.

<sup>630</sup> See, for example, [redacted]. [redacted].

<sup>631</sup> Co-op noted it had lost market share from its core estate since 2012 ([Co-op hearing summary](#), paragraph 17). Dignity’s market share [redacted] has declined since 2002 (when the company was created), and deteriorated even further during 2017-18.



looking at competitors' websites or local networking.<sup>632</sup> Whether this translated into action on their part was more mixed.<sup>633</sup>

- (a) Some noted they had not engaged or responded to competition, focusing instead on what they considered to be 'right', such as delivering high quality or fair prices,<sup>634</sup> or that they had not felt the need to.<sup>635</sup>
- (b) Others mentioned 'sharpening up' (meaning putting a little more effort in the level of service offered)<sup>636</sup> or trying to maintain some distance between themselves and others, particularly in terms of their pricing compared with larger providers.<sup>637,638</sup> In a few cases this appeared to have provoked a reaction from larger providers, albeit to differing extents.<sup>639</sup> In response to the PDR, a number of NAFD members

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<sup>632</sup> For example, [X] noted it speaks to the other independent funeral directors in Scotland to be aware of what is working well for them and what challenges they have experienced. [X] stated that it will keep an eye on what its competitors are doing, and talk to other funeral directors to have an awareness of what they are doing. A long-established firm in a large conurbation [X] mentioned monitoring its competitors' quality, insofar as whether they are on time for the funeral; the number of staff attending the funeral; how they interact with clients. It also looks at their websites and how much advertising they are doing.

<sup>633</sup> This is also true from evidence from a questionnaire sent to a sample of funeral director branches outside of the three Largest firms. Eight out of 15 Smaller funeral directors and ten out of 11 branches of Other Large funeral directors indicated they monitored a competitor, and around half of the funeral directors who undertook monitoring indicated they monitored more than one competitor. Four out of seven of the Smaller funeral directors and eight out of ten of the branches of Other Large funeral directors said they used this monitoring information in decision-making in some capacity. Reasons given for not responding to the monitoring information were a mixture of already being the most affordable in the area, still being within the branch's maturity phase or having a universal pricing policy across its business. See Appendix H paragraphs 154 to 159.

<sup>634</sup> [X] would be very reluctant to reduce prices further as profits are already so low; [X] said its prices are lowest and not prepared to decrease further unless family in real financial difficulty; [X] has not reacted to what competitors are doing as it considers its prices are fair and that it is open about how and what it charges; [X] said if Dignity, for example, made changes to their offerings it would be aware of it but would not necessarily respond to the changes as it feels that its priority is its own service offering.

<sup>635</sup> [X] said that its nearest competitors do not normally carry out many funerals in its area and vice versa (ie they have separate catchment areas) and as such, it generally does not respond to any actions by its nearest competitors; [X] said that it does not take notice of what others do and does not change its prices in response to others; [X] said that it has not changed any of its' practices in response to what a competitor was doing.

<sup>636</sup> [X] said that in response to competition, it said it has 'sharpened up a little bit', making sure it was doing small things well (giving the example of making sure donation boxes are easy to access).

<sup>637</sup> [X] aim is to provide the best service in the area at a price that is neither the highest priced or the lowest priced locally; [X] would not want pricing to be higher than Dignity's price even if the quality is gives is better; Rowland explained that its pricing policy was to make its prices ten per cent cheaper than Co-op (Rowland Hearing summary paragraph 17); an established firm [X] in a large conurbation said that it is aiming to keep a differential of prices [X]% below the market leader in its area, although it varies by funeral type. [X] said that he did feel some competitive pressure from a funeral director in the local town, explaining that this company will regularly market in his local area, but [X] always tried to keep its prices a long way under this competitor's.

<sup>638</sup> This is also observed through some smaller providers who were former employees of larger companies, who enter offering what they perceived to be the same level of service they did previously but at lower prices for example [X], [X], [X].

<sup>639</sup> A new entrant in a large conurbation [X] is aware that the large firms have decreased their prices to try and match its prices, although, Dignity having reduced its price by £1,000, was still £1,000 more expensive than them. [X] said that both 'independent' funeral directors and [X] have tried undercutting its prices in some regions, which it subsequently responded to by also lowering its prices. [X] said that funeral directors tended to be slow to react, that long-established firms were mainly concerned about protecting the businesses they have inherited. They also said that funeral directors operated in complete isolation from new entrants like [X], and only noticed the increase in competition when companies started taking volumes from them.

responded that they face significant competition in their areas, with some reporting that this generally kept prices down.<sup>640</sup>

- 5.91 A similar picture arises with regard to entry. As set out in Section 4, markets in the funeral sector are highly localised and there has been a significant amount of entry observed. Co-op characterised new entrants as falling into three categories: those doing the job of a traditional funeral director, ‘more modern players’ who take a different approach to marketing their services, and ‘digital players’ (such as providers of direct cremation services). In the traditional segment, competition would typically come from ex-funeral director employees setting up in business for themselves. Online and direct cremation types of business, and the newer low-cost entrants, were competing more on price, sometimes ‘in quite an aggressive way in terms of marketing and their presence’.<sup>641</sup>
- 5.92 As such, funeral directors may be at risk of losing customers and market share to new rivals particularly where a former employee, or former owner of a business which has been taken over by a larger company, sets up a new business, which may attract customers who would have otherwise gone to their former employer (as discussed in paragraph 5.64). This may reflect the value placed on personal service and reputation.<sup>642</sup>
- 5.93 As set out in Appendix G many funeral directors we received evidence from were aware of entry occurring within their local areas. Evidence gathered from the three Largest funeral directors indicates that they monitor instances of new entry to varying degrees, on both an ongoing and ad hoc basis.<sup>643</sup>
- 5.94 However, the impact of entry on funeral directors’ businesses appears significantly more mixed than experience of entry.
- (a) Evidence obtained from the three Largest funeral directors indicates there are some examples of the Largest funeral directors responding to entry by taking actions such as: increased marketing, improving quality and lowering prices. Based on the evidence we have received, these

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<sup>640</sup> See the response to Question 4 by Regency Funeral Services, E C Thomas & Son, V Morton & Sons and C McGough & Sons within the [NAFD Supplementary submission](#).

<sup>641</sup> Co-op hearing summary, paragraphs 15 and 16.

<sup>642</sup> For example, [X] reported that many of the new entrants were formerly employed by Co-op, due to dissatisfaction with its restructuring and moving away from its traditional ethos and being revenue-driven. It noted when former employees set up on their own, some of their customers follow them. Such new entrants would be able to keep their costs down, yet still give the same personal service to these same families. A strategy review document prepared for Funeral Partners [X] noted [X].

<sup>643</sup> We have seen examples of emails passing from local or regional managers to those at higher levels in the management hierarchy noting expected or actual new entry (see, for example, [X]). We have also been told that some further evidence-gathering or discussion occurs at a more corporate level.

responses appear to have been taken in only some instances or with a considerable time lag.<sup>644</sup> Some of the Other Large funeral directors also indicated their responses to entry can be muted.<sup>645</sup>

- (b) While many smaller funeral directors had experienced entry, it was less common for this to have had an effect on their performance,<sup>646</sup> or for smaller funeral directors to have responded to entry,<sup>647</sup> with some explicitly stating they had not.<sup>648</sup> As noted at paragraph 5.90(b) above, relatively few of the recent entrants reported that other funeral directors had responded to their entry, or had only done so once they started to have a significant effect on their volumes.

5.95 This indicates that funeral directors often do not feel pressure to respond to competition from other providers, including new entry which might be expected to increase the level of competition they face. However, there are some instances where funeral directors are more directly challenged or affected to a greater extent by entrants offering a different service proposition (such as a lower price option). This can prompt a more robust response by the incumbent provider but can also be met by more limited responses, such as increasing efforts on community engagement.

## **Summary**

5.96 Given the relevance of experience and recommendations in customer choice of funeral director, we consider that there is a degree of competitive pressure acting on the observable aspects of quality in the supply of funeral director

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<sup>644</sup> See Appendix H paragraphs 104 to 111.

<sup>645</sup> [§] stated that when responding to new entrants, it would usually try to raise its profile and strengthen its links to the local community. One firm had done 'very little' to respond to new entrants, although it has continued to be innovative in its advertising but that focuses predominantly on quality of service rather than price. Another stated that it has not responded by changing its offering or prices, as traditionally its customers come from recommendations and those looking for a personalised high-quality service, although it had altered its advertising a little to focus on quality of service and customer choice.

<sup>646</sup> From a questionnaire sent to a sample of funeral director branches, five out of 12 Smaller funeral director branches and seven out of 14 branches from Other Large funeral directors reported they had experienced entry. Six out of 12 branches reported the entry had had an impact on their business (although only two out of 12 said it was significant). Only one funeral director we spoke to through site visits thought its business may have been affected more recently, but it was unsure whether this was due to other factors: [§] did not think its business had been affected by entry until this year, but that its volumes had declined in 2018 and this trend appears set to continue and although the death rate is down, there appear to be other factors at play, such as direct cremation, market entry and people shopping around. [§] said that in spite of the increase in the number of local competitors, its volumes had grown over this period.

<sup>647</sup> From our questionnaire, eight out of 12 branches that experienced entry responded to the entry in some way. The most common response (by five out of eight) was to improve quality, such as through refurbishment of premises and expansion of fleet, while three out of eight changed prices (but did not specify how), four out of eight increased advertising/promotional activity and three out of eight changed their funeral range (with one giving the example of starting to offer direct cremation). Six out of eight also used a different response [§].

<sup>648</sup> [§] and [§] recorded they had not responded; [§] noted the entrant had positioned themselves as 'cheap, cheap, cheap' and so had attached a stigma to themselves such that people did not want to use them.

services, although we have seen only limited evidence of funeral directors improving their levels of quality in response to local competition.

- 5.97 The relevance of these factors is also reflected in efforts to build reputation and brand awareness. This can be through marketing, where funeral directors use a number of approaches without it necessarily being a large source of expenditure, including through building relationships in the local community. It is also reflected in the acquisition strategies of some of the Largest funeral directors to buy existing providers with strong local reputations and continue trading under the previous name to leverage that reputation.
- 5.98 Some of the Large providers have also used the expansion of their network more generally as an important part of their strategies, including in some cases to respond to (actual or potential) entry.
- 5.99 Funeral directors put less emphasis on price, being aware of how they compare to others but not necessarily responding where their relative prices worsen, or only doing so in limited circumstances. Product range, in particular in relation to the development of low-cost options, can be used and has been used by some funeral directors as a competitive response.
- 5.100 We consider that, when in operation, some of the emerging partnerships between care providers and funeral directors, by leveraging the trust that palliative care patients and their families place in their carers, would be likely to channel customers towards a given funeral director, thus reducing those customers' choices. This is particularly concerning, given the vulnerability of the people involved.
- 5.101 The role of prior experience and recommendation and the role of the funeral director in shaping customer decision-making, means funeral directors face less pressure to adapt, as customers will generally return to the same provider without considering other alternatives. This can mean it may take time for entrants to take volume from incumbents, or for efforts by existing funeral directors to win customers from others to be productive. As a result, funeral directors often do not feel pressure to respond to competition from other providers, including new entry which might be expected to increase the level of competition they face. This can lead to muted competitive activity. However, there are some instances where funeral directors are more directly challenged or affected to a greater extent by entrants offering a different service proposition (such as a lower price option). This can prompt a more robust response by the incumbent provider but can also be met by more limited responses, such as increasing efforts on community engagement.

## Implications of growth in low-cost options

### *Introduction*

- 5.102 In the above analysis, we have focused on competition across funeral directors' businesses and their range of services, and the different dimensions of competition. We are aware, however, that some funeral directors, particularly the Largest providers, offer low-cost services alongside their 'standard' services. We consider the implications of offering low-cost services for competition, and whether they exert an additional constraint on 'standard' services for these funeral directors, below. To the extent some funeral directors do not operate a clear distinction between low-cost funeral options and other funeral types, the analysis set out below is not relevant to them, and competitive dynamics relating to these companies are captured in our broader analysis in paragraphs 5.33 - 5.101.
- 5.103 In Section 2, we explain that there has been a growth in sales of low-cost funeral packages, such as simple funerals and direct cremations, both of which we describe at paragraphs 2.27 to 2.29. Some funeral directors use other terms, or specific package names in referring to such low-cost options. For example, Funeral Partners refers to simple funerals as 'Basic funerals' and offers a stripped-down 'Essential funeral'; direct cremation is named Cremation without Ceremony (CWC) by Co-op and branded Simplicity by Dignity.
- 5.104 There has been a shift in emphasis by Co-op and Dignity towards low-cost options in recent years, starting in 2016. We first explore briefly in paragraphs 5.105 to 5.107 the context in which the Largest funeral directors changed their pricing policies and observations on these from other funeral directors before considering the implications of these new pricing policies on competition.
- 5.105 As set out in more detail in Appendix I, the Largest funeral directors' increased focus on low-cost funeral packages was started by Co-op with the relaunch of its simple funeral package at a national price in early 2016.<sup>649</sup> Dignity initially focused on launching a direct cremation service, which it did in 2016, before following a similar strategy for simple funerals to that of Co-op in early 2018, including a significant drop in the price of its own simple funeral package to match Co-op's (although its prices for simple funerals had started to reduce before this point). Funeral Partners has not followed Co-op and Dignity in standardising a simple price across its network, but has undertaken

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<sup>649</sup> As noted in Appendix I paragraphs 6 to 19 this was in response to a mixture of concerns over affordability and funeral poverty, public scrutiny over funeral prices and demand for cheaper options.

‘tactical pricing’ initiatives which reduced simple funeral prices in around 50 branches during its FY2019 budgeting process.<sup>650</sup> Co-op launched its direct cremation service in 2018, with Dignity introducing an expanded range of direct cremation offerings allowing attendance in the same year. Funeral Partners also made various efforts to offer direct cremation in some acquired branches during 2018 with mixed success and offers it on request throughout its network.

5.106 Co-op argued that the impact of low-cost options will persist or increase in the future (as further set out at 5.112(g)). Co-op argued that simple funerals now account for a much greater proportion of pre-paid funeral plans which is clear evidence of a change in consumer behaviour and it has clear implications for the mix of funerals carried out in the future, and further changes to customer behaviour are expected, at least in part as a result of demographic, ethnic and religious/secular changes in the UK. It stated higher than average levels of uptake, together with clear evidence of an upward trend shows higher pent-up demand than is currently delivered by the market as a whole. It also noted the rapid take-up of its direct cremation once launched and that this is also expected to increase. Dignity noted its own experience is that there has been a substantial shift away from standard funerals to lower priced alternatives. It noted the current proportion of direct cremations is driven by firms’ and customers’ behaviour and that take-up is higher in more mature markets.

5.107 Other funeral directors have also noted greater attention being paid to simple funerals and direct cremation by customers,<sup>651</sup> although based on those who gave us information (and evidence from the trade associations) it appears to be generally a lesser focus for them than it is for Co-op and Dignity:

(a) Funeral Partners told us that traditional funerals comprised the majority of funerals and would continue to do so for the foreseeable future, while simple funerals accounted for less than 20 per cent of the market.<sup>652</sup>

(b) An internal document from a Large funeral director also suggests that smaller funeral directors do not operate the same distinction between simple and standard products.<sup>653</sup>

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<sup>650</sup> [REDACTED].

<sup>651</sup> As set out in Appendix I paragraphs 123 to 126, some smaller funeral directors have stated that their sales of direct cremation has been driven by greater public awareness, and that they expect the sales of simple and direct cremation funerals to increase in the future, primarily on the basis that a greater proportion of individuals will be aware of it as an option. Funeral Partners has also noted increased focus on funeral prices (see for example paragraph 5.115). Rowland Brothers noted it also now provided an increasing number of direct-cremation services. ([Rowland hearing summary](#) paragraph 8).

<sup>652</sup> [Funeral Partners hearing summary](#) paragraph 16.

<sup>653</sup> [REDACTED].

- (c) Growth of low-cost funerals was not spontaneously mentioned as a major trend by the other funeral directors with whom we held hearings. Instead they identified other trends when asked an open question about what they considered to be major developments affecting their business/funeral directing.<sup>654</sup> We discuss more recent submissions made on the role of low-cost funerals following COVID-19 in paragraphs 5.148 to 5.154.
- (d) As discussed further in paragraph 5.118, simple funerals appear to account for a much smaller proportion of volumes for the smaller providers from whom we received estimates.
- (e) A number of the smaller funeral directors we spoke to stated that they only arrange direct cremations when requested to do so.<sup>655</sup>
- (f) The NAFD said that obliging funeral directors to provide a simple funeral would be to the detriment of consumers because not everyone wanted a simple funeral and some providers did not want to provide one.<sup>656</sup>
- (g) CPJ Field observed that if introducing a simple funeral was a remedy to the problems in the industry, then the approach previously taken by the NAFD (ie mandating the provision of a simple funeral) would have had a successful impact on the funeral market.<sup>657</sup>

5.108 We discuss in paragraphs 5.121 to 5.128 (with respect to simple funerals) and 5.139 to 5.147 (with respect to direct cremation) the degree of competition with regard to low-cost funerals and its effect on competition more broadly. In principle, if low-cost funerals and standard funerals were considered sufficiently close substitutes by enough customers and there was sufficient competition for low-cost funerals, this could constrain funeral directors' behaviour with regard to higher cost funerals. Such an effect may be observed where prices of higher priced options are forced down due to the availability of lower priced options (not merely that the share of higher priced options fluctuates or reduces).<sup>658</sup> We consider this further in the sections

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<sup>654</sup> [AW Lymn hearing summary](#) paragraphs 1 to 6; [CPJ Field hearing summary](#) paragraphs 5 to 10; [NAFD hearing summary](#) paragraph 6 to 8; [SAIF hearing summary](#), paragraphs 2 to 4 and paragraph 8.

<sup>655</sup> Evidence from smaller funeral directors is set out in Appendix I.

<sup>656</sup> [NAFD hearing summary](#) paragraph 11.

<sup>657</sup> [CPJ Field hearing summary](#), paragraph 47. The NAFD previously required members to provide a specified simple funeral (although it did not set the price of this).

<sup>658</sup> In response to this point, and to demonstrate that lower-priced options are close substitutes for higher-priced options, Co-op stated 'In response to the increased take-up of simple funerals we decided to maintain our prices of standard funerals fixed since January 2017 and [§], which amounts to a price decrease for standard funerals in real terms' ([Co-op: Response to PDR](#), paragraph 4.20-4.21). As discussed at paragraph 5.127(d), we do not consider that the fact Co-op [§], having increased prices well above inflation for at least a decade, indicates that simple funerals act as an effective constraint on standard prices. We also note there is some ambiguity in the statement that it is [§].

below. We first discuss competition as it relates to simple funerals, and then direct cremation.

- 5.109 We note that while evidence on the extent of substitutability between simple and standard funerals within the same funeral director can be relevant to understanding customers' preferences for the different options, the main constraint on a funeral director's prices of its own packages (whether simple or standard) arises from customers switching to rivals' funeral options in response to a worsening of their relative offerings.

### ***Simple funerals***

- 5.110 Simple funerals are more basic versions of what customers would expect from a standard funeral, providing key aspects of service (such as the provision of a hearse and staff for the ceremony, a basic coffin and use of the chapel of rest), but not including others or requiring them to be purchased as add-ons (such as use of limousines or restricting the choice of date and time for the ceremony or the processional route). These restrictions, and how far they can be relaxed, vary for different funeral directors.<sup>659</sup>

### ***Parties' views***

- 5.111 We asked the Largest funeral directors to explain, and provide evidence on, the effect of low-cost funeral types (including different categories of direct cremations and simple funerals) on the market (eg in terms of prices overall and for different types of funeral, the take-up of different types of funeral) and their expectations as to how this will affect market trends in the future.
- 5.112 Co-op provided details on the effect of simple funerals and substitutability with standard funerals as follows:
- (a) It highlighted the rapid uptake of simple funerals in response to (i) reducing its simple prices in 2016 and (ii) launching Choices (a clearer way of presenting funeral options and prices);
  - (b) it submitted that from 2016 to 2018, the uptake of simple funerals varied across branches [X]. We consider this further in paragraph 5.128 and Appendix K;
  - (c) it submitted an econometric analysis which it said shows that there was a statistically significant increase in the uptake of simple funerals at Co-op branches in response to (i) increases in the price differential between

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<sup>659</sup> The simple packages of the Largest funeral directors are described in Appendix I Table 2.



standard and simple prices and (ii) the introduction of its Funeral Choices brochure, holding constant a number of other factors. We consider this further in paragraph 5.128 and Appendix K;

- (d) it made various comments about evidence of competition between funeral directors' simple funeral offerings;
- (e) it pointed out that a growing number of funeral directors offer direct cremation services and stated that this competitive pressure contributed to it launching its direct cremation service. Co-op stated that the introduction of CWC has resulted in a cannibalisation effect on its simple funerals, indicating substitutability between these two low-cost propositions. It noted that the SunLife and Royal London reports show growing awareness and use of direct cremation, but that there is still inconsistency in funeral director practice in promoting direct cremation which it said indicates that take-up could increase further;<sup>660</sup>
- (f) it submitted that as a result of this 'dynamic competitive environment', Co-op's average selling prices have been falling in real terms since 2016. It noted that changes in average selling prices for low-cost funerals have been persistently and significantly below inflation over the last three years, with large reductions in 2016 and 2018 due to the relaunch of simple funerals and the launch of CWC respectively. Co-op noted that while average revenues from its Adult, Classic and Traditional funerals have increased over the period, the rate of increase has converged to (and is now in line with) the CPI inflation rate. It stated that this pressure on prices is in line with findings as to across-the-market funeral director price changes shown in Royal London's 2018 report.<sup>661</sup> Evidence of price changes across funeral directors is set out in Appendix N; and
- (g) Co-op submitted that 'low-cost options will continue to play a crucial role in the market in providing affordable alternatives to more traditional funeral propositions'. It noted that Royal London's 2018 report predicts that awareness of low-cost options is expected to increase, leading to 'continued funeral director cost restraint'.<sup>662</sup> It stated that a number of other trends also suggest the impact of low-cost options will persist, quoting a strategy document prepared on its behalf by [X] which refers to:

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<sup>660</sup> See also: SunLife (2017) [Cost of Dying](#) and Royal London (2018) [Buried in Debt ... National Funeral Cost Index Report](#).

<sup>661</sup> Royal London (2018). [Buried in Debt ... National Funeral Cost Index Report](#).

<sup>662</sup> Royal London (2018). [Buried in Debt ... National Funeral Cost Index Report](#).

- (i) Pricing becoming an important factor for an increasing number of consumers, with a gradual effect on shopping-around behaviour [§];
- (ii) society becoming more secular which implies an increasing interest in non-traditional funerals; and
- (iii) digital, while nascent, being a key and growing trend in the customer journey.<sup>663</sup>

5.113 Co-op made a number of comments on our analysis as set out in the PDR. To the extent these raised additional substantive points to those raised previously, we consider these with the relevant pieces of analysis below.

5.114 Dignity referred to the reduction of the price of its simple funeral product in January 2018 and stated that research commissioned by Dignity [§], 'indicated that many other funeral directors reduced their prices but that many also increased their prices during that time'. It also told us that it was hiring a Pricing Manager to oversee market monitoring and analysis. Finally, Dignity stated it 'expects consumer behaviour to continue to evolve and for there to be a considerable increase in the use of the internet and a desire to shop around in the next five years. Dignity also [§].

5.115 Funeral Partners stated that, 'As price considerations have become more front-and-centre in the market, more and more funeral directors are including price in their media campaigns in order to try and capture market share, and this is the case for both independent funeral directors and corporates, such as Dignity and Co-op Funeralcare. Indeed, both Co-op Funeralcare and Dignity have reduced prices for basic funerals and are introducing new products and propositions for lower cost traditional funerals'. It anticipates that this will continue and intensify as the trade associations and Scottish inspectorate recommend increasing price transparency.

## *Trends*

5.116 Between 2013 and 2018, the proportion of funerals sold that were accounted for by simple funerals grew from [5-10]% to [20-30]% for Co-op, from [5-10]% to [10-20]% for Dignity, and from [5-10]% to [10-20]% for Funeral Partners. This shows that for these funeral directors (who together account for about a

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<sup>663</sup> We note that [§] research for Co-op (in keeping with most of the consumer survey evidence submitted by parties to the market investigation) was conducted with an online panel sample. Typically, we consider that online surveys with members of pre-recruited respondent panels, where sample recruitment does not rely on randomisation, may be subject to bias and may not be sufficiently robust (see: Appendix C, paragraphs 32 to 35). As such, we place limited weight on this type of evidence but note that its findings align broadly with other evidence we have considered in the course of our investigation.

third of funerals in the UK), the volume of simple funerals sold has increased over time, but nevertheless still remains a relatively small proportion of their total sales of at-need funerals. Qualitative evidence provided by the Largest funeral directors suggest that simple funerals are likely to remain a small proportion of funeral volumes in the next few years.<sup>664</sup>

5.117 Other Large funeral directors have sold varying proportions of simple funerals. The proportion of simple funerals remained relatively constant for [X] at approximately [X]%, increased from [10-20] % to [10-20]% for [X], and from [0-5]% to [5-10]% for [X]. [X] stated that ‘very few choose the lower cost service’, [X] stated that there was ‘limited place for genuine low cost providers’ but that ‘a vast number of people want an excellent quality service and compassionate care, for which they are prepared to pay a fair price’, [X] stated that simple funerals are ‘declining as a share of [its] overall funeral numbers’, and [X] stated that simple funerals ‘remain a very small proportion of our business’.

5.118 Of the Smaller funeral directors we have contacted, many offer simple funerals accounting for 5-7% of their at-need funerals sold.<sup>665</sup> Some other smaller funeral directors have reported that sales of simple funerals have increased, and a proportion expect the growth of simple funerals to continue on the basis that a greater proportion of individuals will be aware of it as an option.<sup>666</sup>

5.119 Turning to price, simple funerals are offered by Co-op and Dignity at a national price of £1,895 and £1,995 respectively (excluding Scotland, where Co-op charges £1,675 and Dignity charges £1,695), while Funeral Partners has adopted a range of prices for their simple funerals which vary between

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<sup>664</sup> This is detailed in Appendix I paragraph 100. We note Co-op’s disagreement with this point, summarised in paragraph 5.112. It highlights rapid take-up since the re-launch of simple funerals by the Largest funeral directors, which we have noted. However, the evidence does not indicate that these funeral directors expect take-up of simple funerals by at-need customers to continue growing at the same pace (as noted in Appendix I). We also note that funeral directors themselves can take action to try to limit the take-up of low-cost options by customers if it has an overly adverse effect on their revenues and profits (for example as discussed in paragraph 5.29(c)). We consider the effect of COVID-19 on the take-up of low-cost funerals in paragraphs 5.148 to 5.154.

<sup>665</sup> Our approach to gathering this information is set out in Appendix I. We do not consider this would have been likely to lead funeral directors to underestimate the proportion of low-cost funerals they have sold (as Co-op asserts at paragraph 4.17 of its response to the [PDR](#)). To the extent funeral directors do not operate a distinction between simple and standard funerals, we consider the assessment of competition between funeral directors more broadly, discussed prior to paragraph 5.102, captures the competitive dynamics present for these funeral directors.

<sup>665</sup> Our approach to gathering this information is set out in Appendix I. We do not consider this would have been likely to lead funeral directors to underestimate the proportion of low-cost funerals they have sold (as Co-op asserts at paragraph 4.17 of its response to the [PDR](#)). To the extent funeral directors do not operate a distinction between simple and standard funerals, we consider the assessment of competition between funeral directors more broadly, discussed prior to paragraph 5.102, captures the competitive dynamics present for these funeral directors.

<sup>666</sup> Their responses are detailed further within Appendix I paragraph 124 to 126.

branches, with an average of £2,032. In contrast to their national prices for simple funerals, prices for standard funerals set by Co-op and Dignity vary by up to £1,000 between branches between regions.<sup>667</sup> In particular, we observe the following:

- (a) There are larger price differentials for standard funerals than for simple funerals between the Largest funeral directors.
- (b) The difference between the simple and standard prices charged by the largest providers varies but can be substantial (in some cases over £1,000). Simple packages often come with a number of restrictions (as described in Appendix I), which can lead to customers paying substantially more where they wish to deviate from the simple package.<sup>668</sup>
- (c) The differential between the simple and standard price is smaller for some other funeral directors.<sup>669</sup>

5.120 Further information on trends in price and average revenue for simple and standard funerals is set out in Section 7 and Appendix N.

#### *Competition between simple funerals*

5.121 Given the context set out above, we have considered whether competition between simple funerals is likely to be working effectively. There is some evidence that competition between the simple funeral packages of different funeral directors may have increased in recent years.

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<sup>667</sup> Dignity's Simple price in England and Wales was £1,995, compared to a full-service at-need funeral which typically priced from £3,545. Co-op's simple price in England was £1,895 and £1,675 in Scotland, compared to the price of their Traditional price which varied between £2,445 and £3,405 across [redacted] price bands. Funeral Partners simple price varies across their branches, with [redacted] price bands which range from £1,384 to £2,760 (this excludes two of their branches, 'Funerals on a Budget' which had a price of £665 and 'Melia Powell' has a price of £760). The 'Funerals on a Budget' brand has since been divested.

<sup>668</sup> A.W. Lymn explained that there was a difficulty for some firms when selling simple funerals. A.W. Lymn, highlighted the example of one of their competitors, where the cost of a simple funeral was benchmarked at around £1,895. If a customer wanted a simple funeral with an additional car, they may have looked at the online pricing, seen the cost of an additional car (at £250) and assumed that they would be asked to pay £2,145, when that is not how it works. A.W. Lymn further explained that this simple funeral package was a restricted-service funeral. As such, customers might have to pay over £600 in some instances to move from a simple funeral to the hearse-and-one-car funeral option that they wanted (A.W. Lymn hearing paragraph 19). C.P.J. Field said that the simple funeral had been used as a price hook by many funeral directors. C.P.J. Field said that many funeral directors would tell customers that they could have a limited service for a set price, but any deviation from the service would result in a £1,000 or more, uplift in the cost of the funeral, even if the change was minor. (C.P.J. Field hearing paragraph 48).

<sup>669</sup> For example, [redacted] stated the gap between the price of its Simple Funeral and the average price for all of its other 'at-need' funerals was only £500 in 2018. This price differential is due to families choosing, on average, to use one car per funeral (which are not included in the Simple Funeral price) and the costs of providing a more expensive coffin. Difference in price between simple and standard was [£450 for [redacted]; £300-600 for [redacted]; £350-£550 for [redacted]; £700 for [redacted]; £900 for [redacted]; £100 for [redacted]; £650 for [redacted]; £1,000-1,400 for [redacted]].

- (a) Simple products may have recently been designed to be easier for customers to understand and for funeral directors to advertise, which makes it easier for customers to compare (where they want to). For example, simple funeral prices are now set at the national level by Co-op and Dignity rather than varying across locations as prices of standard products do (and as their simple funerals did in the past), allowing for simpler marketing messages across their locations, including on websites.<sup>670</sup> Packages also tend to be focused on ‘core services’ (although there are some differences in how far funeral directors allow services to be added to this).<sup>671</sup>
- (b) There have been several price reductions on simple funeral packages by Co-op and Dignity recently, as set out in Appendix J, although as discussed below, there have been considerable lags in responses to each other’s price reductions. This dynamic of price reductions by Co-op and Dignity has also been noted by some other funeral directors, albeit that they have not necessarily followed,<sup>672</sup> and as noted at paragraph 5.113, others have increased the prices of simple funerals. Prices [§] for simple funerals also appear to be closer to each other than is the case for standard funerals (as noted in paragraph 5.119).<sup>673</sup> This is consistent with price being a relatively more important dimension of competition between funeral directors in the supply of simple funeral packages, and the basic product being relatively less differentiated.
- (c) There are some indications that reductions in simple funeral prices have been associated with increased take-up of simple funerals among the three Largest funeral directors. In the short-term, this has increased their volumes overall (rather than just come from a reduction in their sales of standard products), although over the long-term these funeral directors have also seen declines in both standard sales and their total market shares (see Appendices J and K). As noted in paragraph 5.42(a), some funeral directors have used simple funeral prices as a competitive tool to

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<sup>670</sup> A Co-op document notes, ‘We have taken a national approach to pricing our Simple funeral at £1,995. This was to enable a headline price for national marketing’.

<sup>671</sup> Co-op has noted that it allows customers significant scope to add on services, while ‘[o]ther funeral directors impose conditions which make these products less attractive or rule them out for certain customers; for example, requiring payment upfront and prohibiting optional extras to be added to the basic package’.

<sup>672</sup> An internal document from Funeral Partners noted, ‘The landscape around price has shifted considerably in the past 24 months ... Co-op and Dignity used to be more expensive than us, Co-op reduced price and of course so have Dignity and both of them are banging the price drum in PPC and branch window adverts as are most of the commentators on funerals and of course the aggregators. The CMA and associated press has helped embed the price message. Its never been a big issue before, others are making it an issue. Thankfully Dignity are now talking Quality and standards back of house, which got some traction last week and may help move things on, but the CMA outcome will be key’.

<sup>673</sup> See also Appendix J.

attract customers, providing an attractive headline price. For example, we note that in its ‘tactical pricing’ Funeral Partners has reduced the price of its Basic funeral in more branches and by a greater proportion than it has its prices for standard funerals.<sup>674</sup>

5.122 However, we consider there are several reasons why competition between simple funeral products offered by different funeral directors may not be fully effective.

- (a) First, the intrinsic characteristics of the funeral purchasing process, including the psychological vulnerability of customers described in Section 3, are likely to apply to those buying simple funerals in the same way as it applies to people buying higher priced offerings. This is likely to result in shopping around being low across all customers. Although simple funeral customers may be more price sensitive than customers on average, it has been noted that they also may simply be less able to afford the cost of a standard funeral.
- (b) Although there is some degree of price response and pricing alignment in the supply of simple funerals by some (particularly the two largest) funeral directors (as discussed in paragraphs 5.121(b), decreases in the price of simple funerals by one firm are not always quickly matched by price decreases by other firms, indicating that price competition among these funeral directors is somewhat muted within simple funeral packages.<sup>675</sup> As set out in paragraph 5.117 and 5.118 above, simple funerals appear to be a lesser focus for funeral directors other than for Co-op and Dignity.
- (c) We also note that, even in the cases where list prices have decreased, this does not necessarily fully translate into lower prices actually being paid by consumers. For example, between 2013 and 2018, Co-op’s average simple price fell from £1,975 to £1,875, but its simple ARF increased from £[redacted] to £[redacted]. Even considering the period since it reduced simple prices in 2016, while its average simple price fell from £2,201 in 2015 to £1,995 in 2016 (a reduction of £206), its simple ARF fell from £[redacted] to £[redacted] (a reduction of £[redacted]). For Funeral Partners, while its average simple price has decreased from £2,420 to £2,366 between 2017 and 2018, its simple ARF increased from £[redacted] to £[redacted] (although we note throughout most of this period Funeral Partners’ simple ARF was below

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<sup>674</sup> See Appendix H, paragraphs 78 to 79.

<sup>675</sup> Following Co-op’s price decrease in January 2016, Funeral Partners decreased its price only in December 2016, and Dignity continued increasing its prices until it first decreased its simple price in January 2018. Following Dignity’s price decrease in January 2018, both Co-op and Funeral Partners decreased their prices and introduced direct cremation in their funeral homes only in September 2018.

its average simple price, which may reflect higher take-up in lower priced branches).<sup>676</sup>

- (d) We have also observed, as set out in more detail in Section 7 and Appendix O that significant price dispersion appears to be a general characteristic of the provision of simple funerals as well as standard funerals. This may indicate that customers are not shopping around and that funeral directors charging lower prices for simple funerals are not constraining funeral directors charging higher prices for these funerals.<sup>677</sup>

*Impact of increased competition between simple funerals on competition more broadly*

5.123 In principle, increased competition in the provision of simple funerals has the potential to lead to, or signify, increased competitive constraints on funeral directors' standard offerings. This largely depends on the extent to which customers of standard funerals regard simple and standard funerals as sufficiently close substitutes.

5.124 We have examined the extent of substitution between standard and simple funerals and consider, based on the evidence we have obtained, that simple funerals are not a sufficiently close substitute for standard funerals. This is for the following reasons.

5.125 First, as noted above, a simple funeral involves many of the same elements of a standard funeral, particularly in offering a service for the family to attend as part of the funeral (in contrast with unattended services). However, the options and range of services in a simple funeral are more restricted or more basic, with the level of restrictions varying between funeral directors. These restrictions may make simple funerals an imperfect substitute for many where they exclude elements of a funeral that many customers value, and may be particularly unsuitable for certain customers.<sup>678</sup> Co-op noted that if (other) funeral directors' versions of the simple funeral impose certain restrictions or

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<sup>676</sup> More generally, we note that factors other than headline prices affect the amount customers actually spend in practice, including take-up of different services which can be influenced by the sales techniques taken by providers. For example, in one region a Co-op regional manager attributed a substantial increase in average selling price (across all funeral types) from approximately £[REDACTED] to £[REDACTED] to a change in its sales approach to 'offer all services to all customers', linked to its Perfect Goodbye/Best Goodbye initiatives discussed in Appendix H.

<sup>677</sup> Points raised in relation to our analysis of price dispersion are set out in Appendix O and Section 7.

<sup>678</sup> For example, research conducted by Co-op in December 2015 prior to relaunching its simple funeral found a simple package could have relatively broad appeal, except for a few circumstances (eg particular religious needs, precise instructions left by the deceased or if it were felt that the organiser wanted to do 'more' for the deceased, eg if they were very close or died unexpectedly). This research involved [REDACTED]. Dignity internal documents show consideration as to how the [REDACTED]. A Dignity internal email also noted that [REDACTED]. Other examples are provided in Appendix I paragraph 110.

otherwise lack features that are likely to be valuable to consumers, these would also affect the level of substitutability.<sup>679</sup> Further, while simple funerals are generally marketed as part of the Largest funeral directors' main product set (as discussed in Appendix I paragraphs 101 to 104), the use of a national price by two of the Largest providers and the (at least initial) greater prominence of price for simple funerals<sup>680</sup> may indicate that simple funerals are addressed to different customer groups.<sup>681</sup>

5.126 Second, despite the price differentials between standard and simple funerals, simple funerals currently account for a small minority of the number of funerals sold, which would not be expected if these funerals were sufficiently close substitutes. For the largest funeral directors, for which the price differentials between standard and simple funerals are particularly significant (as set out in paragraph 5.119(a)) and by whom simple funerals have been heavily advertised recently, this proportion has not exceeded 20-30%,<sup>682</sup> and it can be significantly lower for smaller funeral directors (eg 5 to 7% from our sample, as set out in paragraph 5.118). This is set out further in Appendix I.

5.127 Third, if simple funerals were acting as a constraint on standard funerals, we might expect to observe them following similar price trends, or to see a reaction in standard funeral prices and/or volumes in response to simple funeral price changes. However, the evidence does not suggest this to be the case.

(a) As set out further in Appendix I (paragraphs 105 to 114) internal documents suggest that simple funeral price reductions pose some risk of unprofitable cannibalisation of standard funeral volumes, but that this risk can be managed down by the funeral director through both the design of the packages (ie by including restrictions of options in the simple funeral package) or the way the simple package is presented.<sup>683</sup>

(b) The analysis of firm level price and average revenue trends for the largest funeral directors (set out in Appendix J) suggests that the pricing behaviour of Co-op, Dignity and Funeral Partners is not consistent with

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<sup>679</sup> Further, as noted in paragraph 5.29(c)(i), restricting the date and time when a simple funeral can be held can have an impact on how attractive it is as an option.

<sup>680</sup> The Largest funeral directors now display standard prices to a greater extent online.

<sup>681</sup> As noted in paragraph 5.121(a), use of a national price for simple funeral packages allow them to be used in headline national marketing.

<sup>682</sup> We note COVID-19 has increased this proportion more recently, as discussed in paragraphs 5.147 to 5.153.

<sup>683</sup> As noted above, various Dignity documents indicate it gave consideration to how [X], and evidence from Funeral Partners indicates it could restrict availability of options where they did start to cause unprofitable cannibalisation. See also discussion at paragraph 5.29(c) as to how a regional manager at Co-op suggested employing sales tactics that encourage higher spending, including encouraging staff to promote the benefits of a higher-cost package over a low-cost package to customers as doing so will 'cure the problem [of reduced profitability] overnight', this message being supported by restricting the low-cost funeral option to an early morning timeslot: [X].



their customers switching from standard funerals to simple funerals to a significant degree in response to relative price changes. If customers were willing to switch, we would expect a reduction in a company's simple funeral prices to be followed by a reduction in its standard funeral prices to prevent customers switching from standard to simple funerals, where the latter are less profitable to provide. However, in 2017 and 2018, Co-op, Dignity and Funeral Partners began decreasing the prices of their simple funerals but did not significantly decrease the prices of their standard funerals. This was followed by decreases in their standard market share which continued to be in line with their long-term decline. Therefore, the evidence does not point towards a strong correlation between standard and simple funeral prices. Instead, it is more consistent with funeral directors having used simple funeral prices as a headline figure to attract those customers concerned about prices or affordability<sup>684</sup> to avoid having to reduce the price of standard services.

- (c) Our quantitative analysis does not point towards a significant level of substitution between standard and simple funerals within the same funeral director. Analysing the outcomes of Dignity's price trials<sup>685</sup> (which gives information on responses to a change in the prices of simple and standard funerals), the [REDACTED]. The analysis of the firm-level market shares and prices for Co-op, Dignity and Funeral Partners, detailed in Appendix J, implies that the increase in the take-up of simple funerals experienced by Co-op and Dignity and the increase in the take-up of Funeral Partners' Essential funeral may have come partially from the lower take-up of more expensive funerals within those three firms, but that this only appeared to account for a proportion of the growth in simple funerals.
- (d) Co-op submitted that the decline in sales volumes of standard funerals was partly due to substitution by customers to its simple funerals, such that increases in the price of its standard funerals may have been unprofitable. It noted that further increases in the price of standard funerals would be financially unsustainable for this reason.<sup>686</sup> However, given the significant and sustained price rises that have been implemented by Co-op and many other funeral directors in the past, we do not regard recent trends as evidence of a strong constraint on pricing.

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<sup>684</sup> As noted in Appendix I, the relaunch and focus on low-cost options is partly a response to concerns around affordability and funeral poverty, with a Co-op document in 2015 noting, 'Affordability is more of an issue than price for clients. Many feel pressure to provide what they perceive as a 'suitable' send-off for their loved one, regardless of whether they will struggle to meet the cost'. It also noted that clients do not allow price to be the main driver.

<sup>685</sup> See Appendix K.

<sup>686</sup> [Co-op: Response to PDR](#), paragraph 4.29b.

For the avoidance of doubt, our view is not that low-cost funerals provide ‘no constraint’ as stated by Co-op,<sup>687</sup> but that they do not provide a sufficient constraint on the prices of standard funerals.

5.128 Co-op argued that increased transparency could significantly increase the take-up of lower priced options, highlighting its own experience of greater take-up following the relaunch of its simple funerals in 2016 and its Choices approach to presenting funeral options in 2017. It argued its experience acted as a case study of how, with appropriate presentation, consumers are more likely to take up the simple funeral and may also be more responsive to price differentials between the different propositions.<sup>688</sup> As noted at paragraph 5.112(c), it also submitted econometric analysis which it said shows that there was a statistically significant increase in the uptake of simple funerals at Co-op branches in response to (i) increases in the differential between standard and simple prices at its branches and (ii) the introduction of its Funeral Choices brochure, holding constant a number of other factors. It argued this showed consumers are responsive to changes in the relative prices between simple and standard funerals, indicating that consumers view these products as substitutes, and that increased transparency in the way the funeral director presents available products has a substantial impact on the take-up of those products. We have considered these points and the analysis submitted by Co-op and note the following:

- (a) With regard to Co-op’s initial analysis of take-up of simple funerals across branches with different price differentials between simple and standard funerals, this analysis has a number of limitations (detailed in Appendix K) which undermine its probative value. It is not clear that, in equilibrium, large price differentials would be observed alongside high take-up of simple funerals, as one would expect that, if there was a constraint from customer switching from standard to simple funerals, the price of standard funerals would reduce. Further, in contrast to Co-op’s analysis, we have found that there is no consistent positive correlation between the price differential between standard and simple funerals and the proportion of simple funerals in the funeral mix of a branch. We consider the various points made by Co-op about this analysis in the course of our investigation in detail in Appendix K.
- (b) With regard to Co-op’s econometric analysis, we consider that in order to show that simple funerals constrain standard funerals there would have to be evidence of significant switching between the two. However, because

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<sup>687</sup> Co-op: [Response to PDR](#), paragraph 4.29b.

<sup>688</sup> Co-op response to working paper on take-up of simple funeral, paragraph 3.2.

price changes and other changes in their funeral offering occur at similar points in time, it is not possible to estimate the magnitude of the impact of any change individually and therefore we can only draw directional conclusions. We consider that the alternative models presented by Co-op cannot account for the fact that the two most significant price changes occurred at the same time as other changes to their funeral offering. Further, the price ratio of standard to simple funerals only significantly changed twice during the period under consideration, indicating that the results are potentially based on a small sample of price changes. Although Co-op noted that some branches were reallocated to different price bands throughout the period (thus increasing the number of price changes over the period),<sup>689</sup> we consider that these reallocations are likely to be driven by local factors which may independently influence the take-up of simple funerals such that the relationship between price band re-allocations and the subsequent change in the sale of simple funerals is not likely to be clear-cut. For these reasons, and others which are detailed in Appendix K, this analysis does not allow us to draw conclusions as to the strength of any constraint.

- (c) While we agree with Co-op that increased price transparency by the funeral director may help customers make more informed choices, it is under the control of the funeral director how they present options to their customers and whether their current approach will change in the future (not just in relation to the transparency of their pricing and product characteristics, but also in how these are discussed in arrangement meetings). [A funeral director] noted, 'Funeral directors have a financial incentive not to proactively show such products to consumers as they earn a lower margin than other types of funerals. A package of transparency remedies could overcome this problem'. Given the role funeral directors play in shaping customer decision-making (as discussed in paragraphs 5.19 to 5.32, it is not clear that greater transparency alone would be sufficient to ensure customers responded to relative price signals. In addition, as set out in paragraph 5.125, simple funerals may not be attractive to many customers and so increased transparency may not be sufficient for such customers to consider it a suitable alternative to a standard funeral.
- (d) In any event, and as observed in paragraph 5.109, while evidence on the extent of substitutability between simple and standard funerals within the same funeral director can be relevant to understanding customers' preferences for the different options, the main constraint on a funeral

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<sup>689</sup> Co-op: Response to PDR, paragraph 4.35.

director's prices of its own packages (whether simple or standard) arises from customers switching to rivals' funeral options in response to a worsening of their relative offerings, which Co-op's analysis does not address.

## ***Direct cremation***

### ***Parties' views***

- 5.129 As noted at paragraph 5.112(e), Co-op pointed out that a growing number of funeral directors offer direct cremation services and stated that this competitive pressure contributed to it launching its own direct cremation service in 2018. Co-op stated that the introduction of Cremation Without Ceremony (CWC, its direct cremation product) has had a cannibalisation effect on its simple funerals, indicating substitutability between these two low-cost propositions. It noted that the SunLife and Royal London reports show growing awareness and use of direct cremation, but that there is still inconsistency in funeral director practice in promoting direct cremation which Co-op said indicates that take-up could increase further.
- 5.130 Dignity reported that demand for its direct cremation product responded to changes in price [§]. It also told us that, when it introduced new packages for attended direct cremations priced lower than Memoria and Pure Cremation, these providers subsequently reduced their prices. It argued that growth in direct cremations both for Dignity's Simplicity services and in the market more widely was not consistent with the CMA's position that the majority of customers do not consider low-cost funerals to be good alternatives to other, more expensive offers.<sup>690</sup>
- 5.131 Dignity stated that, 'the influx of different business models and lower-cost propositions (such as direct cremation) are also expected to stimulate competition and cause long lasting structural changes in the sector'.
- 5.132 In its response to the PDR, Dignity stated that 'The CMA does not seem to have engaged with the impact of this trend [increasing take-up of simple funerals and direct cremations] on funeral director profitability, which was expected to continue to decline in the near future even before the Covid-19 crisis.'<sup>691</sup>

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<sup>690</sup> [Dignity response to issues statement](#) paragraph 4.8.

<sup>691</sup> [Dignity Plc: Response to PDR](#), paragraph 2.5. Funeral director profitability is examined in Section 7 and Appendix S.

5.133 Funeral Partners told us that it has observed a gradual increase in customers choosing low-cost options (both simple funerals and direct cremations). It stated: ‘In the past 36 months or so, we have seen “direct cremation” or “cremation without ceremony” emerge as a proposition designed to disrupt the market, with the introduction of low-cost ‘no frills’ services’. It noted an increasing number of funeral directors are now offering direct cremations as a separate option. It also told us that ‘The emerging price comparison sites have also opted to price “direct cremation” as a separate proposition, further raising awareness and driving demand’. It stated: ‘Funeral Partners continues to innovate when it comes to offering “direct cremation” [redacted].’

## *Trends*

5.134 As set out in Section 2, Pure Cremation was founded in 2015 focusing on direct cremations. There are also a number of other ‘pure play’ direct cremation providers,<sup>692</sup> as well as direct cremation services offered to customers by certain crematoria.<sup>693</sup> Dignity first started to offer a direct cremation package in 2016 (known as Simplicity), and Co-op and Funeral Partners both launched one in 2018. Co-op refers to its direct cremation service as Cremation Without Ceremony (CWC), while Funeral Partners refers to its service as ‘Simply’, although it also has a number of specific brands focusing on direct cremation.

5.135 Since its introduction, direct cremation has grown to [5-10]% of at-need funerals for Co-op in 2019 and [0-5]% for Dignity. These relatively low take-up rates are consistent with consumer research: the proportion of respondents in the Market Investigation consumer survey who reported having arranged a direct cremation was 5%<sup>694</sup> and SunLife’s latest Cost of Dying publication reported that direct cremation had reached 3% of all funerals in 2019.<sup>695</sup>

5.136 Among Other Large funeral directors, some do not have a formal direct cremation package but arrange direct cremations when requested.<sup>696</sup> Direct cremations made up [redacted]% of volume for [redacted] and [0-5] % of volume for [redacted] in 2018. [redacted] reported [0-5]% of its volumes in 2018 were direct cremation,

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<sup>692</sup> That is, those only offering direct cremation services.

<sup>693</sup> [redacted]. A Co-op document from 2015 notes there are ‘25-30 major players offering direct and disposal funerals’, naming a number of nationwide and regionally based providers.

<sup>694</sup> [Market Investigation consumer survey](#), Tables 19-21, Question SQ3. Base: all UK adults 18+ involved in making at need burial or cremation funeral arrangements since J/A/S/O 2017 (n=314).

<sup>695</sup> SunLife (2020). [Cost of Dying](#), page 13.

<sup>696</sup> Southern Co-op does not offer direct cremation as part of its standard service proposition but stated that it would provide such funerals if the customer desired and charge accordingly, and in fact did conduct a small number in 2018. East of England co-op noted that, since the latter part of 2018, it has seen greater requests for unattended services. It stated that, due to public interest, it is currently discussing ways to formalise such a package after it became apparent that simply reducing fees would not suffice.

noting it was growing as a recent phenomenon. [REDACTED] noted direct cremation barely existed 5 years ago, and its volume and revenue remain at a very low level.

5.137 Of the Smaller funeral directors we have contacted, direct cremations account for between 0 and 2% of funerals sold. The smaller funeral directors who expected the growth of direct cremations to continue did so primarily on the basis that a greater proportion of individuals would become aware of it as an option in the future.<sup>697</sup>

5.138 The average revenue per funeral for direct cremations has decreased from approximately £[REDACTED] to £[REDACTED] for Dignity since its introduction, while it has remained stable at approximately £[REDACTED] for Co-op.

### *Competition involving direct cremations*

5.139 As noted above, direct cremations have been a relatively recent development, with variants to the original unattended service emerging, and their take-up has increased rapidly over a short period of time. Given the more restricted nature of direct cremations<sup>698</sup>, including the lack of an attended service included in the funeral or the limits to the number of attendants in more recent variants, this type of funeral is likely to appeal only to certain customers. As set out in Appendix I (see paragraphs 45 to 60), direct cremation meets some specific needs: for some, a desire for a non-traditional funeral, with a service/celebration planned separately; for others, a low-cost alternative where no service is needed or wanted at all (for example, where there is no close family or it is a better reflection of the deceased's values or wishes). Price does not therefore seem to be the only driver for choosing a direct cremation.

5.140 Given the relatively lower degree of differentiation between funeral directors in the service provided for direct cremations compared with other funeral types (arising from the more restricted nature of the funeral),<sup>699</sup> and the presence of some companies such as Pure Cremation which specialise in this area, we may expect stronger price competition between providers for direct

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<sup>697</sup> This is detailed further within Appendix I paragraphs 124 to 126.

<sup>698</sup> For example, Dignity's attended direct cremation service does not provide face-to-face support from the funeral director or ceremonial vehicles, and a larger number of the arrangements need to be made by the family rather than the funeral director ([Attended Funeral: Family-led Funeral](#)); other variants also allow for more limited attendance at the crematorium ([Intimate Funeral: Basic Funerals](#)).

<sup>699</sup> As set out in Appendix I Table 3, the main differences between the Largest funeral directors' unattended cremation offers are whether there is an additional cost for collecting the deceased out of hours, and the way in which guidance and support is provided to customers (and potentially the level of such support). There is greater variation in other forms of direct cremation, both whether they are available at all and what is provided, but these are a small proportion of overall volumes.

cremations than for other types of funeral.<sup>700</sup> We observe that prices for direct cremations from the three largest funeral directors have not increased since their introduction, and in the case of [redacted] (see paragraph 5.129 and Appendix J).

5.141 We considered whether competition for direct cremations, to the extent that it is greater than for other types of funerals, might also have a significant constraining effect on other funeral types.

5.142 As noted above, direct cremation meets some specific needs for certain customers. As discussed in Appendix I, it does not appear to be suitable for many people, given cultural norms (and arguably psychological needs), and as such, is unlikely to replace more traditional funerals for many people.<sup>701</sup>

5.143 We also note that funeral directors sometimes take a different approach to offering direct cremations as compared with other funeral types. As noted in Appendix I (paragraphs 61 to 67), of the three Largest funeral directors, only Co-op fully integrates direct cremation with its other service offerings. Dignity sells direct cremation through a separate brand (Simplicity),<sup>702</sup> while Funeral Partners told us that other than in certain branches, direct cremation is not part of the core offering at this stage, but is available on request. As noted at 5.107(e), some other funeral directors also offer direct cremations where a customer requests it but otherwise do not include it as part of their core offer. The different approach towards marketing direct cremation could reflect that it appeals to a distinct customer group, and also reflect efforts to minimise take-up of a lower priced option by those customers who would otherwise choose a more expensive, higher margin product but would be potentially open to switch (keeping direct cremation for those who specifically want it).

5.144 Despite large price differences between direct cremation and other funeral types, direct cremation accounts for a very small proportion of funerals and is

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<sup>700</sup> We note that some direct cremation providers (such as Pure Cremation) offer direct cremation services over a wider geographic area than many 'traditional' funeral directors, although other direct cremation specialists operate from branches similar to other funeral directors. If direct cremation was offered by providers and purchased by customers over a wider geographic area (as it would seem in principle possible if a service at a local crematorium is not required), this would also increase the degree of competition as more providers would be able to offer this service to customers. However, as set out in Section 4, this does not seem to be the case.

<sup>701</sup> Co-op submitted that consumer survey evidence consistently shows a greater appetite for simple funeral options than are served in practice. As evidence, it referred to SunLife's Cost of Dying research which showed that, once survey respondents were made aware of direct cremation, 42% said they would consider it for their own funeral. It submits that this indicates a 'substantial latent demand' for direct cremations to grow and become a significant part of the funerals market in the future. However, we note that the SunLife report finds that the awareness of direct cremations is high (52%), but the proportion of customers who are purchasing direct cremations is low (<5%), showing that direct cremation is not a popular choice for the majority of customers. This may be because considering a direct cremation is different to choosing one, and because there is a difference between a customer considering a direct cremation for their own funeral and considering it for someone else's.

<sup>702</sup> [redacted].

expected to continue to be so in the next few years. Following the introduction of direct cremations at a price significantly below their other funeral packages,<sup>703</sup> the proportion of customers who chose it was small: [5-10]% of Co-op's customers in the months it was available, and [0-5]% of Dignity's customers. We set out in Appendix I (paragraph 58) evidence that indicates direct cremations are expected to remain a small part of the market.<sup>704, 705</sup>

- 5.145 Further, as set out in Appendix I (paragraphs 68 to 80) internal documents from the three Largest funeral directors are relatively consistent in indicating that, while there is some cannibalisation by direct cremation of other funeral volumes, particularly simple funerals, this is generally outweighed by increasing overall volumes from direct cremation. This suggests to us that there is a distinct group of customers who want a direct cremation and which funeral directors seek to appeal to. These customers are not interested in other funeral products and so, rather than switching between funeral products offered by the same funeral director, would purchase direct cremation from another provider (including specialist direct cremation providers).
- 5.146 This indicates that the risk of significant switching by customers from more 'traditional' funerals to direct cremations is low.
- 5.147 The propensity to switch from simple funerals to direct cremation may be somewhat greater, given that a simple funeral already involves some restrictions (albeit not as significant as direct cremations and unattended cremations in particular). The difference in price between simple funerals and direct cremations is lower but still substantial and has decreased due to falling simple prices. The direct cremation sales by Co-op and Dignity were at least partially due to substitution from simple funerals.<sup>706</sup> The ARF for simple funerals and direct cremation are at closer levels implying a closer relationship than observed between either simple funerals and standard funerals or direct cremation and standard funerals. Direct cremation therefore

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<sup>703</sup> Co-op offered its direct cremation funeral for £1,395, compared to £1,995 for their simple funeral and between £2,895 and £4,205 for their Classic and Traditional funerals, excluding disbursements.

<sup>704</sup> For example, Funeral Partners stated: 'Funeral Partners believes that the majority of UK consumers currently retain a preference for 'traditional' funerals. This is driven by demand for high quality in both 'observed' and 'unobserved' characteristics. A Co-op document about launching CWC includes 'potential volume' forecasts which suggest direct cremation could account for [10-20]% of UK cremations in 2018, and [10-20]% of cremations by 2022.

<sup>705</sup> This position takes into account the effect of how direct cremations are presented and take-up in other countries. With regard to the effect of how information is presented on take-up of direct cremations, we consider similar considerations to those set out in 5.128(c) are likely to hold for direct cremations as for simple funerals. We set out in Appendix I that we believe that it is not possible to draw direct comparisons regarding the future growth of direct cremations with other countries and so we put little weight on international comparisons.

<sup>706</sup> Though because the volumes of direct cremation are small for both funeral directors, it is not possible to state that this was entirely driven by substitution from other funeral types within the same funeral director.



appears to be a somewhat greater constraint on simple funerals than standard funerals.<sup>707</sup>

### ***The impact of COVID-19 on take-up of low-cost options***

- 5.148 We have received arguments from a number of funeral directors that the COVID-19 pandemic will lead to a shift in customer behaviour towards low-cost funerals.
- 5.149 Co-op noted its early experience shows that, in the short term, the impact of the outbreak includes a shift in the mix of funerals towards slimmed-down propositions or options without ceremony due to the need to comply with the government's social distancing guidance. It stated that while some of these impacts may be temporary, it believes that others will speed up or lead to permanent changes already being seen in the market as funeral directors exit the market and consumers become more familiar with unattended funerals. For example, it believes the increased take-up of unattended funerals will become a permanent feature of the market, putting sustained pressure on the profitability of funeral directors.
- 5.150 In addition, in its modelling work on the impact of COVID-19 on the UK funerals market for Co-op, Oxera's base case assumption was that direct cremation would account for [10-20]% of 'lockdown mix', with simple funerals accounting for [50-60]%. It noted that this assumed a continuation of shift observed earlier in lockdown: three weeks after lockdown began, simple funerals accounted for [40-50]% of Co-op's mix and direct cremation for [5-10] % (compared with [10-20]% and [0-5]% respectively in the week before lockdown) with standard funeral products at [20-30]% (down from [40-50]% in the week before lockdown). More recent data from Co-op shows that its sales of simple funerals grew from an average of [10-20]% pre-Coronavirus (COVID-19) to an average of [20-30]% for the period July-August 2020 after an average of [40-50]% during the first peak of COVID-19 (April-June 2020).<sup>708</sup>
- 5.151 Dignity stated the COVID-19 pandemic is further changing the dynamics of the market, including that customers have changed consumption patterns, with increased uptake in simple funerals and direct cremations instead of

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<sup>707</sup> Co-op stated that the introduction of CWC in May 2018 was associated with [X] in the share of simple funerals in Co-op's mix of funerals [X] in the take-up of simple funerals after CWC was included in the in the Funeral Choices brochure (Co-op: [Response to PDR](#), paragraph 4.38). We note that in discussing switching to its CWC product, Co-op refers to reductions in take-up of simple funerals, rather than standard funerals (see paragraph 5.129).

<sup>708</sup> Co-op: [Response to PDR](#), paragraph 4.18.

more traditional options.<sup>709</sup> It noted the proportion of simple funerals increased from [10-20]% in 2019 to [30-40]% in the period January-May 2020, while the proportion of direct cremations has also increased to [10-20]%.<sup>710</sup> It stated that it is unclear, at this stage, what changes to consumer behaviour and costs will persist in the market longer term. Indeed, it may be some time before the market returns to pre-pandemic 'normal', and some market changes are likely to be permanent (for instance, greater awareness about simpler funeral options and/or the practice of having a memorial separate from the cremation).<sup>711</sup>

- 5.152 Freeman Brothers noted it may well be the case, especially in areas where crematoria closed their doors to all mourners, that direct cremations have seen an increase over the time of the pandemic, as families who intend to have large memorial services later (which will not require the services of a funeral director) were disincentivised to have any type of attended funeral at all. This will not only affect income for funeral directors (and may increase custom for direct cremation companies, distorting the market) but also for crematoria, making previous analysis of that market equally outdated.<sup>712</sup> In terms of the longer-term effects, Freeman Brothers noted the effect is uncertain:

Many people may have had their thoughts about smaller or simpler funerals challenged, and this may significantly alter their future plans. As stated above, there could be increased demand for direct cremations, increasing the popularity of these more quickly than would otherwise be expected.

Of course, the opposite could also be true, and people who felt obliged to arrange simple funerals for their partner or parent may have found them lacking, and make grander plans for when their own time comes. We have noticed that some clients have chosen more expensive (not necessarily more profitable) coffins during the pandemic. This is in spite of the fact that they may be expecting fewer people to see their choice in the light of reduced attendances ...<sup>713</sup>

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<sup>709</sup> [Dignity response to CMA Funeral Director working papers dated 20 and 21 February 2020](#), paragraph 2.4.

<sup>710</sup> [Dignity response to CMA Funeral Director working papers dated 20 and 21 February 2020](#), paragraph 5.6 and Figure 6.

<sup>711</sup> [Dignity response to CMA Funeral Director working papers dated 20 and 21 February 2020](#), paragraph 2.5.

<sup>712</sup> [Freeman Brothers final submissions before PDR dated 18 June 2020](#).

<sup>713</sup> [Freeman Brothers final submissions before PDR dated 18 June 2020](#).

5.153 SAIF stated that further investigation is required to assess the impact of COVID-19 on the funeral services market and sector, including the impact on the consumer purchase journey and preferred options. For instance, a move to direct cremation and basic funerals would lead to significant challenges in the balance sheet for funeral directors and their operating scale and models.<sup>714</sup>

5.154 We note funeral directors have experienced a number of changes in the behaviour of customers and their sales mix. This is unsurprising given the effects the pandemic has had on all areas of life, and the restrictions imposed on normal behaviour including severe government-imposed restrictions on the number of people who could attend the service and other social distancing measures. It is not clear at this stage which of these changes (if any) may lead to permanent shifts in preferences or behaviour, or how long transitory shifts may last.<sup>715</sup> While our current view is that these developments are unlikely to alter significantly the way most people choose funerals, we recognise that if the restrictions were to persist for an extended period of time, or be re-imposed after being lifted, they might have a more fundamental impact on behaviours and choices. We therefore do not consider we can speculate as to the long-term effects these changes may have on competition between funeral directors, or the constraint imposed from low-cost options on the prices of other funerals offered within the same funeral director, at this point.

## **Summary**

5.155 There is some evidence that competition is stronger in relation to low-cost funeral options, with less differentiation between the products offered, and greater pricing responses at least between the largest two funeral directors. However, this does not appear to be a trend which has affected all funeral directors to the same extent, and there is some indication that weaknesses in the competitive process also apply to these funeral types, given the inherent customer vulnerability and indications that simple funeral prices remain less responsive than might be expected (as indicated by delays in reaction to price changes, and the dispersion in simple prices observed in Section 7).

5.156 Greater competition between low-cost options does not appear to confer a significant constraint on the prices of standard funerals. While, as would be

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<sup>714</sup> [SAIF response to CMA Papers on regulating price on Funeral Directors services](#), page 13.

<sup>715</sup> We note in this context that figures from Co-op appear to show the proportion of simple funerals in its sales mix have fallen since the height of the pandemic, although it is not clear whether or to what extent this will continue. ([Co-op: Response to PDR](#), paragraph 4.18). We also note that, for some funeral directors, considerable numbers of their customers appear to continue to take standard funeral options despite the restrictions in place on these, suggesting they are reluctant to depart from the more traditional options.

expected, the introduction or enhanced promotion of low-cost options has meant some customers have switched from standard funerals to low-cost funerals, the majority of customers still choose standard funerals despite the large price differentials. This is partly due to the more restricted nature of low-cost products, which may make them unsuitable for some customers, and may also be exacerbated by the funeral director's influence in whether and how they present information about low-cost funerals as an option. Further, the take-up of low-cost options had increased during the COVID-19 pandemic but decreased as restrictions began to ease,<sup>716</sup> and we do not consider that we can speculate at this time as to the long-term effects (if any) that changes caused by COVID-19 may have.

## **How does the availability of pre-paid funerals affect funeral director behaviour?**

5.157 As explained in Section 2, paragraph 2.17 and Figure 1, there has been significant growth in the take-up of pre-paid plans in recent years, although this appears to have now plateaued. Customers taking a pre-paid plan make one or more payments to a provider, who subsequently arranges or pays for a funeral upon the death of the customer. Providers either invest these payments in a trust fund or take out a form of insurance against the life of the customer. This enables customers to pay for a funeral in advance and safeguard against funeral price inflation. Those activating a pre-paid plan to pay for a funeral can still purchase additional services not included in the plan. By contrast, customers arranging an at-need funeral pay the prevailing price charged by the funeral director at the point in time they are arranging the funeral. Evidence on the interaction between these prices for different providers is set out in Appendix F.

5.158 Given the widespread availability of pre-paid plans, and that these are often sold at a lower price than at-need funerals, we have considered whether there is evidence to suggest that at-need funerals prices are set with reference to pre-paid funeral prices and therefore could potentially be to some extent constrained by them.<sup>717</sup> We note that any such constraint could in principle arise, somewhat indirectly, from the longer term shift in volumes from at-need funerals to pre-paid funeral plans, rather than as a direct constraint from customers switching from at-need to pre-paid funerals at the point of need,

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<sup>716</sup> Further detail is provided in paragraphs 5.150 and 5.151.

<sup>717</sup> We note that even if there were to be such a relationship, we would need to consider whether this was a sufficient and effective constraint on at-need funerals to keep them at competitive levels.

which, of course, is not possible (as set out in Section 4 paragraph 4.10 and Appendix E).

- 5.159 Different funeral directors appear to take different approaches to setting at-need and pre-paid funeral prices. Internal documents from the three Largest funeral directors indicate they predominantly set the prices of at-need and pre-need packages independently. They are broadly aware of the price differential between the two, but we have found no evidence to show that at-need funeral prices are significantly influenced by pre-paid funeral prices. They are also broadly aware that the sale of pre-paid funeral plans may ‘cannibalise’ at-need funerals, but we have found no evidence that this influences their pricing strategy.<sup>718</sup> There is some evidence that, generally, funeral directors set pre-paid prices lower than at-need funerals in order to secure future business. However, there is some qualitative evidence that smaller funeral directors set their at-need prices in line with the pre-need packages and vice-versa (although we note this information comes from a small number of funeral directors).<sup>719</sup>
- 5.160 These differences in pricing between at-need and pre-paid funerals may to some extent reflect differences in the business models adopted with respect to pre-paid and at-need, for example, whether the funeral director is offering pre-paid funerals as a vertically integrated provider (ie selling the plan and fulfilling the funeral at the point of need) or is contracting with a third-party funeral plan provider (where the funeral director may contract with the plan provider to fulfil a funeral when it comes to be redeemed) and the terms of those third-party contracts, and the extent to which the funeral director puts emphasis on pre-paid funerals as a way to build future volume. Such different business models are likely to come with different incentives on the funeral director in terms of the price charged for the pre-paid funeral compared to at-need funeral prices.<sup>720</sup>
- 5.161 Evidence across funeral directors indicates that average revenues for at-need funerals are generally higher than for pre-paid funerals, although the size of the difference varies considerably between different funeral directors. These average revenues also show very different trends in growth rates. This is set out in more detail in Appendix F. Based on the evidence we have seen, it is not clear that at-need and pre-paid funeral prices move closely together, but we note that they have both grown across the period.

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<sup>718</sup> See paragraphs 44 to 48 of Appendix F.

<sup>719</sup> [X] and [X]. This is detailed further within Appendix F.

<sup>720</sup> For example, funeral directors may have different incentives depending on whether they consider pre-paid volumes are likely to be purely incremental, or whether they will cannibalise customers who would otherwise come to them at the point of need if they did not have a plan.

- 5.162 We have not examined the competitive conditions of the market for pre-paid plans, since this is outside our terms of reference (see Section 1, paragraph 1.13). We therefore cannot comment on the degree to which prices for pre-paid plans themselves represent competitive prices.
- 5.163 We note that recent investigations by HM Treasury indicate that the market for pre-paid plans may itself not function effectively. In particular, following a call for evidence and meetings with stakeholders from across the sector, the government identified that consumer detriment is present within the funeral plan market, both at the point of sale and after a pre-paid plan has been entered into. This has taken the form of high pressure and misleading sales tactics, including cold-calling, poor levels of disclosure around what was included as part of the plan and reports of the mismanagement of trusts in the market.<sup>721</sup> Secondary legislation to bring pre-paid funeral plan firms within the remit of the Financial Conduct Authority was laid before Parliament on 26 November 2020.<sup>722</sup>
- 5.164 The above evidence indicates that the prices of at-need funerals do not respond strongly to those of pre-paid plan prices and in any case, there are some indications the market for pre-paid plans may not function effectively.

## **Funeral directors' competitive incentives over back of house quality**

- 5.165 The 'back of house' element of funeral director services is also sometimes referred to as care of, or for, the deceased. It relates in particular to the facilities and equipment used by funeral directors for taking care of the deceased person until the day of the funeral, but also touches on wider issues such as transportation and staff training. The distinguishing feature of the back of house service quality of funeral directors is that it is largely unobservable to customers, both before and during the provision of the service.
- 5.166 It seems to us to be beyond doubt that people will wish their loved ones to be treated with dignity and respect while in the care of a funeral director. When they are asked directly about care of the deceased, customers tend to say it is an important feature of the provision of funeral director services. For example:

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<sup>721</sup> [Bringing all funeral plan providers within the remit of the FCA: Annex B Impact Assessment](#), paragraph 3.

<sup>722</sup> [Consultation outcome - Regulation of pre-paid funeral plans: consultation on a policy proposal](#).

- (a) In research commissioned from Trajectory by Dignity in 2018, 73% of respondents reported that caring for the deceased is a ‘very important’ service provided by funeral directors.<sup>723</sup>
- (b) In the Past Buyer research commissioned by Co-op in 2019, more than 95% of respondents described caring for the deceased as an important core service, second only to the proportion who said that collecting the deceased and taking them into care is an important core service.<sup>724, 725</sup> Co-op submitted that this supports its practical experience, ‘which is that customers do place great importance on how the deceased is cared for, although may not wish to discuss or observe it directly’.

5.167 We asked Co-op, Dignity, Funeral Partners and the regional co-ops to summarise which dimensions of quality consumers care about, and which of these can be observed by customers. Their responses were broadly consistent, and highlighted that care of the deceased, including operational standards and back of house facilities, is only partially and infrequently observable to customers.

5.168 In a well-functioning market, when quality is observable by customers (at least after the purchase), suppliers can be expected to provide a range of price-quality combinations and good value for money for customers. Quality differentiation between suppliers is consistent with this if customers are aware of the quality provided and accept a lower (or higher) price as a result. However, where quality is not observable by customers (even after the purchase), suppliers’ incentives to invest in quality may be significantly dampened; in particular, if quality is costly to provide, suppliers may reduce the investment in quality to reduce costs. Imperfect information about quality can be a particularly severe problem for infrequently purchased products or products the quality of which cannot be verified even after purchase – so-called ‘credence’ goods.<sup>726</sup> This may result in weak competitive incentives and poor-quality provision.

5.169 Part of Dignity’s Stakeholder Engagement Strategy in recent years has been to identify and publicise the scope for variations in standards and quality of

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<sup>723</sup> Dignity (2018). [Time to talk about quality and standards](#), page 22.

<sup>724</sup> A [X] survey for Co-op supports this view, reporting that [X]% of those interviewed listed ‘full funeral arrangement and care of the deceased’ as a top priority.

<sup>725</sup> We note that the surveys for Co-op and Dignity were both conducted with an online panel sample. Typically, we consider that online surveys with members of pre-recruited respondent panels, where sample recruitment does not rely on randomisation, may be subject to bias and may not be sufficiently robust (see: Appendix C, paragraphs 32 to 35). As such, we place limited weight on this type of evidence but note that its findings align broadly with other evidence we have considered in the course of our investigation.

<sup>726</sup> [CC3 \(Revised\)](#), paragraph 312.

care for the deceased, in the absence of regulated minimum standards. To this end it commissioned research from Trajectory, leading to a report in 2018 which identified wide-ranging standards in back of house facilities, including some which were inadequate, and procedures that showed disrespect to the deceased.<sup>727</sup>

### ***Monitoring of back of house quality levels***

5.170 We noted above the means by which funeral directors monitor their own quality, including customer surveys in particular. The nature of care of the deceased means that customer-based exercises are unlikely to generate reliable insights into (unobserved) back of house quality.

5.171 Funeral directors told us that they promote quality through their training and processes supported by detailed guides and manuals, and through operational audits of front and back of house, as well as learning and development and performance management for staff.

5.172 It has been submitted to us that reputational issues are a powerful motivator for funeral directors,<sup>728</sup> and that, although back of house problems become public only rarely, this can be very damaging reputationally, providing an incentive to maintain high standards.<sup>729</sup> Co-op and Dignity both submitted that reputation effects are more of a discipline on back of house quality for large providers or those with a national brand, as reputational damage could be more significant. We have not taken a view on the strength of this specific point, but note that issues raised with us about back of house quality, and set out further in Section 7, were not limited to small or local operators.

### ***Awareness of back of house quality levels of others***

5.173 Funeral directors are not generally able to observe the back of house quality levels of rivals. Local Dignity, Co-op and Funeral Partners branch managers that we spoke to, when describing the quality of their rivals, were able to comment on vehicles, premises, and to an extent on the quality of staff, primarily defined by the extent of their experience and the strength of their link to the local community. However, these managers did not feel confident in

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<sup>727</sup> Dignity (2018). [Time to talk about quality and standards, Executive summary](#).

<sup>728</sup> For example Central England Co-op emphasised that reputation is very important to customers.

<sup>729</sup> Funeral Partners submitted that: 'We consider it as part of the overall cost of being a high-quality funeral director that there exist high standards in both 'unobserved' and 'observed' quality. Low standards in these areas can lead to huge reputational damage, as well as having consumer detriment given consumer expectations in these areas'. Funeral Partners provided example articles from the [Daily Mail](#) and [Daily Mirror](#).



commenting on the back of house facilities or processes at rivals' premises.<sup>730</sup>  
This was also true of Co-op senior staff to whom we spoke.<sup>731</sup>

- 5.174 We have seen only limited evidence of funeral directors changing their levels of quality in response to competition (see paragraph 5.58), and none of this evidence specifically relates to improvements in the level of (unobserved) quality of care for the deceased.
- 5.175 In principle, one of the roles of trade associations is to ensure that minimum acceptable standards are complied with, in part by providing a badge of assurance for consumers. The NAFD and SAIF have codes of practice and an inspection regime covering both aspects that are observable to customers and less observable aspects. However, the trade associations do not currently publish information on how quality varies across the funeral directors they inspect. We also note that around 25% of funeral director branches are not members of a trade association and so in any event are not subject to inspection by a trade association.<sup>732</sup>
- 5.176 Most participants in the Market Study consumer research had not considered whether funeral directors held particular qualifications or were members of a trade body when making a choice.<sup>733</sup> This is consistent with the finding noted in Section 3 around customers' expectations that funeral directors have regulated minimum standards, which may reduce the customers' incentives to check the funeral director's trade association membership and qualifications.

## **Summary**

- 5.177 Given that it is unobservable to customers, we would not expect back of house quality to be a significant parameter of competition between funeral directors. The evidence we have received supports that expectation, creating the scope for poor quality outcomes to both arise and persist. In Section 7 we consider evidence on the prevailing levels of back of house quality, and whether there are indications that some funeral directors provide poor quality in this respect.

## **Conclusions on how funeral directors compete**

- 5.178 We consider that the extremely challenging circumstances in which people purchase funerals hamper their ability to engage effectively with the

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<sup>730</sup> CMA calls held with local branch managers.

<sup>731</sup> [REDACTED].

<sup>732</sup> [Funerals Market Study Final report](#), paragraph 2.50.

<sup>733</sup> [Market Study consumer research](#), paragraph 4.3.15.

purchasing process. This has implications for how funeral directors compete. In particular, when making their choice of funeral director, the majority of customers do not compare the offerings of different suppliers on the basis of price, range, quality or the overall value for money of the funeral. Customers are grieving and have many other concerns following a death, so it is not surprising that the funeral purchase process is very different to that for other goods and services. This is not a 'failure' but an understandable reality of the situation in which customers find themselves and does not appear to dampen customers' overall satisfaction with their purchases (although as noted in Section 7, their ability to look back on the experience and objectively assess it may be limited by circumstances). However, the lack of effective market signals means that supplier behaviour, for example, high prices or poor quality, that in other markets would be penalised by a significant number of customers moving to lower priced or better quality services in the short term, does not carry the same consequences for funeral directors.

- 5.179 Price is not an important consideration for most customers and, as for quality, much of what customers value in the service of the funeral director is intangible and relates to the personal connection between the funeral director and the customer during the funeral arrangement and delivery. In this context, personal experience, recommendations or the reputation of the funeral director are often important factors in customers' choice of funeral director, which may be a mechanism by which customers take into account, albeit indirectly, quality factors which are difficult to observe or judge before the purchase.
- 5.180 As customers do not shop around or engage, as they do in other markets, they do not provide clear signals to the funeral directors as to what information they would need to be able to make choices between suppliers and offerings. Funeral directors are aware of this and take a variety of approaches in the way they present information on their offerings; many do not make the information available online and show reluctance to provide it in a complete and transparent way over the phone. These approaches may contribute to perpetuating customers' lack of shopping around and difficulty in engaging with the purchasing process.
- 5.181 We have concerns about some of the ways in which funeral directors may seek to gain additional customers. One such concern relates to the use of arrangements with and/or inducements to trusted intermediaries (such as care home or hospices) in order to generate recommendations or referrals. Another relates to the possibility of soliciting for funeral arrangement business when undertaking a contract on behalf of the coroner.

- 5.182 Once the customer has chosen the funeral director, the selected funeral director will apply their own judgement in the way they meet what they perceive to be the needs of their customers, rather than this being determined by competitive forces.
- 5.183 Given that customers value the quality of the service they receive, and given the relevance of experience and recommendations in the customer choice of funeral director (in a context where service quality can largely be observed only after the purchase, although even then only for some aspects of service), we consider that there is a degree of competitive pressure acting on the observable aspects of quality in funeral director services, although these are often determined by the funeral director's own view as to what is 'right' to offer rather than a reaction to what local rivals are doing. The importance of experience and recommendations to customers is reflected in funeral directors' efforts to build reputation and brand awareness and the practice of Dignity and Funeral Partners of continuing to trade under the former names of acquired businesses rather than giving prominence to the national brand. Because of the importance of gaining recommendations, achieving greater visibility in the local community (including with care providers) is a focus for many funeral directors.
- 5.184 Funeral directors put less emphasis on competing on price, being aware of how they compare to others but not necessarily responding where their relative prices change, or only doing so in limited circumstances.
- 5.185 Given the localised nature of demand and importance of local reputation in gaining customers, it is somewhat puzzling that the Largest funeral directors choose to run their operations centrally, setting quality standards and (at least until recently) determining price increases with limited feedback from their local management, thereby limiting the flexibility of their local responses. Much of their focus until recently was on growing their business through on-going geographic expansion, largely by acquisition of local funeral directors, the names of which were retained and marketed more prominently than their national umbrella brand. Rather than seeking to grow their market shares locally through competition, they accepted volume loss as an unavoidable consequence of their strategy (which often included increasing prices following the acquisition). It took a considerable amount of time for these volume losses to build to a level at which they felt they needed to respond. Competitive responses by the Largest funeral directors to the actions of competitors locally are generally inconsistent and highly targeted (eg price matching when challenged by a customer). An exception to this was Co-op's response (in summer 2019, having not reacted for months) to Fosters' price focused competition in the Glasgow area. This example of intense price competition is notable precisely because it is so rare and highlights the lack of

price responsiveness elsewhere in the country. It is atypical of the funeral directors market and it is unlikely in any event to continue in its current form (for the reasons set out in paragraph 5.43).

- 5.186 We heard from many smaller funeral directors in a diverse range of local areas about the way they operate: by and large they focus on what they know to work best for the families they serve, with very little attention being paid to their rivals. They observe what others do and some told us that it has made them refine their service or ensure they are sufficiently differentiated from other providers, but the nature of the responses we have heard about does not in our view indicate effective competition.
- 5.187 Unsurprisingly, given that customers pay little attention to price before their purchase, price competition is generally very muted: some new entrants set their prices very low, but there is a generally accepted hierarchy of pricing, that has been established over the years and that is largely maintained over time, with Dignity at the top of the range, Co-op somewhat in the middle, some large regional funeral directors positioned just below and in general small funeral directors pricing at a significantly lower level. From what we have heard, there is no overwhelming rationale for this hierarchy – some of the Largest companies themselves recognise that the smaller companies may be better able than they are to provide a caring service to their customers (as noted at paragraph 5.56), while the large companies seek to emphasise the consistency of their tangible quality standards across their portfolio. One of the standards that the large companies have emphasised lately in their general communication is the way in which they care for the deceased: this is done behind closed doors, however, and is largely unobservable either by their customers or their competitors. It is therefore not an observable dimension of competition as such.
- 5.188 The expansion of product range to introduce and expand low-cost options is the main area where we have observed some competitive interactions (particularly between the larger players) in recent years. In 2016, and under pressure from political and media circles to address the growing gap between prices and what people could afford to pay for a funeral, Co-op initiated a new pricing strategy, which was focused on a nationally marketed ‘simple’ funeral, ie a cheaper offering aimed at those with budget constraints. It took two years for Dignity to respond with a similar offering, as it first sought to address affordability issues through an even more restricted offering, ie its Simplicity direct cremation. Many of the other funeral directors we spoke to have not engaged in this type of competition to the same extent and put little emphasis on their equivalent low-cost packages (although in many cases these companies charge lower prices for their standard funerals).

- 5.189 Competition at the lower cost end of the sector has increased in recent years, particularly between Co-op and Dignity. This is a welcome development as a (limited) contribution to addressing concerns about affordability for those customers for whom such funerals are acceptable (see paragraphs 2.45 to 2.67 for a discussion of ‘affordability’ issues more generally).
- 5.190 However, simple funerals and direct cremations remain somewhat peripheral offerings, with a relatively low take-up relative to standard funerals. Their take-up appears to be significantly influenced by the way suppliers present their funeral options and they are often positioned and marketed so as to appeal to those who do not want or cannot afford a traditional funeral rather than the majority of the bereaved. Given the fundamentals of customer vulnerability and difficulty in engaging with the funeral purchasing process are unlikely to be materially different for low-cost funeral customers, we do not consider competition at the low-cost end of the market to be necessarily effective. It is also relevant that, although Dignity and Co-op made much of their focus on simple funerals in their representations to us, others did not see this as a significant market development.
- 5.191 Low-cost options do not appear to significantly constrain the prices of other types of funerals. While, as would be expected, the introduction or enhanced promotion of low-cost options has meant some customers have switched from standard funerals to low-cost funerals, in particular simple funerals, the majority of customers still choose standard funerals despite the large price differential. Importantly, while switching between standard and simple funerals within the same funeral director can provide some constraint on providers wishing to avoid unprofitable cannibalisation of standard funerals, the main constraint on a funeral director’s prices of its own packages (whether simple or standard) arises from customers shopping around between rivals’ funeral options, which in this market appears very limited.
- 5.192 The take-up of ‘simple’ funerals and direct cremations increased during the COVID-19 pandemic. This was not driven by customer choice but by the exceptional circumstances prevailing at the time, including severe government-imposed restrictions on the number of people who could attend the service and other social distancing measures. Our current view is that this is unlikely to alter significantly the way most people will choose funerals when the crisis is over, but if some restrictions were to persist for an extended period of time (and possibly widened again), it might conceivably have a more fundamental impact on behaviours and choices. We do not consider we can speculate at this time as to the long-term effects (if any) that these changes may have on competition between funeral directors, or the constraint imposed from low-cost options on the prices of other funerals offered within the same funeral director at this point.

5.193 Based on the evidence, we therefore consider that funeral directors across the UK face limited competitive constraints when setting prices and (observable) quality, although we note that quality is more important than price to customers and is somewhat, albeit indirectly, factored in their decision-making. As can be expected, given that it is largely unobservable to customers, back of house quality is not a significant parameter of competition between funeral directors.

## 6. How crematoria compete

- 6.1 This Section describes our assessment of how crematoria compete. We have found that the circumstances in which a funeral is arranged are usually extremely challenging, and factors including the vulnerability of many customers, hampers funeral customers' ability to engage with the funeral purchasing process (Section 3). We have also found that barriers to entry in the provision of crematoria services are high, and the vast majority of local markets are concentrated, many highly so (Section 4). It is against this background that we consider the extent to which there is competition between crematorium operators and how it manifests itself.
- 6.2 In this Section, we describe our assessment of:
- (a) Evidence relating to the dimensions over which crematoria compete, particularly in relation to price and quality; and,
  - (b) local competitive constraints, based on the following analysis:
    - (i) Geographic closeness of competition between crematoria;
    - (ii) the extent to which crematoria attract customers who have a closer alternative crematorium; and,
    - (iii) responses to entry.
- 6.3 Our assessment of the dimensions over which crematoria compete (point (a) above) is based on: evidence from the Market Investigation consumer survey; evidence from a customer survey submitted by Westerleigh<sup>734</sup> ('the Westerleigh survey'); internal documents from the three largest private crematorium operators (Dignity, Westerleigh and Memoria); and commentary, written responses and interviews with crematorium operators and funeral directors. This analysis relates to how competition between crematoria works generally across the UK.
- 6.4 The second part of our assessment (point (b) above) sets out our assessment of local competitive constraints and is based on an analysis of crematorium-level data on geographic closeness to rivals, the ability of crematoria to attract customers who have a closer alternative and the responses of crematoria to local entry. To a large extent this analysis aggregates the assessment of local competitive constraints across local areas. Together, these sources of

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<sup>734</sup> Subject to the limitations of this survey as discussed in Appendix C.

evidence are used to reach an understanding of how the competitive process works across the local markets in which crematoria operate.

## **The dimensions over which crematoria compete**

6.5 This part sets out our assessment of the dimensions over which crematoria compete. We first examine evidence we have received from private and local authority crematorium operators as to how they seek to attract customers (paragraphs 6.6 to 6.9). We then describe survey and qualitative evidence as to how customers choose a crematorium (paragraphs 6.10 to 6.30). Finally, we set out the evidence we have obtained in relation to competition over price and quality (paragraphs 6.31 to 6.75).

### ***How crematoria seek to attract customers***

6.6 The three largest private crematorium operators told us that they compete for customers on the basis of price and quality:

- (a) Dignity stated: “Competition in crematoria services is driven by quality factors such as slot timing and length, quality of experience, and convenience of access, not only by price.”<sup>735</sup>
- (b) Westerleigh stated: “The provision of high quality facilities and customer service is central to Westerleigh’s business model and our experience is that the higher quality of our offering has increasingly led consumers to choose to hold funerals at our crematoria in preference to closer and/or lower-priced alternatives.”<sup>736</sup> Westerleigh has also noted that, “Competition take[s] place over the long-term: Westerleigh’s efforts at a local level involve setting a level of quality that it maintains and improves in order to raise public and funeral director awareness of its offering.”<sup>737</sup>
- (c) Memoria stated: “it [Memoria] assesses its competitors’ position on pricing and quality in order to ensure that it is responsive to competitive conditions.”<sup>738</sup>

6.7 The three largest crematorium operators described how they attempt to encourage customers to use their crematoria. They told us that they tend to

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<sup>735</sup> Dignity plc response to CMA Issues Statement of 8 April 2019, paragraph 3.1.

<sup>736</sup> Westerleigh Group’s response to the CMA’s Issues Statement, paragraph 1.3.2.

<sup>737</sup> Westerleigh, Westerleigh Group’s response to the CMA’s working papers published on 30 January 2020, paragraph 28a.

<sup>738</sup> Memoria, Response to the CMA’s working papers published on 30 January 2020, page 8.



promote use of their crematoria through the relationships they seek to build with funeral directors:

- (a) Dignity stated: “It ... falls on the funeral director to inform customers about the pricing and range of services available at Dignity crematoria and to make the customer aware of alternative crematoria. Dignity accordingly sends an annual letter for each crematorium to all local funeral directors with details of its services and prices. [REDACTED]. Dignity publishes details of the facilities and services for all of its crematoria online so that customers can easily compare crematoria beyond their local area and identify where a Dignity crematorium is the most suitable to meet their specific needs.”
- (b) Westerleigh stated: “Westerleigh does not directly encourage customers to use its crematoria. Westerleigh’s strategy for increasing usage of the site is to offer a high quality service, to establish the local reputation of the site and to ensure that funeral directors and members of the local community have clear information on the crematorium’s facilities, location and pricing. We typically find that the reputation for quality service at our sites develops over time, both amongst local funeral directors and with the community in general.” Westerleigh also noted that, “We encourage them [local managers] to go to local funeral directors and help the funeral directors understand why our value is better.” Westerleigh’s site manager reports make reference to site managers who attempt to build relationships with their local funeral directors.<sup>739</sup>
- (c) Memoria stated that it attempts to attract funeral directors by visiting the funeral director’s premises and through the provision of promotional materials, promoting a strong relationship with funeral directors, inviting funeral directors to sit on an advisory panel and running events, such as cheese and wine evenings for funeral directors at their crematoria. Memoria stated that it attempts to attract customers (bereaved families) to use their crematoria through offering product choice and a range of prices, high standard facilities, offering tours of the crematorium, open days and memorial evenings, and through tailored advertising. Memoria has a sales and marketing director who is responsible for Memoria’s local community and funeral director relations across all of its sites.<sup>740</sup>

## 6.8 Internal documents from Westerleigh and Memoria provide additional evidence on how Westerleigh and Memoria build relationships with local funeral directors and monitor the number of funerals that their crematoria

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<sup>739</sup> For example, the site manager reports note: “As the site manager at West Lancs I will take every opportunity to chat with FD’s. I have an excellent working relationship with all that utilise our site,” “[REDACTED].”

<sup>740</sup> [Memoria Staff](#)

conduct from certain funeral directors and geographic areas. Westerleigh site managers monitor the number of cremations that they conduct relating to each funeral director in the local area, and may comment on why the number of funerals from particular funeral directors may change over time (which, among other things, can depend on the death rate, the local market share of the funeral director, and the preference of funeral directors and families for particular crematoria). Memoria holds 'preview evenings' with local funeral directors prior to opening a new crematorium, and for existing crematoria produces reports of the locations of its customers such that it "can easily identify areas and funeral directors that are not using us. This can aid us to target specific towns / villages where we are under-performing with advertising campaigns ... and/or Funeral Directors Visits to try and develop the relationship with the funeral director."

6.9 We asked the three largest private crematorium operators how they advertise their new crematoria and how much they spend on raising awareness of their new crematoria:

- (a) Dignity did not provide any data but noted that: "All sites also benefit from Dignity's central marketing expenditures (eg advertising on wider brand building) and brochure materials made available to care homes, hospitals and funeral directors." Dignity also stated that: "[§]. Rather, it seeks to build awareness through funeral directors."
- (b) Westerleigh notes: "Local marketing campaigns vary from site to site ... there is no standard marketing campaign. Typically, local marketing activities involve meetings with local funeral directors and other members of the local community (eg celebrants, councillors etc), open days at the sites and local advertising ... Marketing materials are also typically produced, including leaflets ... Westerleigh typically does not carry out significant advertising campaigns, but may place adverts in local publications." In relation to 11 Westerleigh crematoria that have opened since 2017, the average advertising spend is £[§] over the period 2017-2018.<sup>741</sup>
- (c) Memoria states: "Our management team visit funeral directors within a 25-30-mile radius throughout the development process to raise awareness of the facility as well as the unique services that we provide. We usually set up local adverts in trade press, post offices, bereavement guides, local radio, local print (local paper / magazines)." In relation to

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<sup>741</sup> Westerleigh notes that "there are significant internal costs in relation to marketing which are not reflected in this analysis, including management time in undertaking marketing activities and funeral director visits."

Memoria's ten crematoria, average spend per crematorium across the first three years of operation is £[redacted].<sup>742,743</sup>

### ***How customers choose a crematorium***

- 6.10 Section 4 describes how customers typically have limited choice of crematoria in their local area (with over half of customers having at most one crematorium within a 30-minute drive time). The Market Investigation consumer survey shows that 47% of consumers reported that they had a choice of only one local crematorium.<sup>744</sup>
- 6.11 Choice can also be limited for some customers if the deceased has made known their wishes relating to which crematorium to use in advance: the Market Investigation consumer survey shows that, in addition to the 47% of customers stating they have a choice of only one local crematorium, a further 10% of customers said that the deceased had made their wishes known in advance in relation to the choice of crematorium.<sup>745</sup> Finally, customer choice may be limited if certain specific requirements are needed (for reasons of faith, or other reasons) which not all crematoria can accommodate.<sup>746</sup> In total, 39% of respondents to the Market Investigation consumer survey said that they had a choice of crematorium.<sup>747</sup>
- 6.12 While nearly four in ten respondents felt they had a choice of crematorium, our survey shows that very few customers shop around – only 7% of customers compared two or more crematoria. A further 31% of customers had a choice of crematorium but did not compare. The remaining respondents did not feel they had a choice of crematorium (see paragraphs 6.10 and 6.11).<sup>748</sup> The results in terms of very limited customer shopping around are consistent

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<sup>742</sup> We note that three of the ten crematoria have not been open for the full three-year period.

<sup>743</sup> Memoria states that this historic data does not reflect current, higher levels of spending on advertising.

<sup>744</sup> [Market Investigation consumer survey](#), Tables 308-310, Questions C1 + C2 summary. Base: all UK adults 18+ who (i) arranged an at-need cremation with a 'high street' funeral director or (ii) arranged an attended cremation with an online-only funeral provider or (iii) arranged an at-need cremation without a funeral director since J/A/S/O 2017 (n=376).

<sup>745</sup> [Market Investigation consumer survey](#), Tables 308-310, Questions C1 + C2 summary. Base: all UK adults 18+ who (i) arranged an at-need cremation with a 'high street' funeral director or (ii) arranged an attended cremation with an online-only funeral provider or (iii) arranged an at-need cremation without a funeral director since J/A/S/O 2017 (n=376).

<sup>746</sup> This issue has been investigated by the Ministry of Housing, Communities and Local Government, [Crematoria provision and facilities](#), April 2019.

<sup>747</sup> [Market Investigation consumer survey](#), Tables 308-310, Questions C1 + C2 summary. Base: all UK adults 18+ who (i) arranged an at-need cremation with a 'high street' funeral director or (ii) arranged an attended cremation with an online-only funeral provider or (iii) arranged an at-need cremation without a funeral director since J/A/S/O 2017 (n=376).

<sup>748</sup> [Market Investigation consumer survey](#), Tables 308-310, Questions C1 + C2 summary. Base: all UK adults 18+ who (i) arranged an at-need cremation with a 'high street' funeral director or (ii) arranged an attended cremation with an online-only funeral provider or (iii) arranged an at-need cremation without a funeral director since J/A/S/O 2017 (n=376).

with the results of the Westerleigh survey, which found that the equivalent of [0-5]% of all customers actively compared between two or more crematoria, and the equivalent of a further [0-5]% of all customers considered using an alternative (but did not undertake significant research), while [0-5]% considered using an alternative (but were unable to find anything suitable).<sup>749</sup> We have used Westerleigh's results to calculate the proportion of their customers that could be considered to have not compared between crematoria. Westerleigh's survey shows that [70-80]% of customers did not consider using an alternative crematorium to the one they had in mind before contacting the funeral director.<sup>750</sup> In addition, a further [10-20]% of customers could be considered to have not compared: these are customers who did not have a crematorium in mind before contacting the funeral director and used a crematorium that the funeral director chose or recommended.<sup>751</sup> On this basis, we consider that a total of [80-90]% of respondents in the Westerleigh survey did not compare crematoria. In showing that few consumers compare crematoria, the broad consistency in findings between our survey (which is representative at a national level but does not provide sufficient data to examine potential variation in consumer behaviour at a local level) and Westerleigh's survey (which provides evidence on the behaviour of private crematoria customers in up to 34 local areas) provides confidence that this behaviour (i.e. the low propensity to compare) does not differ greatly between customer groups.<sup>752</sup>

### *Who makes the decision – customer or funeral director?*

- 6.13 The Market Investigation consumer survey found that 82% of customers had an idea of the crematorium that they would use before meeting the funeral director,<sup>753</sup> and, of these, 95% used the crematorium they had originally

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<sup>749</sup> Source: CMA analysis of Westerleigh dataset. The design of the Westerleigh survey is such that only a small subset of all respondents ([X]%, n=[X]); all who had a crematorium in mind before they contacted the funeral director but considered using an alternative crematorium) are treated as 'comparers' and asked to describe the nature of the comparison they undertook (Q05: Thinking about when you considered using an alternative crematorium, please select which of [these phrases] best describes your selection process). Although we consider this question to be poorly designed (and thus of limited evidential weight – see Appendix C), we have taken Westerleigh's survey data at face value and have recalculated the findings as though the question was asked of all respondents, so as to maximise the comparability of Westerleigh's results with those from our Market Investigation consumer survey.

<sup>750</sup> Source: CMA analysis of Westerleigh dataset (findings recalculated to maximise comparability).

<sup>751</sup> Source: CMA analysis of Westerleigh dataset (findings recalculated to maximise comparability).

<sup>752</sup> We note that, in a nationally representative survey, consumer responses to questions about perceived choice and the extent of comparisons made may vary to some extent between local areas, reflecting the choices consumers face in particular local areas, but the variation could go in both directions (ie with the proportion of consumers behaving in a certain way being potentially either below or above the overall average).

<sup>753</sup> [Market Investigation consumer survey](#), Tables 311-313, Question C3. Base: all UK adults 18+ who (i) arranged an at-need cremation with a 'high street' funeral director or (ii) arranged an attended cremation with an online-only funeral provider (n=370).

chosen.<sup>754</sup> Westerleigh noted that their survey results are consistent with these findings. Our survey found that, overall, 29% of customers who arranged a cremation with a funeral director received advice from the funeral director about which crematorium to use (although this did not necessarily change their initial plans). These are customers who either did not know which crematorium to use prior to meeting the funeral director, had an idea of the crematorium to use prior to meeting the funeral director but changed their mind, or customers who had an idea prior to meeting the funeral director, received advice but did not change their mind.<sup>755</sup>

- 6.14 This is consistent with what the funeral directors we talked to have told us. Co-op told us that: “the customer has generally got a crematoria [sic] in mind,” and also noted: “we recognise that funeral directors have limited ability to promote crematoria choice.”<sup>756</sup> Dignity said that the majority of families had a view about which crematorium they wanted to use.<sup>757</sup> Funeral Partners found that families had often chosen the crematoria they wished to use.<sup>758</sup> Large and small funeral directors we spoke to also stated that this was the case,<sup>759</sup> noting that in excess of 80% of their customers (and up to all of their customers) know which crematorium they want to use.<sup>760</sup>
- 6.15 The evidence we have obtained therefore indicates that customers generally know which crematorium they want to use before they meet their chosen funeral director and that generally the funeral director does not play a role in the choice of crematorium for the vast majority of customers.
- 6.16 Where customers do not know which crematorium they wish to use (16% of customers), or had a crematorium in mind and received further advice from the funeral director but did not change their mind (10%), or had a crematorium in mind and received further advice and changed their mind (3%), the funeral director may have a list of local options and talk the customer through this, as indicated by the internal documents of the Largest funeral directors (Dignity, Co-op and Funeral Partners). Documents from Dignity and Co-op that outline the process for arranging a cremation funeral, state that customers should be

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<sup>754</sup> [Market Investigation consumer survey](#), Tables 314-316, Question C4. Base: all who had an idea of which crematorium/crematoria to use before they contacted the funeral director/funeral provider (n=306). This was the equivalent of 78% of all respondents (Source: CMA analysis of consumer survey dataset).

<sup>755</sup> [Market Investigation consumer survey](#), additional analysis of data at Questions C3, C4 and Cnew2. This shows that: 16% of customers (n=60) did not have an idea of the crematorium to use before meeting the funeral director; 3% (n=13) had an idea of the crematorium to use before meeting the funeral director but changed their mind; and 10% (n=38) who had an idea of the crematorium to use before meeting the funeral director and did not change their mind following advice from the funeral director.

<sup>756</sup> Paragraph 2, Funeral Market Investigation, Working Papers on Crematoria, Co-op Response, 2 March 2020.

<sup>757</sup> [Dignity hearing summary](#), paragraph 24.

<sup>758</sup> [Funeral Partners Hearing Summary](#), paragraph 33.

<sup>759</sup> This point was made by 19 funeral directors.

<sup>760</sup> This point was made by nine funeral directors. [X].

made aware of all the options. Co-op's guidance states that: "the full options and choices should be offered to our client ... these will include, for example: location ..., seating capacity ..., details of memorialisation available ..., disposal of ashes ..., cost." Dignity's 'branch resource file' is a resource to "provide ready and easy access to local information and prices applicable to crematoria, cemeteries, local church fees, officiant fees, etc." Funeral directors may check with the family as to what is important; for example, if budget is important, the funeral director may point out local alternatives with cheaper slots or those that offer early morning reduced-fee slots.<sup>761</sup>

*What are the funeral director's incentives in the choice of crematorium to recommend?*

- 6.17 A number of local authority crematoria have suggested that the funeral director may prefer a particular crematorium for logistical reasons<sup>762</sup> (typically to avoid using staff and vehicle time travelling a crematorium that is further away, or to use a crematorium where the funeral director is already holding services that day). If this is the case, then customers who turn to the funeral director for advice on which crematorium to choose may not necessarily be directed to the crematorium that best meets the customers' needs.
- 6.18 We consider that, given the research results outlined in paragraph 6.13, the scope for funeral directors to influence the choice of crematorium is limited to those customers who do not know which crematorium they wish to use or those who receive further advice from the funeral director. We have gathered evidence on the nature of additional charges that customers have to pay to the funeral director if the crematorium is 'further afield' so that we can look at how a funeral director's charging structure may impact on their customers' choices.
- 6.19 Across Funeral Partners' branches, the funeral directors' fees include travel to a crematorium up to 25 miles from the branch, with a £[§] per mile charge after that. Dignity's funeral directors' fees include travel up to 20 miles from their premises, with a fee per mile after ([§]). Co-op's funeral packages (with the exception of Cremation Without Ceremony) include travel to a

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<sup>761</sup> This point was made by four smaller funeral directors. [§]: "I will go in to a meeting with a family sometimes knowing that I will try and dissuade from using a particular crematorium ... we might say, "Okay, we know they are tight on budget", so we say, "Actually, if you want to save a bit of money, there is [§]."" [§]: "we are very quick to point out that our closest crematorium here is actually the most expensive by hundreds of pounds." [§]: "I will say, "They are owned by [§]. Would you consider those?" We praise the grounds at [§] because they are lovely. The staff are brilliant; the facilities are great." [§]: "And I make it very clear to people that they do not have to go to their local crematorium; they can choose any crematorium."

<sup>762</sup> Kettering Borough Council, Leicester City Council, Bournemouth, Christchurch and Poole Council, Great Yarmouth Borough Council, and Sefton Metropolitan Borough Council.

crematorium up to 15 miles (or the closest crematorium, where there is not one within 15 miles) from the funeral director branch. If there is a crematorium within 15 miles and the customer chooses to travel further, a charge of £[redacted] per mile will in principle be made for each mile travelled over 15 miles. However, Co-op also noted that in reality the additional mileage fee is rarely charged. A number of smaller funeral directors have provided similar information in relation to charges,<sup>763</sup> whilst others do not charge extra for travel to a crematorium located some distance away.<sup>764</sup> Based on the evidence set out in paragraph 6.13 and 6.14 customers normally know which crematorium they want to use, and as such the funeral director charges for travelling to a crematorium are unlikely to have an impact on the customer's decisions in most circumstances. We note that the Market Investigation consumer survey showed that four-fifths of customers stated that the deceased lived within 30-minutes of the crematorium, which is unlikely to exceed the distances included in the funeral director's fees.

### *Factors affecting customers' choice of crematorium*

6.20 As set out in Section 3, the Market Investigation consumer survey shows that the most important factors in the choice of crematorium reported by respondents are related to location and family connections/familiarity. The following section will focus on these and other non-price and non-quality related factors that are important to customers when choosing and comparing between crematoria. Factors that are specifically related to price and quality are discussed in the respective sections on competition on price and quality below.

### *Location and familiarity*

6.21 Table 9 shows that the most important factors in the choice of crematorium were that: it was the only local crematorium (34% of respondents); personal experience of attending a service there before (24% of respondents); and convenient distance or journey time (10% of respondents). A further 3% of respondents stated that they liked the location and 2% stated it was easy for the guests to find.<sup>765</sup>

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<sup>763</sup> [redacted] noted an additional charge of £100 for the cost of extra travel time to certain crematoria, whilst [redacted] charges £50 for the cost of extra travel to certain crematoria.

<sup>764</sup> [redacted] does not charge for the additional charge of using crematoria outside of [redacted] (eg travelling to [redacted]). [redacted] also noted that they travelled out-of-area and did not charge additional mileage. [redacted] stated that they did not charge more for travelling further away.

<sup>765</sup> Market Investigation consumer survey, Tables 326-328, Question C7A. Base: All adults 18+ in the UK who arranged an at-need cremation with a high street funeral director, or arranged an attended cremation with an



- 6.22 Table 11 shows that of the 26 customers who said they had a choice of crematorium and compared, 11 compared the crematoria on their location/proximity.<sup>766</sup>
- 6.23 Westerleigh's survey asked those customers who considered alternative crematoria (including those respondents who actively compared, who considered an alternative but did not actively compare, or who chose a different crematorium to the one they originally had in mind – n=[X] combined) why they chose the crematorium that they used. Of these respondents, [30-40]% stated that they decided to use the crematorium due to the location of the crematorium relative to the address of the deceased, [20-30]% because it was close to the location of the mourners, and [20-30]% because it was close to the location of the respondent.<sup>767</sup>
- 6.24 In relation to location/proximity, Dignity,<sup>768</sup> Westerleigh,<sup>769</sup> and Memoria,<sup>770</sup> have all noted the importance of proximity in consumers' choice of crematoria, as have a large number of the local authority crematoria and the funeral directors we have spoken to.<sup>771</sup>
- 6.25 The Market Investigation consumer survey shows that 81% of customers chose the closest crematorium to where the deceased person lived, while 14% of respondents stated that they did not use the closest crematorium.<sup>772</sup> Of those who did not use the closest crematorium, the reported reasons for not choosing it are shown in Table 15.

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online-only funeral provider, or who arranged an at-need cremation without a funeral director in the past 24 months, and the deceased had not made their wishes known (n=339).

<sup>766</sup> Market Investigation consumer survey, Tables 335-337, Question C8. Base: All who compared crematoria (n=26).

<sup>767</sup> Question is multicode and allows for multiple responses.

<sup>768</sup> Dignity stated that: "Consumers tend to go to the crematorium which is geographically closest to them or which they have used or attended previously."

<sup>769</sup> Westerleigh stated that "We believe that the main factors influencing the choice of crematorium are proximity, price and the quality of service and setting at the crematorium."

<sup>770</sup> Memoria: "it is unlikely that bereaved families will travel further than they need to in order to get to their chosen crematorium."

<sup>771</sup> This point was made by 19 smaller funeral directors, as well as: Kettering Borough Council, Leicester City Council, Derby City Council, York City Council, Inverclyde Council, Worthing Borough Council, Orbitas, Mortlake Crematorium. The summary of the [Cardiff Roundtable](#) noted that "location is the key issue for the family as regards a crematorium; two other attendees agreed with this statement."

<sup>772</sup> Market Investigation consumer survey, Tables 344-346, Question C11. Base: all UK adults 18+ who (i) arranged an at-need cremation with a 'high street' funeral director or (ii) arranged an attended cremation with an online-only funeral provider or (iii) arranged an at-need cremation without a funeral director since J/A/S/O 2017 (n=376). The remaining respondents did not know or could not remember.



**Table 15: Why respondents did not use the closest crematorium**

	<i>n</i> <sup>*</sup>	%†
Not the 'family crematorium'/the crematorium we always/traditionally use	21	39
Did not have availability around the time we needed them/wanted	5	9
Unattractive building/grounds	4	7
Did not offer choice of dates/ days and times for the service	3	5
Less convenient for the respondent	3	5
Quality of facilities (eg old-fashioned, badly maintained)	3	5
Wishes of the deceased	3	5
Funeral director did not recommend it	2	4
Difficult for funeral guests to find/get to	2	4
Less convenient location for the family as a whole	2	3
Not big enough	2	3
Difficult to get from the crematorium to the venue for the reception/wake afterwards	1	2
Funeral director said they could not/did not use it	1	2
I/We didn't like it	1	2
Liked it less than the alternative	1	2
Limited range of facilities (eg no/poor disabled access, parking, refreshments, toilets etc., not able to display photos, music system, web streaming etc.)	1	2
Funeral director had no experience of using it	1	1
Higher prices	1	1
Other‡	3	5
No particular reason	2	4
Don't know/can't remember	5	9

Source: Market Investigation consumer survey

\* Base: 53 (all who did not use the closest crematorium)

† Frequencies also shown as percentages for ease of comparison; this was a multiple-choice question, so percentages sum to more than 100%

‡ 'Other' reasons were not quality-related

6.26 In the Market Investigation consumer survey, the most commonly stated reason for not using the closest crematorium was that it was not the “family crematorium” (n=21/53), and the second most commonly stated reason was slot availability (mentioned by n=5/53). The next commonly stated reason for not using the closest crematorium was “unattractive building/grounds” (n=4/53). We consider the results in relation to price and quality aspects as reported in Table 15 in the respective sections on competition on price and quality.

6.27 In Westerleigh's survey, [20-30]% of respondents stated that they did not choose the closest crematorium, so a larger proportion than in the Market Investigation consumer survey.<sup>773</sup> Westerleigh asked a similar question to ours, as to why customers chose a crematorium that was not their closest. The results are presented in Table 16. Starting from the most commonly stated reason, Westerleigh's survey found that [50-60]% of these respondents chose a crematorium that was not their closest due to attractive and well-maintained buildings and grounds (a further discussion on quality will follow); [20-30]% of respondents cited funeral director recommendations as a reason for choosing a crematorium that is not the closest; and [20-30]% of respondents cited availability on preferred date/time. The most commonly cited reason in the Market Investigation consumer survey for not using the

<sup>773</sup> Westerleigh notes that of those respondents who stated that they used the closest crematorium, [20-30]% in fact did not use the closest.

closest crematorium, 'not the family crematorium', was cited by [10-20]% of respondents in the Westerleigh survey.

**Table 16: Why respondents chose a crematorium that was not their closest**

	%
Attractive and well-maintained buildings or grounds	[50-60]
Funeral director recommendation / advice	[20-30]
Had availability on preferred date/time	[20-30]
Located close to those attending the service (friends and family)	[20-30]
Was the family crematorium / the crematorium we have always or traditionally used	[10-20]
Range of facilities	[10-20]
Better reputation	[10-20]
Located close to where I live	[10-20]
Offered a longer duration for the service	[10-20]
More accessible: close to main roads, access roads, etc.	[10-20]
Able to meet faith/religious requirements	[5-10]
Greater capacity (for number of people attending service)	[5-10]
(Reallocated) Previous experience	[0-5]
Lower price	[0-5]
Don't know	[0-5]

Source: Westerleigh consumer survey, Q14.

Base: 311 (all who knew/believed they did not choose closest crematorium). This was a multiple-choice question, so percentages sum to more than 100%.

- 6.28 Dignity,<sup>774</sup> Westerleigh,<sup>775</sup> and Memoria<sup>776</sup> have all noted that family connections (the reason that is most commonly cited in Table 15 for not choosing the closest crematorium) are an aspect of customer decision-making. The NAFD stated that choice of crematorium was generally based on where the last funeral was held.<sup>777</sup> Co-op<sup>778</sup> and Funeral Partners<sup>779</sup> made similar observations as have a large number of the large and small funeral directors and local authority crematoria to whom we have spoken.<sup>780</sup>
- 6.29 Certain locations may also be chosen because they are convenient for mourners or other aspects of the funeral service. Table 15 shows that of those respondents stating that they chose a crematorium that is not their closest, three respondents (out of 53) stated that choosing the crematorium was based on their personal convenience, two stated this was for the convenience of the family as a whole, two stated this was due to ease of finding/getting to and one stated it was due to other aspects of the funeral eg proximity to the

<sup>774</sup> Dignity stated that: "Consumers tend to go to the crematorium which is geographically closest to them or which they have used or attended previously."

<sup>775</sup> Westerleigh: "the choice of crematoria will be influenced by connections with existing crematoria (eg if other family members had been cremated and had memorials at an existing local crematorium)."

<sup>776</sup> Memoria lists 'family heritage' as a main driver of customer decision making.

<sup>777</sup> NAFD hearing summary.

<sup>778</sup> Co-op stated that: "Where there is a choice, clients generally know which crematorium they would prefer to use, based on family history or convenience".

<sup>779</sup> Funeral Partners: "Often people have already decided which crematorium they are going to go to, "we want to go to this crematorium because this is where previous funerals have taken place"".

<sup>780</sup> Conwy County Council, Derby City Council, St Helen's Borough Council, Great Yarmouth Borough Council, Aberdeen City Council, Bournemouth, Christchurch and Poole Council, West Middlesex Crematorium, York City Council, Inverclyde Council, Barnsley Council, Mortlake Crematorium, and Herefordshire Council. This point was also made by 13 smaller funeral directors.

wake. Table 16 shows that the Westerleigh survey found that customers often chose a crematorium that is not their closest due to the location of the crematorium relative to friends and family, and accessibility ([20-30]% and [10-20]% respectively). Dignity states that making sure people can attend, and holding the cremation locally, are key considerations for customers when choosing a cremation funeral,<sup>781</sup> and their planning applications generally make similar observations, with one planning application noting that: “the [funeral] should be embedded in the local community and take place close to home. A local crematorium will allow more friends and relatives to attend as it will be local to the family who have suffered bereavement.” Memoria stated that: “it is unlikely that bereaved families will travel further than they need to in order to get to their chosen crematorium. This is driven by the other activities on the day of a funeral such as local church services and following reception for wakes ... it is in the interest of the bereaved family to keep the travel time to a minimum.” Co-op noted the importance of convenience,<sup>782</sup> as did smaller funeral directors [X], [X],<sup>783</sup> whilst [X] noted that customers may choose a crematorium located between different groups of mourners.<sup>784</sup> The Scotmid Co-op pointed out the need to have a cremation near to the location of other elements of the funeral.<sup>785</sup>

#### *Other non-price and non-quality reasons*

6.30 The following other (non-price and non-quality related) reasons have been put to us as reasons as to why customers may not choose the closest crematorium (evidence relating to price and quality follows in later sections):

- (a) The closest crematorium does not have availability at a time that the family want, whilst a crematorium further away has availability. Table 15 shows that five respondents did not choose the closest crematorium due to availability of services, and Table 16 shows that Westerleigh’s survey found that [20-30]% of those choosing a crematorium that is not their

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<sup>781</sup> Dignity’s report ‘[Cost, Quality, Seclusion and Time](#)’ notes that: “Currently, very practical considerations are top of mind when arranging a cremation. As chart 4.7 illustrates, making sure that everyone who wants to attend can attend and holding the cremation locally were the most common considerations” (p17).

<sup>782</sup> Co-op stated that: “Where there is a choice, clients generally know which crematorium they would prefer to use, based on family history or convenience.”

<sup>783</sup> [X]: “Also how far it is away from the wake, because that has now become very important for people. Where are they going to have refreshments afterwards?”, and [X]: “It has also got to be down to practical decisions because families would want as many people as possible to go and say goodbye to their mum and dad. If they are in their eighties, they are contemporaries are that, they cannot expect them to travel from [X] to [X]. Then where do you go afterwards for refreshments?”

<sup>784</sup> [X] stated: “You might go to [X] or [X] but it is pretty out of the way to go there. There is usually a pre-existing reason. They are not local. They have got family traveling down from away, and they will meet at the one that is maybe closer to them.”

<sup>785</sup> Scotmid Co-op: “It may be where the catering is going to be. In Edinburgh we have lots of funeral teas that we arrange, it is just a custom. So, quite often they are already thinking ahead to where the funeral tea is going to be.”

closest did so due to slot availability. There may be other reasons why the local crematorium cannot accommodate the family (for example, the cremator is not large enough to accommodate large coffins, the chapel is not large enough for the expected number of attendees, or it is temporarily closed for refurbishments). [X] has stated that if the chosen crematorium is not available, they will encourage families to consider other crematoria. Co-op and Funeral Partners have also identified availability of services as a reason why customers may not use the closest crematorium. Westerleigh's Board Reports state that strong results at some of their crematoria have been driven by 'long delays' and 'disruption' at rival crematoria.

- (b) The deceased may have lived away from the family's 'home area,' or lived away from a crematorium traditionally used by the family, before dying and the cremation is held closer to the 'home area.' In a planning needs analysis, Memoria notes that: 'there are obviously exceptions to this rule [that families use the closest crematorium] (family history, returning to a different area) ... ', [X] notes that: "to go further away does seem a bit unnecessary. Unless there were sentimental reasons," and Co-op notes that a reason for using a crematorium that is not the closest is because of 'people having moved away from an area but wanting to have their funeral where they consider to be "home."'

### ***Evidence on competition on price***

- 6.31 In this part we will set out the evidence that we have gathered in relation to competition on price. We have gathered survey evidence, evidence from the internal documents of the three largest crematorium operators, and qualitative evidence from interviews with local authority crematoria and funeral directors.

### ***Importance of price to customers***

- 6.32 Many customers may not know how cremation fees compare between crematoria, given that many perceive there to be limited choice available to them (see paragraph 6.10), many do not shop around (see paragraph 6.12), or many have limited choice of crematoria in their area (see Section 4). In any event, where there is a price differential between crematoria in the same local area, this may not be large enough relative to the overall price of the funeral to make a significant difference to the choice of crematorium.<sup>786</sup>

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<sup>786</sup> Section 2 states that the average cost a funeral director's professional fee is £2,501 (Sunlife, 2018). The average standard cremation fee in 2018 was £775. Excluding any other disbursements or charges this totals

- 6.33 The Market Investigation consumer survey found that value for money was cited as the most important factor in the choice of crematorium by only 1% of customers and a further 3% of customers stated that this was an important factor in their choice of crematorium. No customer stated that price was the most important factor and 2% of customers stated that it was an important factor in their choice of crematorium.
- 6.34 Table 11 shows that of the small number of customers who do compare crematoria, few compare them on the basis of price. The Market Investigation consumer survey found that of the 26 customers who compared crematoria, four stated that they compared crematoria fees.<sup>787</sup>
- 6.35 Table 15 shows that only one respondent (out of 53) stated that they chose a crematorium that was not their closest due to the high fees at their closest crematorium.
- 6.36 Westerleigh's survey shows consistent results. Only [0-5]% of those respondents who considered alternative crematoria (including those respondents who actively compared, who considered an alternative but did not actively compare, or who chose a different crematorium to the one that they originally had in mind) stated that they decided to use the crematorium due to the lower price of the crematorium, while only [0-5]% of respondents cited lower price as their reason for not using the closest crematorium.
- 6.37 We have also heard from crematorium operators and funeral directors that price is not an important factor for customers when choosing a crematorium for an attended service:
- (a) Dignity told us: "I think there is a psychological list of where you put those things and price is not at the top of it, I do not think." Dignity noted that generally price differentials of £100 were unlikely to make a difference to customers who may prefer a crematorium that is easier to reach. Dignity's consumer research found that customers frequently did not know what they paid for a cremation (29% of respondents never knew the fee that they paid);<sup>788</sup>
  - (b) Memoria has stated that "Price, within reason, is usually not a consideration with most families;"

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£3,276. A £100 saving from a cremation is therefore 3% off the total cost of the combined average standard cremation fee and average funeral director professional fee.

<sup>787</sup> [Market Investigation consumer survey](#), Tables 335-337, Question C8.

<sup>788</sup> Dignity, [Cost, Quality, Seclusion and Time](#), p4.

- (c) A Westerleigh internal document notes that crematoria face inelastic demand and show how price rises at Westerleigh and Dignity crematoria have not impacted on volumes.<sup>789</sup> Westerleigh has argued that “while price may not be the most important factor to customers, and may indeed be secondary to [other] factors ... in Westerleigh’s experience price is a relevant consideration for many customers;”<sup>790</sup>
- (d) LCC has stated that: “Families will not simply turn their backs on what they see as ‘their family’ crematorium or cemetery, to save say, £50 on a cremation fee;”
- (e) The NAFD stated that a cheaper crematorium is unlikely to make customers choose it over another: “when we say it is better value, we are talking £100; it is not enough to make them change their choice;” and
- (f) Co-op suggested that price was not a factor that influenced choice of crematorium (particularly when a family had used a crematorium before). However, both Co-op and Funeral Partners noted that for some customers price may be a relevant factor in choice of crematorium.

#### *Evidence from private crematorium operators on price competition*

6.38 The three largest private crematorium operators told us that they compete on price. Memoria argued that all of its crematoria compete on price,<sup>791</sup> and Dignity and Westerleigh told us that their crematoria offer good value for money relative to rival crematoria.<sup>792</sup> We have assessed the internal documents of these operators to understand how they set their fees.

6.39 Internal documents indicate that Dignity, Westerleigh and Memoria compare and benchmark their fees relative to other neighbouring rival crematoria when setting them (which is typically done once a year).

6.40 Memoria benchmarks each of its crematoria with rivals when setting annual fee increases in a ‘competitor price comparison’ document for each of its sites. These documents show that each crematorium is compared with the two to five closest rival crematoria in terms of fee, slot length, and the ‘state of

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<sup>789</sup> Westerleigh notes that this document was a sales document, prepared mainly by Westerleigh’s previous shareholders and previous management. Westerleigh states that readers of the document would be expected to carry out their own due diligence and make their own assessment of the factors affecting demand and that the analysis presented in the sales document is selective (for example it does not show the impact of qualitative factors and volume/price relative to the market as a whole).

<sup>790</sup> [Westerleigh Group’s response to the CMA’s working papers published on 30 January 2020](#), 2 March 2020, paragraph 163.

<sup>791</sup> [Memoria response to Interim Market Study Report](#), p5

<sup>792</sup> See for example [Dignity response to Issues Statement](#), paragraph 4.12.

crematorium' (which generally describes the age and condition of the crematorium). The rivals identified are occasionally included for comparison purposes only, noting that they 'are not really a competitor'. The 'competitor price comparison' reports make pricing recommendations noting the extent of any recent investments or cost increases at Memoria crematoria,<sup>793</sup> and the need to keep prices such that Memoria can attract customers from certain geographic areas.<sup>794</sup> In relation to [X] crematorium, where Memoria is located very close to a [X] site, Memoria stated: "Given that it is only [X] away it would be a race to the bottom if we go lower than them, so I would go in at the same price which will make the bereaved family's choice down to the facility and staff."<sup>795</sup>

- 6.41 Memoria stated that it had experienced significant volume shifts coinciding with changes in relative price, and provided five examples to illustrate this point. The instances provided by Memoria are as follows. Memoria stated that a price rise at its [X] site was resisted by funeral directors and led to a price reduction. We discuss this further in paragraph 6.53. Memoria also described a price cut at its [X] site in 2017 that it stated led to volume increases of [X]%. We note that data supplied by Memoria suggests that prices for a standard service have increased at [X] year-on-year since 2015 (ie we see no evidence of a cut in fees).<sup>796</sup> In relation to its [X] site Memoria has argued that a price increase in 2018 led to a volume reduction. We note that data from the Cremation Society shows that Memoria's volumes at its [X] site have been falling since 2017, pre-dating the price rise described by Memoria.<sup>797</sup> On another site, [X], Memoria has noted that it has been able to increase price without losing volumes.<sup>798</sup> We note, therefore, that volume shifts are either not necessarily related to changes in relative prices, or do not necessarily follow the pattern that we would expect in response to changes in relative prices. Memoria told us of a fifth example of a crematorium winning volumes after a rival increased its prices but we do not have relevant data to verify this.

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<sup>793</sup> For example, [X].

<sup>794</sup> For example, [X].

<sup>795</sup> This suggests that fees remain above the competitive level in this local area.

<sup>796</sup> Memoria submitted that it 'introduced lower priced options at this site that led to a drop in the crematorium's average income per cremation.' ([Memoria response to PDR](#); section 3.2, page 18).

<sup>797</sup> The Cremation Society reports that in 2016 the [X] crematorium conducted [X] cremations, falling to [X] in 2017 and to [X] in 2018. Memoria attributed this to [X]'s entry in the local market. We consider that if correct, this would also make it difficult to isolate the claimed effect of a price increase on volumes during a period when the new entrant could be expected to be building up its volumes. Memoria submitted that its volumes rose again in 2019 following a 'price correction' ([Memoria's response to the PDR](#); page 19).

<sup>798</sup> Memoria cited a number of other examples which we have been unable to test. Also, Memoria identified as relevant volume losses at its South Oxfordshire crematorium when another crematorium introduced a longer time slot ([Memoria's response to the PDR](#); page 19). We consider this is likely to be more a change in perceived quality than in price.

6.42 The Market Study report noted that Dignity had made average annual fee increases of between 6-8% for each of the previous eight years.<sup>799</sup> Dignity told us that:

- (a) It aims to meet revenue targets and sets price increases around a revenue target, although it will make exceptions to this where local conditions prevent such an increase from being feasible; and
- (b) it will consider changes in volumes when setting price increases.<sup>800</sup>

6.43 We note that internal emails from Dignity indicate how in some instances only relatively small price increases are possible given the prices set by local rivals. Dignity also provided recent internal emails which refer to price proposals for 2019 as follows: “A review of the competitive position for each individual crematorium has shown that it would be difficult to increase prices in around [redacted] our [sic] sites ... We are now proposing to [redacted].”

6.44 We have considered the extent to which Dignity has been able to make price increases at each of its crematoria compared with its revenue target. Table 17 shows that the vast majority of Dignity crematoria make year-on-year fee increases of 5% or more, and in relation to the price rises between 2014-2015 and 2016-2017 over two-thirds of Dignity crematoria have made price increases above the target of [redacted] or [redacted]%. In only one of the four years analysed, ie 2017-2018, have there been Dignity crematoria where no price increase has been made, albeit we note this is a very small proportion.

**Table 17: Year-on-year standard fee increases at Dignity crematoria**

	2014- 2015	2015- 2016	2016- 2017	2017- 2018
Revenue increase target, %	[redacted]	[redacted]	[redacted]	[redacted]
Proportion of crematoria making fee increase on or above target, %	67	8	72	4
Proportion of crematoria making fee increase between 5% and target, %	31	92	13	89
Proportion of crematoria making a fee increase less than 5%	3	0	15	2
Proportion of crematoria making no fee increase, %	0	0	0	4

Source: CMA analysis of Dignity data. Our analysis focusses on the years prior to the start of the CMA's Funerals Market Study. Note that percentages may not add to 100% due to rounding.

6.45 The Funerals Market Study report noted that Westerleigh had made average annual fee increases of between 6 and 8% for each of the previous eight years.<sup>801</sup> Westerleigh provided a Business Plan from 2016 with projections of annual cremation fee growth of between [redacted]% and [redacted]% from [redacted] to [redacted].<sup>802</sup>

<sup>799</sup> Funerals Market Study, Final report, paragraph 6.60.

<sup>800</sup> Dignity plc response to the CMA's working papers on cremation services of 30 January 2020, p20, 27 February 2020.

<sup>801</sup> Funerals Market Study, Final report, paragraph 6.60.

<sup>802</sup> Westerleigh noted that this document was a sales document, prepared mainly for Westerleigh's previous shareholders and by previous management. Westerleigh stated that readers of the document would be expected



Documents produced by Westerleigh (after the 2016 Business Plan) in November 2017 and December 2017 are consistent with the 2016 Business Plan, noting that Westerleigh plans a price increase of “c. [X] %” in 2018, and that “the simple fees for existing sites is budgeted to increase by [X] % [from FY17 to FY18] from £[X] to £[X].” However, during its hearing with us in July 2019 Westerleigh told us that its budget and price increases for the current year bore little relation to its Business Plan<sup>803</sup> and that it now expects that its fee increases will be below these projections, although we note that no such projections had actually been made at that time. Since the hearing Westerleigh has produced draft projections in which it expects to make price increases of [X] % across its crematoria (with some exceptions, for example, freezing fees at some crematoria to [X]). Recommendations by Westerleigh for fee increases at its crematoria are based on similar observations to those contained in the internal documents of Dignity and Memoria, comparing fees at Westerleigh crematoria with alternative, neighbouring crematoria. Westerleigh’s recommendations focus, in part, on the extent to which its fees will represent value for money, given that the fees may be higher than other nearby crematoria but, in Westerleigh’s view their crematoria offer a higher quality service compared with their nearby crematoria.<sup>804</sup> In considering fees at crematoria, Westerleigh [X], or at crematoria that have had large fee increases in previous years, and in one instance it notes the need to make a smaller increase in fees at a crematorium which it considers has a close rival.<sup>805</sup>

- 6.46 For new crematoria, Westerleigh and Memoria have told us that they may initially price below their desired price point, with Memoria stating “we often need to under-charge in the first 2-3 years in order for a new site to establish itself in a local community”, and Westerleigh stating “initial pricing may not be fully reflective of this quality differential or the extent of the new investment. Future price increases are planned as the site builds a reputation for quality with the local community and funeral directors and the site and grounds mature over time.” Nevertheless, our analysis of prices shows that around 60% of incumbent crematoria charge lower fees than the new entrant. In particular, when focusing on the closest incumbent to the new entrant, the closest incumbent was cheaper than the entrant in just over half of cases.<sup>806</sup>

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to carry out their own due diligence and make their own assessment of the factors affecting demand and that the analysis presented in the sales document is selective (for example it does not show the impact of qualitative factors and volume/price relative to the market as a whole).

<sup>803</sup> [Westerleigh Hearing Summary](#).

<sup>804</sup> “They [cremation fees] can’t be significantly lower though as I feel that we should be chargign [sic] more of a premium for our services as we are only 5% above the national average on price whilst in a different league for service.”

<sup>805</sup> In this instance, the two crematoria are located approximately 20 minutes at cortege speeds.

<sup>806</sup> [Market Study Report, Annex C](#), Paragraph 1.21.

### *Evidence from local authority crematoria*

- 6.47 We asked 183 local authority crematoria to describe the process for setting standard fees, and to explain their key considerations when setting fees. In total, 150 local authority crematoria provided responses. Of these, 85 stated that they typically set prices through inflationary or set percentage increases and 83 told us they set fees through benchmarking. For example, Doncaster Metropolitan Borough Council said: “the Council’s fees and charges ... are generally ... increased in line with inflation ... most fees are set to ensure costs are recovered ... Bereavement Services also consider the fees and charges of neighbouring authorities.”<sup>807</sup>
- 6.48 Eighty-one local authority crematoria stated that they set fees in order to recover costs. It is not clear from the responses whether these costs relate to cost recovery in crematoria services, or more widely across bereavement services or other services. We asked local authorities the extent to which surplus revenues from crematoria were reinvested in the cremation services offered by the local authority, or reinvested in other bereavement services, eg cemeteries, or used more widely within the local authority. In total, 178 local authority crematoria provided responses. Of these, eight local authority crematoria said they only use surplus revenues to reinvest back into the cremation service offered by the crematorium; 54 said they use surplus revenues to reinvest into services as wide as other bereavement services; and 116 said they use surplus revenues to reinvest more widely into other services offered by their local authority. Appendix B sets out our understanding of the powers of a local authority to provide and charge for crematoria services in each of the devolved nations and the powers of local authorities in providing crematoria services for a commercial purpose.
- 6.49 Only 14 local authority crematoria stated that they set prices in order to be ‘competitive’ (and only three of these crematoria referred to specific local competitors that they try to undercut). Local authorities who mentioned ‘competitive’ fee setting made general comments about needing to be competitive such as “we aim to be fair and competitive when setting ... fees”<sup>808</sup> but did not refer to specific rivals, nor did they mention keeping fees low relative to others. Only three of these local authority crematoria said that they try to keep fees below their rivals or that they set fees in order to maintain market share.
- 6.50 We also asked 183 local authority crematorium operators to identify the crematoria with which they compare their fees and service standards, and to

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<sup>807</sup> Doncaster Metropolitan Borough Council.

<sup>808</sup> Worthing Borough Council.

explain how they responded when these crematoria last changed their fees or service standards. The majority of local authority crematoria answered in relation to their fee setting, but of these responses, 101 local authority crematoria stated that when their rivals made a change in their fees, they noted this change as part of their benchmarking activities but generally did not take further action. A further 35 local authorities stated that they do not respond when their rivals change their fees, rather, they referred to setting their fees independently. We received 18 responses which state that any responses in relation to their rival's fee setting is only a small part of the decision-making process and broader considerations are also taken into account. For example, Darlington Borough Council notes that "any response to changes at other crematoria is only a small part of the decision-making process" where "existing costs and requirements of the service in Darlington are the key considerations."<sup>809</sup> Only a small number of local authority crematoria (15 crematoria) stated that they responded to another crematorium changing its fees by changing their own fees in order to remain competitive.

### *Role of funeral directors in constraining crematoria prices*

- 6.51 We have seen only very few examples of funeral directors negotiating and attempting to constrain cremation fees.
- 6.52 The Largest funeral directors and crematorium operators stated that they do not, in general, negotiate with each other on attended cremation fees.<sup>810</sup> All of the smaller funeral directors with whom we held interviews stated that they do not negotiate with crematoria on attended cremation fees.<sup>811</sup> Cremation fees are typically paid by the funeral director who will pass the fee onto customers as a disbursement. Given that funeral directors pass the price of a cremation through to families, funeral directors are likely to be relatively unresponsive to price changes.<sup>812</sup>
- 6.53 Memoria told us that (on one occasion) it was unable to implement a planned price increase at its [redacted] site because of negative feedback from funeral directors when it attempted to increase fees to £[redacted] (£[redacted]) above the nearest

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<sup>809</sup> Darlington Borough Council.

<sup>810</sup> [Summary of Co-operative hearing](#) (paragraph 26), [summary of Funeral Partners hearing](#) (paragraph 21), [summary of Dignity hearing](#) (paragraph 28).

<sup>811</sup> Paragraph 35, [Aggregated summary of interviews with independent funeral directors](#).

<sup>812</sup> Memoria submitted that 'an expensive cremation will ultimately reduce a customer's appetite to spend on other aspects of the funeral service, which constitute the bulk of the funeral director's revenues. Therefore, it is in the funeral director's interest to keep crematoria fees in check.' ([Memoria response to PDR](#); section 3.2.) We do not consider that this view is supported by the evidence we have collected from funeral directors on their actual behaviour (see paragraphs 6.14-6.15).

alternative crematorium).<sup>813</sup> Memoria states that the price increase, that came into effect on 1 January 2019, and which was reversed on 19 January 2019, led to a fall in volumes in January compared with December.<sup>814</sup> Dignity did not provide any examples of occasions when price increases had to be retracted. We heard from one smaller funeral director who, (along with other funeral directors) had put pressure on their local crematorium not to increase fees, while some other funeral directors noted that they had all been unsuccessful in resisting a large price increase by their local authority.

### ***Evidence on competition on quality***

6.54 In this part we will set out the evidence that we have gathered in relation to competition on quality and our assessment of this evidence. We describe the evidence we have gathered in relation to the extent to which crematoria are differentiated on the basis of quality, and the extent to which crematoria compete on quality.

#### *Quality differentiation*

6.55 The three largest crematorium operators have told us that they invest in high quality crematorium facilities and that private crematoria are often differentiated from local authority crematoria:

- (a) Dignity has stated that it is, “focused on the premium end of the market, and continues to seek to differentiate itself through its high-quality offering: it is dedicated to providing the highest possible standards across all of its facilities;”<sup>815</sup>
- (b) Westerleigh has stated: “The private sector providers typically differentiate themselves by providing a higher quality (and higher priced) offer;”<sup>816</sup> and
- (c) Memoria has stated: “Memoria has played a significant part in undertaking the investments required to improve capacity, consumer choice and quality of service provision in the market for crematoria services ... Memoria has invested £40 million in the last eight years to build ten new state-of-the-art crematoria”<sup>817</sup> and “Memoria believes that its significant investment in staff, and its corresponding ability to provide a superior

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<sup>813</sup> The document notes that Memoria wanted to increase the fee at its site to £[£], whilst its nearest competitor (by distance) was charging £[£].

<sup>814</sup> [Memoria response to Issues Statement](#), p5-6.

<sup>815</sup> [Dignity response to Issues Statement](#), paragraph 2.1.

<sup>816</sup> [Westerleigh response to Issues Statement](#), paragraph 6.2.4c.

<sup>817</sup> [Memoria response to Issues Statement](#), p2.

service, is one of the main factors that differentiates it from other operators in the market.”<sup>818</sup>

- 6.56 The three largest private crematorium operators have told us that new private crematoria tend to offer a higher quality service compared with local authority crematoria.<sup>819</sup> We have considered the extent to which a quality differential exists between private and local authority crematoria in Appendix L. In assessing quality, we note that a comprehensive comparison of all aspects of quality between crematoria is not possible. There are many aspects of quality, not all of which are measurable or quantifiable.
- 6.57 Appendix L shows that on some measurable aspects of quality (for example, slot lengths and availability of certain facilities, eg visual tributes) private crematoria are, on average, higher quality compared with local authority crematoria. We also note that, based on the same metrics, newer crematoria (which are mainly private crematoria) are, on average, higher quality compared with older crematoria. However, on a range of qualitative measures of quality, including reports from the Scottish Inspector of Crematoria, customer satisfaction surveys, and interviews with crematoria and smaller funeral directors, we do not find clear-cut evidence of systematic quality differentials between crematoria operated by private operators and those operated by local authorities. We note that whilst these qualitative measures of quality may each have certain limitations (for example, in terms of coverage), they consistently show no clear-cut differences in quality between local authority and private crematoria.

### *Competition over quality*

#### *Importance of quality to customers*

- 6.58 According to Westerleigh, its survey finds that: “when asked about the importance of various characteristics in choosing a crematorium, customers ranked the overall quality of the crematorium as most important with [90-100]% of respondents rating it important or very important. More than half the respondents considered overall quality more important than price.” We do not disagree with Westerleigh that it is important to customers that they receive a

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<sup>818</sup> [Memoria response to Issues Statement](#), p3.

<sup>819</sup> [Summary of the hearing with Westerleigh](#), p1: “Westerleigh said that the market was still dominated by local authorities and there was an increasing differential in the quality of crematoria with older sites, often delivering a poor service, and the better quality offered at newly opened crematoria.” [Summary of the hearing with Memoria](#), p1: “The second point was that rivals, including local authority crematoria, imposed price constraints on Memoria although they operated at different price and quality levels.” Dignity stated: “Some local authority-run crematoria are of a lower quality standard than privately-operated crematoria. In the consumer research commissioned by Dignity in 2018, local authority crematoria accounted for 16 of the bottom 20 crematoria that were ranked based on their ability to meet customer needs,” [Dignity response to Issues Statement](#), footnote 30.

cremation service of appropriate quality when saying goodbye to a loved one. However, in assessing whether and to what extent quality is an important driver of competition between crematoria, we consider that other factors have to be taken into account: the extent to which customers shop around, the extent to which customers compare crematoria on the basis of quality, and ultimately, the extent to which customers will switch between crematoria in responses to differences in their relative quality.

- 6.59 Table 9 shows that the Market Investigation consumer survey found that attractiveness/maintenance of the crematorium and gardens was cited as the most important factor in the choice of crematorium by 4% of customers, and 8% of customers made any mention that this was an important factor in their choice of crematorium. Three per cent of customers stated that the facilities available were an important factor in their choice of crematorium, and 1% stated that the slot length was an important factor in their choice of crematorium (no customers stated that these were the most important factors). We note that 24% of respondents stated that the most important factor in choosing a crematorium was due to personal experience of the crematorium, a reason which could reflect quality considerations (as the respondent may be aware of the standard and offering of the crematorium). However, such a response could also reflect non-quality related considerations (for example, the respondent could know that the crematorium is in a convenient location).
- 6.60 As noted in paragraphs 6.10 to 6.12, customers do not generally feel that they have a choice of crematoria and only 7% of customers choose between two or more crematoria. Furthermore, the funeral director does not generally play a role in the choice of crematorium for the vast majority of customers. As such, the scope for competition between crematoria on the basis of quality will be limited given that very few customers compare between crematoria.
- 6.61 Nevertheless, Table 11 shows that of the small number of customers who compare crematoria, some compare them on the basis of quality. The Market Investigation consumer survey found that of the 26 customers who compared crematoria, 12 said that they compared on the basis of the attractiveness of the buildings and grounds (we note this is similar to the number of respondents – 11 – who compared on the basis of location/proximity – see paragraph 6.22). The quality of facilities (for example, whether they had modern and well-maintained facilities) and the range of facilities (such as the ability to display photos and music systems) were mentioned by four and one respondent respectively.<sup>820</sup> We note that, to the extent that crematoria are

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<sup>820</sup> [Market Investigation consumer survey](#), Tables 335-337, Question C8.

substantially differentiated (eg high quality/high price and low quality/low price), high and low quality crematoria may not be seen by customers with a strong preference for either high quality or low price as particularly close competitors.<sup>821</sup>

- 6.62 Westerleigh's survey asked those customers who considered alternative crematoria (including those respondents who actively compared, who considered an alternative but did not actively compare, or who chose a different crematorium to the one they originally had in mind – n=[§] combined) why they chose the crematorium that they used. Of these, [40-50]% stated that they decided to use the crematorium due to the attractiveness of the buildings and grounds. The range of facilities was mentioned by [10-20]% of respondents.<sup>822</sup> We note that these findings are consistent with the indicative results set out in paragraph 6.61 where the Market Investigation consumer survey found that 12 out of 26 respondents compared on the basis of buildings and grounds (a similar proportion in both surveys).
- 6.63 For those customers who did not use the closest crematorium, Table 15 shows that a small number of respondents cited quality related reasons in making their choice of crematorium. Four respondents (out of 53) stated that they did not choose the closest crematorium due to unattractive buildings/grounds, three due to the quality of facilities, one because they 'didn't like it,' one because they liked it less than the alternative and one due to the limited range of facilities. We note that Westerleigh's survey finds a higher proportion of customers choosing a crematorium that is not their closest for quality-related reasons (Table 16 shows that [50-60]% of customers chose a crematorium that was not their closest due to the more attractive building/grounds).<sup>823</sup>
- 6.64 Dignity, Westerleigh and Memoria (with reference to the results presented in Table 9) argued that the Market Investigation consumer survey shows that quality-related factors are important to customers when comparing crematoria. Dignity stated that, 'the CMA appears to underestimate the results of the consumer survey on the importance of quality when comparing crematoria. When combined, the points of comparison most frequently

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<sup>821</sup> All else equal, a high quality crematorium may compete more directly with another high quality crematorium than with a low quality crematorium for those customers for whom quality aspects are important. CMA, [Guidelines for market investigations: Their role, procedures, assessment and remedies. CC3 \(Revised\)](#), paragraph 198.

<sup>822</sup> Question is multicode and allows for multiple responses.

<sup>823</sup> Source: Westerleigh consumer survey, Q14. Base: [§] (all who knew/believed they did not choose closest crematorium).



mentioned by customers are all quality related.<sup>824</sup> Memoria stated that: ‘when considering the most important factors for customers in choosing a crematorium, the [Market Investigation consumer] Survey shows quality factors as playing a very important role accounting for 45% of responses.’<sup>825</sup> Westerleigh stated that: ‘almost half of respondents indicated a parameter related to quality as the most important factor.’<sup>826</sup>

6.65 We considered the representations made by Dignity, Westerleigh and Memoria, and in particular whether certain factors as listed by customers as the most important factor in their choice of crematorium (as listed in Table 9) are quality-related. We consider that certain factors identified by the parties as quality-related are not, in fact, related to quality. For example, 4% of respondents said that the most important factor in their choice of crematorium was due to a choice of dates and times for the service, and 1% that the most important factor in their choice of crematorium was that it offered a choice of dates and times. We consider this factor in particular is not related to quality, rather it is related to the extent to which the crematorium has spare capacity. In addition, there are other factors that the parties have identified as quality-related that may have quality dimensions but are not necessarily related to quality (for example, personal experience may relate to the quality of a crematorium, or it may relate to reasons of convenience or other non-quality related factors). As such, we consider the interpretation by Dignity, Westerleigh and Memoria of the Market Investigation consumer survey results as to the extent to which quality is important to customers, set out in paragraph 6.64, to be somewhat overstated. Furthermore, as noted in paragraph 6.58, whilst quality-related factors may be important to customers, the extent to which customers shop around, the extent to which customers compare crematoria on the basis of quality, and ultimately, the extent to which customers will switch between crematoria in responses to differences in their relative quality are the key considerations to assess the extent to which quality is an important driver of competition.

6.66 Funeral directors have made the following observations in relation to the importance of quality to customers:

- (a) Co-op and Funeral Partners noted that quality aspects (such as the settings and facilities) may be relevant in the choice of crematorium to some customers.

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<sup>824</sup> [Dignity plc response to the CMA's working papers on cremation services of 30 January 2020](#), p20.

<sup>825</sup> [Response to the CMA's Working Papers published on 30 January 2020, Memoria Ltd](#), p15.

<sup>826</sup> [Westerleigh Group's response to the CMA's working papers published on 30 January 2020](#), paragraph 18b.



- (b) Some large and small funeral directors told us that customers may choose a crematorium that is considered to be better quality,<sup>827</sup> or have a larger chapel.<sup>828</sup>
- (c) On the other hand, [X], a smaller funeral director, noted that customers very rarely ask about the facilities available at a crematorium, and Dignity notes that customers may not be aware of quality differences between crematoria and they are likely to have expectations that all crematoria are the same.<sup>829</sup>

*Evidence and arguments from private crematorium operators*

6.67 Dignity,<sup>830</sup> Westerleigh,<sup>831</sup> and Memoria<sup>832</sup> told us that customers choose their sites over others on the basis of the quality of their facilities. Small private crematoria have also made similar statements. In particular:

- (a) Dignity has noted the importance of offering appropriate time slots and professional staff, a well-maintained chapel, value for money, adequate parking and well-kept grounds;<sup>833</sup>
- (b) Memoria has told us that “qualitative factors such as quality of service, staff, range of facilities are more relevant in battleground areas”. ‘Battleground areas’ are those areas where customers are located between two crematoria, or closer to a rival crematorium. Memoria has provided evidence in relation to how rivals have responded by changing their non-price offering in response to Memoria (typically after Memoria has entered the local area). We describe this evidence and our assessment of it in our analysis of entry events (see paragraphs 6.149 to 6.185); and
- (c) Westerleigh’s internal documents refer to the fact that “proximity/quality are the key selection factors” for crematoria.<sup>834</sup> Westerleigh’s site

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<sup>827</sup> This point was made by ten funeral directors.

<sup>828</sup> This point was made by five funeral directors.

<sup>829</sup> Dignity stated “the overriding thing was that the expectation of everybody was that most crematoriums were about the same. That crematoriums offered about the same level, because most people have got the experience of their local one.”

<sup>830</sup> [Dignity response to Issues Statement](#), paragraph 4.13.

<sup>831</sup> [Westerleigh response to Issues Statement](#), paragraph 4.4.2.

<sup>832</sup> [Memoria response to Interim Market Study report](#), p4.

<sup>833</sup> [Dignity Hearing Summary](#), paragraph 49.

<sup>834</sup> Westerleigh notes that this document was a sales document, prepared mainly by Westerleigh’s previous shareholders and previous management. Westerleigh states that readers of the document would be expected to carry out their own due diligence and make their own assessment of the factors affecting demand and that the analysis presented in the sales document is selective (for example it does not show the impact of qualitative factors and volume/price relative to the market as a whole).

manager reports make reference to funeral directors and customers choosing to use their sites on the basis of quality (relative to other local crematoria).<sup>835</sup>

- 6.68 We assess the evidence provided by Dignity, Westerleigh and Memoria in relation to the extent to which they attract customers to their crematoria (on the basis of quality, and other factors) in our assessment of local competitive constraints in paragraphs 6.82 to 6.189.
- 6.69 In responding to the PDR, Westerleigh submitted that we had failed to understand ‘the extent of competition on quality of crematoria services’, and that our provisional AEC findings failed to rationalise private sector investment in developing new crematoria and maintaining high standards (‘if the vast majority of customers simply choose their closest crematorium’).<sup>836</sup> Memoria submitted that we were ignoring ‘the fundamental role played by quality in customers’ choice of crematorium.’<sup>837</sup> As set out throughout this section, we have assessed the role of quality in customer choice, and considered a range of evidence relating to quality differentials between private and local authority crematoria, to competition over quality, and to entry decisions and impacts.
- 6.70 With respect to Westerleigh’s argument on private sector investment in new crematoria and in high standards, we note the following points:
- (a) First, new private crematoria are, by definition, somewhat differentiated and of higher quality on some aspects than incumbents’ ‘old’ crematoria, simply by virtue of being designed and built to current standards. In addition, we have not found that quality differentials between private and local authority crematoria are systematic and clear cut. In our view the issue should therefore be framed in terms of incentives to invest in a new crematorium, rather than the incentives to invest in a high-quality crematorium (as opposed to a low-quality crematorium).
  - (b) Second, based on the evidence we have seen, new private crematoria typically enter to fill a gap in supply and, hence, they can rely on a significant number of ‘captive’ customers (who will choose the new crematorium as it will be their closest).<sup>838</sup> In this context, incentives to invest in new crematoria exist if they are able to earn a sufficient margin

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<sup>835</sup> For example, “We remain the most expensive in the area but FD’s still prefer to use us as the conditions at Wigan Crematorium and Overdale (Bolton) Crematorium are very poor,” and “[a funeral director] told me that families are specifically requesting to come to Sedgemoor due to the facilities and grounds that we have.”

<sup>836</sup> [Westerleigh’s response to the PDR](#); Paragraphs 13-14 and section 8.

<sup>837</sup> [Memoria’s response to the PDR](#); section 3.1.

<sup>838</sup> See paragraphs 4.61-4.62. Relative to their overall market share, private crematoria are less likely to be in areas with two or more rivals (see paragraph 4.89).

over costs (charging a higher price for higher quality where applicable) and the chosen location provides sufficient customer volumes. We note that, to the extent that certain new private crematoria offer a higher quality (and higher price) proposition than neighbouring crematoria, they may attract customers from further afield with a preference for higher quality. As discussed below, we found that not all such customers are necessarily 'marginal'<sup>839</sup> and that the proportion of marginal customers is generally small.<sup>840</sup> We also note that investment appraisals by private crematoria providers do not appear to rely on assumptions about attracting these customers (or indeed out of area customers more generally).<sup>841</sup>

### *Evidence from local authority crematoria*

- 6.71 We asked local authority crematoria for information on their quality offering, in particular the reasons for extending slot lengths and how they have responded to changes in the offering of rival crematoria.
- 6.72 We asked all 183 local authority crematoria to explain when they last extended or shortened the length of booking slots/service slots, and why they did this. A total of 180 crematoria responded, and 120 crematoria provided details as to why they have previously extended their slot lengths. Sixty-one crematoria stated that they last changed their slot length due to feedback from either funeral directors or consumers. For example, Sandwell Metropolitan Borough Council stated: "the service slots... were increased from 30 to 45 mins ... following feedback from families and funeral directors."<sup>842</sup> Sixty-seven crematoria stated that they last changed their slot length to improve either service delivery or the running of the crematorium (eg to give sufficient time to clear and clean the chapel after a service). Nine crematoria stated that they increased their slot length in order to match local rival crematoria.
- 6.73 As noted in paragraph 6.50, we also asked all 183 local authority crematoria about the crematoria with which they compare their fees and service standards, and to explain how they responded when these crematoria last changed their fees or service standards. Few local authorities responded to this question in relation to service standards. Fifteen crematoria stated that they do not respond to any service changes made by crematoria in their area. A limited number of crematoria (ten) stated that they respond by adopting improvements to their front of house service. Examples of actions taken

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<sup>839</sup> See paragraph 6.100.

<sup>840</sup> See paragraph 6.146.

<sup>841</sup> See paragraphs 6.139-6.140.

<sup>842</sup> Sandwell Metropolitan Borough Council.

include the installation of screens for visual tributes, and watching for current trends and adopting best practice.

### *Role of recommendations and customer feedback*

- 6.74 Westerleigh, Memoria and LCC argued that competition occurs between crematoria through recommendations (either from acquaintances or funeral directors), and these recommendations are often made on the basis of quality. In particular, Westerleigh noted that ‘recommendations ... will reflect the standards that Westerleigh maintains and improves, without which a recommendation would not have been made,’<sup>843</sup> Memoria noted that ‘a family who has a disappointing experience of a crematorium will not recommend it to others’,<sup>844</sup> and LCC argued that ‘people seem to go with recommendations indicating quality, and location as their primary reasons.’<sup>845</sup>
- 6.75 In response to these arguments, we note that only 8% of customers who used their initial choice of crematorium found out about the crematorium they used on the basis of recommendations.<sup>846</sup> Over half of recommendations were made on the basis of location or proximity.<sup>847</sup> Only three of 23 respondents who received a recommendation received it based on the attractiveness of buildings/grounds and one of 23 respondents who received a recommendation received it based on quality of facilities.<sup>848</sup> Instead of relying on recommendations, customers typically use a crematorium that is already known to them. Amongst those respondents who used their initial choice of crematorium, 79% of customers stated that the crematorium that they used was already known to them.<sup>849,850</sup> Therefore, it appears recommendations in

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<sup>843</sup> Westerleigh, [Westerleigh Group’s response](#) to the CMA’s working papers published on 30 January 2020, footnote 85.

<sup>844</sup> Memoria, [Response to the CMA’s Working Papers](#) published on 30 January 2020, page 17.

<sup>845</sup> LCC, [London Cremation Company submission](#) in response to the CMA’s Funeral Market Investigation, Working papers published 30 January 2020, page 7.

<sup>846</sup> 8% of respondents said that they found out about the crematorium through any recommendation (‘any recommendation’ includes those who received a recommendation from a member of staff at the care home/nursing home/hospice/hospital where the deceased died and/or a recommendation by a professional third-party). [Market Investigation consumer survey](#), Tables 320-322, Question C5. Base: all who used their initial choice of crematorium (n=297).

<sup>847</sup> [Market Investigation consumer survey](#), Tables 323-325, Question C6; n=14/23.

<sup>848</sup> Slightly higher proportions of respondents stated that they would **give** a recommendation on the basis of quality compared with the customers who **received** recommendations. (Of those who said they had recommended or would recommend the crematorium they used to someone else (n=263), 16% said they would recommend a crematorium based on the attractiveness of buildings/grounds and 6% stated that they would recommend a crematorium based on the quality of facilities; see: [Market Investigation consumer survey](#), Tables 387-389, Question C24A).

<sup>849</sup> [Market Investigation consumer survey](#), Tables 320-322, Question C5. Base: all who used their initial choice of crematorium (n=297).

<sup>850</sup> Dignity noted “that many mourners will have attended services at a crematorium in the past and will therefore have a view on a crematorium in advance of need. Dignity considers that this previous experience is a critical factor driving customer choice” [Dignity plc response to the CMA’s working papers on cremation services of 30 January 2020](#), p21. We have analysed the survey results to understand if those customers who knew about a

general, and recommendations made on the basis of quality-related factors, have a very limited role in the choice of crematorium by customers. Notwithstanding this, we consider that it is likely that a recommendation would not be made unless the crematorium was of acceptable quality to the person making the recommendation.

### ***Conclusions on the dimensions over which crematoria compete***

- 6.76 Our assessment of the extent of competition between crematorium operators, and how competition manifests itself, is undertaken against the background of customers usually making choices in extremely challenging circumstances, where the vast majority of local markets are concentrated, many highly so, which means customers generally have limited choice. This part assesses how competition between crematoria works generally across the UK. The next part (paragraphs 6.82 to 6.189) sets out our assessment of local competitive constraints, and both parts taken together inform our conclusions set out at the end of this Section.
- 6.77 Customers do not generally feel that they have a choice of crematoria and only 7% of customers compare between two or more crematoria (this low proportion of customers is consistent across both the Market Investigation consumer survey and the Westerleigh survey). Furthermore, customers generally know which crematorium they want to use before they meet their chosen funeral director, and generally the funeral director does not play a role in the choice of crematorium for the vast majority of customers. Where consumers used a funeral director, 82% had an idea of the crematorium that they would use before meeting the funeral director, and, of these, 95% used the crematorium they had originally chosen.
- 6.78 Dignity, Westerleigh, and Memoria told us that they attempt to encourage both end-customers and funeral directors to use their crematoria, but the actions that they take appear to be relatively narrow and focused on targeting funeral directors to encourage them to use their crematoria. We have limited evidence that, beyond closely monitoring where their customers come from, crematoria take actions to attract customers. We return to this discussion in

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crematorium because it was already known to them (QC5) were more or less likely to state that they chose the crematorium for quality-related reasons (QC7a/b). Those who knew about a crematorium were more likely to state that the most important factor for them in choosing the crematorium was due to personal experience, or because it was the only local crematorium (these respondents were also more likely to say this was an important factor in their choice of crematorium). However, those who knew about a crematorium were less likely to state that the most important factor in their choice was that it had attractive/peaceful/well-maintained buildings/grounds (and were also less likely to state that size/capacity was the most important/an important factor in their choice of crematorium). Source: CMA analysis of consumer survey dataset.

the following part where we discuss the extent to which crematoria compete for customers who have a closer alternative.

- 6.79 Customers tend to choose a crematorium on the basis of location or familiarity and tend to choose the crematorium that they think is the closest (a finding that is consistent across both the Market Investigation consumer survey and the Westerleigh survey).
- 6.80 The evidence that we have assessed indicates that crematoria across the UK generally appear to face limited competitive constraints when setting prices:
- (a) Very few customers state that price is an important factor in their choice of crematorium. This was consistent across both the Market Investigation consumer survey and Westerleigh's survey, and through the qualitative evidence that we have gathered. Of the small number of customers who compare two or more crematoria, very few compare on the basis of price. Furthermore, customers may not know how cremation fees vary between crematoria (given that many perceive there to be limited choice available to them, many do not shop around, or many have limited choice of crematoria in their area). In any event, where there is a price differential between crematoria in the same local area, this may not be large enough relative to the overall price of the funeral to make a significant difference in the choice of crematorium;
  - (b) for the two largest crematorium operators, until recently, significant price increases were typically implemented across areas. In the case of Dignity, which applies blanket revenue targets across its 46 crematoria, such increases have been moderated only to a small extent in areas where there were more competitors. We have noted only a few specific examples of where Dignity and Westerleigh crematoria are located close to rivals, restricting the ability of these operators to make larger fee increases. We consider that the existence and use of price benchmarking by Dignity, Westerleigh and Memoria is not in itself sufficient to indicate effective competition (particularly given limited evidence of price responses);
  - (c) the majority of local authorities set fee increases with reference to inflationary or standard percentages. A majority of local authorities benchmark against local rivals, but do not necessarily respond when those against whom they benchmark change their fees. Nearly all local authority crematoria cross-subsidise other council services with any surpluses that they generate from the provision of crematoria services; and

- (d) we have only seen very few examples of funeral directors successfully pushing back against cremation fee increases, and no evidence that funeral directors negotiate with crematoria on attended cremation fees. As cremation fees are passed on directly by funeral directors to the customer, funeral directors have limited incentives to keep the cost of this aspect of the funeral service low.

6.81 The evidence that we have assessed indicates that crematoria across the UK generally appear to face limited competitive constraints when setting quality:

- (a) The overall quality of the cremation service they receive is generally important to customers. Our survey shows that personal experience of using a crematorium is the second most important reason in the choice of crematorium cited by customers (after location). Personal experience may include considerations relating to quality, but it is not necessarily limited to quality. Whilst our survey shows that very few customers choose a crematorium on the basis of the attractiveness/maintenance of buildings and grounds, among those who compare crematoria around half of respondents compared on the attractiveness of buildings and grounds. Furthermore, Westerleigh's survey finds that a high proportion of respondents who actively compared crematoria, considered an alternative but did not actively compare, or who chose a different crematorium to the one they originally had in mind (n=[X] combined) say they chose the crematorium on the basis of quality-related factors (for example, nearly half of these respondents stated they chose a crematorium based on the attractiveness of its buildings and grounds).<sup>851</sup> However, to assess whether and to what extent quality is a driver of competition between crematoria, a range of factors need to be considered: the extent to which customers shop around, the extent to which customers compare between crematoria on the basis of quality, and ultimately, the extent to which customers will switch between crematoria in response to differences in relative quality;
- (b) Overall, only a small number of customers compare crematoria. For the small number of customers who do compare crematoria, quality (in terms of the attractiveness of the buildings and grounds) and proximity are broadly equally important. As such, the scope for competition on the basis of quality is limited;
- (c) on some measurable aspects of quality (for example, slot lengths and availability of certain facilities, eg visual tributes) we found that private

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<sup>851</sup> See paragraph 6.62. Question is multicode and allows for multiple responses.

crematoria, are, on average, higher quality compared with local authority crematoria. We also found that, based on the same metrics, newer crematoria (which are mainly private crematoria) are, on average, higher quality compared with older crematoria, as we would expect. However, on a range of qualitative measures of quality, we do not find clear-cut evidence of systematic quality differentials between crematoria operated by private operators and those operated by local authorities; and,

- (d) only a limited number of local authority crematoria stated that they have made front of house quality improvements or extended slot lengths in response to the actions of local rivals.

## **Assessment of local competitive constraints**

6.82 The following part sets out our assessment of local competitive constraints. As part of this assessment, we have considered:

- (a) The geographic closeness of rivals in each local area;
- (b) the extent to which crematoria attract customers for whom they are not the closest crematorium; and
- (c) how crematoria respond to the entry of a new crematorium in their local area.

### ***Geographic closeness of rivals***

6.83 Our assessment of local concentration in Section 4 showed that the majority of crematoria were located in concentrated local areas, many of which are highly concentrated, under all sensitivities considered. In this part we consider how geographically close crematoria are locally.

6.84 Since customers often choose a crematorium on the basis of location or convenience (see paragraphs 6.21 and 6.23), all else equal, the shorter the drive time between crematoria, the more they are likely to serve a similar customer base and the stronger the competitive constraints between those crematoria are likely to be.

### ***Number and geographic closeness of rivals within a 30-minute drive time at cortege speed***

6.85 Table 18 extends the concentration analysis described in Section 4 to consider not only the number of, but also the geographic closeness of, rivals. The table shows the number of crematoria that have their geographically



closest rival within certain drive time bands (at cortege speeds), and the number of rivals that those crematoria face within a 30-minute drive time.

**Table 18: Number of crematoria that have their closest rival fascia within certain time bands, and the number of rival fascia within a 30-minute cortege drive time**

Number of rival fascia within a 30-minute cortege drive time	Cortege drive time to the nearest rival fascia (mins)			
	0 to 10	10 to 20	20 to 30	30+
0				150
1	2	19	71	
2	4	12	22	
3 or more	2	10	11	

Source: CMA analysis of ICCM data.

Notes: based on 303 UK crematoria.

6.86 As noted in Section 4 a small number of crematoria have at least three rivals within a 30-minute drive time (23 crematoria, or 8% of the total).<sup>852</sup> Table 18 shows that:

- (a) Only two crematoria with at least three rivals have their closest rival within a 10-minute drive time, and, in total, only eight crematoria have their closest rival within a 10-minute drive time;
- (b) for nearly half of the 23 crematoria with at least three rivals, their closest geographic rival is over 20 minutes away (11 of the 23 crematoria);
- (c) many crematoria located in highly concentrated local areas face few geographically close rivals. Of those crematoria with only one rival, only two have the rival within a 10-minute drive time, 19 have their closest rival within 10 to 20 minutes and 71 face only one rival within 20 to 30 minutes; and
- (d) 150 crematoria (ie nearly half of all crematoria) face no rival within a 30-minute drive time.

6.87 We have repeated this analysis using a 40-minute drive time, where the results are presented in Table 19 below.

<sup>852</sup> We consider this to be a useful indicator of 'less concentrated' local markets, rather than a threshold for our AEC assessment.

**Table 19: Number of crematoria that have their closest rival within a given time band and number of rival fascia within a 40-minute cortege drive time**

Number of rival fascia within a 40-minute cortege drive time	Cortege drive time to the nearest rival fascia (mins)				
	0 to 10	10 to 20	20 to 30	30 to 40	40+
0					73
1	2	8	24	46	
2	1	12	20	21	
3 or more	5	21	60	10	

Source: CMA analysis of ICCM data

Notes: based on 303 UK crematoria.

6.88 As noted in Section 4, around a third of crematoria have at least three rivals within a 40-minute drive time. Table 19 shows that on a 40-minute drive time basis:

- (a) Only five crematoria with at least three rivals within 40-minutes have their closest rival within a 10-minute drive time;
- (b) for nearly three quarters of the 96 crematoria with at least three rivals within 40 minutes, their closest geographic rival is over 20 minutes away (70 of the 96 crematoria);
- (c) many crematoria located in highly concentrated local areas face few geographically close rivals. Of those crematoria with only one rival within 40 minutes, only two have the rival within a 10-minute drive time, eight have their closest rival within 10 to 20 minutes and 70 face only one rival over 20 minutes away; and
- (d) 73 crematoria (ie nearly one quarter of all crematoria) face no rival within a 40-minute drive time.

### *Catchment area analysis*

6.89 In Section 4 we described our analysis of 80% catchment areas and the extent to which crematoria have rivals within their catchment (we note that these catchment areas vary for each crematorium). We now extend this analysis to consider the geographic closeness of rival crematoria.

#### *The extent to which rivals within catchment areas are geographically close*

6.90 Thirty-four crematoria<sup>853</sup> (out of 93 crematoria for which we have calculated catchment areas) have at least one rival fascia within their 80% catchment area. For these 34 crematoria (the 'focal crematoria') we assessed whether their nearest rival is located either close to the catchment area boundary or

<sup>853</sup> Where we note that 9 crematoria out of 34 have more than one rival fascia within their catchment area.

well within the catchment area (so we have a clearer understanding of how close the two crematoria are). As noted in paragraph 6.84, the closer the nearest rival is, the stronger the competitive constraints between the crematoria are likely to be.

6.91 We have compared the drive time from the focal crematorium to its nearest rival fascia with the size of the focal crematorium's catchment area. This provides a measure of the relative degree of overlap<sup>854</sup> between a crematorium, and its nearest rival. For example, for a crematorium with an illustrative 20-minute catchment area:

- (a) If the drive time from the focal crematorium to its nearest rival is 5 minutes,<sup>855</sup> and the two crematoria are therefore located relatively close to one another, then the degree of overlap would be 0.25 (5 minutes/20 minutes). A 0.25 degree of overlap therefore reflects a situation where the nearest rival fascia is located well within the catchment area, thus likely to be competing to a large degree for the same customers and thus likely to pose a relatively stronger constraint;
- (b) if the drive time from the focal crematorium to its nearest rival is 15 minutes, and the two crematoria are therefore located relatively distant from one another, then the degree of overlap would be 0.75 (15 minutes/20 minutes). This degree of overlap therefore reflects a situation where the nearest rival fascia is located close to the catchment boundary, and as such likely to be competing for the same customers to a relatively limited extent.

6.92 We found the average degree of overlap, across the 34 focal crematoria with at least one rival in their catchment, to be around 0.7,<sup>856</sup> where the maximum is 0.98 (ie the rival is right on the edge of the catchment) and the minimum is 0.05 (ie. the rival is very close). Most of the 34 focal crematoria have a degree of overlap of over 0.5 (ie the rival is over halfway towards the boundary of the catchment). Table 20 shows the results.

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<sup>854</sup> A crematorium with a very large catchment, of say one hour, which has a rival within 30 minutes, will have a relative closeness of 0.5, the same as a crematorium with a small catchment of 10 minutes with the nearest rival 5 minutes away. The measure is likely to be more meaningful for larger catchments, given that at very short distances the constraint posed by a rival is likely to be stronger.

<sup>855</sup> We conducted this analysis at cortege speeds, such that the catchment area and drive time to nearest rival were comparable.

<sup>856</sup> The average degree of overlap for the four local authority crematoria who had at least one rival in their catchment area was 0.6 and the average degree of overlap for the 30 private crematoria who had at least one rival in their catchment area was 0.7.

**Table 20: Proportion of crematoria (with a rival inside catchment area) with varying degree of overlap**

<i>Degree of overlap</i>	<i>Proportion of crematoria, %</i>
0-0.25	3
0.25-0.5	15
0.5-1	82

Source: CMA analysis of parties' data.

Notes: based on data from 34 crematoria with the closest rival inside their catchment area.

6.93 These results suggest that, in those instances where there is at least one rival fascia located within the focal crematorium's catchment area, the nearest rival fascia is, on average, located closer to the boundary of the catchment area than the location of the focal crematorium. Dignity noted that this result is aligned with the requirements of the planning regime (which can prevent new crematoria from entering close to an incumbent crematorium as a new crematorium has to demonstrate it will meet a 'need').<sup>857</sup> We agree with Dignity and note in Section 4 that crematoria do not tend to be located close to each other (due to the planning regime and the economics of operating a crematorium).

*The extent to which rivals outside catchment areas are geographically close*

6.94 We now consider if, in areas where crematoria do not face a constraint from a rival fascia within their catchment area, their nearest rival is located close to the catchment boundary, as opposed to well outside the catchment area. We have conducted this analysis as a sensitivity to test whether crematoria with no rival within their catchment face a rival just outside their 80% catchment area.<sup>858</sup> We compare the drive time to a crematorium's nearest rival fascia to the size of the catchment area, to understand how far outside the catchment the rival is. For example, if the degree of overlap is one, then the rival is located on the boundary of the catchment area, whilst if the degree of overlap is two, the rival is located twice as far as the drive time to the catchment boundary.

6.95 We found that the average degree of overlap, across those crematoria that have no rival fascia within their catchment, is around 1.5. This means that the nearest rivals located outside the catchment are on average half as far away again, and therefore not close to the catchment boundary. We found the maximum degree of overlap to be 3 and the minimum to be 1. Table 21 shows the proportion of crematoria for different degrees of overlap.

<sup>857</sup> [Dignity plc response to the CMA's working papers on cremation services of 30 January 2020](#), page 18.

<sup>858</sup> And, as such, if catchment areas were to be flexed these rivals would then be within the catchment area.

**Table 21: Proportion of crematoria (with no rival inside catchment area) with varying degree of overlap**

<i>Degree of overlap</i>	<i>Proportion of crematoria, %</i>
1-1.5	63
1.5-2	25
Greater than 2	12

Source: CMA analysis of parties' data

Notes: based on data from 57 crematoria with the closest rival outside their catchment area. Two crematoria have their nearest rival over 60 minutes (normal) drive time away. For these two crematoria we know that the closest rival is not in their 80% catchment area but we cannot estimate the degree of overlap. These two crematoria are not included in the 57 crematoria described in this table.

### *Summary of evidence on geographic closeness of competition*

- 6.96 Very few crematoria have a rival that is geographically close (in particular, only eight crematoria have a rival within 10 minutes). Half of crematoria do not have a rival within 30 minutes and one-quarter of crematoria do not have a rival within 40 minutes.<sup>859</sup>
- 6.97 Only one-third of crematoria have at least one rival within their catchment area. For those crematoria with at least one rival within their catchment, the nearest rival is, on average, located closer to the boundary of the catchment area rather than the location of the focal crematorium.

### *Analysis of out-of-area customers*

- 6.98 Dignity, Memoria and Westerleigh submitted that with regard to each of their crematoria, there are customers who would have had a closer alternative crematorium ('out-of-area customers') but chose their crematorium over the closer alternative because of its superior offering and better value for money.<sup>860</sup> They further stated they have an incentive to compete for these customers as their sites would not be profitable without competing for, and gaining, out-of-area customers. Westerleigh stated that the price, quality and investments at its crematoria is set in order to attract out-of-area customers: "the marginal customers that crematoria are competing strongly for ... will therefore be the customers that determine investment, levels of quality and price."

- 6.99 In order to assess these arguments, we considered:

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<sup>859</sup> Our findings on geographic closeness of competition are consistent with the evidence on how location decisions are taken by crematorium operators. For example, as noted in Section 4 (paragraph 4.70) in its [response to the PDR](#), Memoria recognised that, 'Crematoria will naturally try to locate in areas that are currently underserved ... due to both the need to find sufficient demand to offer a return on capital investments, and the nature of needs assessments and the local planning process, which makes it difficult to locate new crematoria close to existing sites in population centres...'

<sup>860</sup> [Dignity response to Issues Statement](#), paragraph 4.13. [Westerleigh response to Issues Statement](#), paragraph 4.4.2. [Memoria response to Interim Market Study report](#), p4.

- (a) The nature of competition for out-of-area customers;
- (b) the proportion of out-of-area customers that different crematorium operators attract;
- (c) the extent to which the proportion of out-of-area customers varies, and the degree to which this variation can be explained by differences in prices and slot lengths between neighbouring crematoria, customer satisfaction, and whether neighbouring crematoria are operated by local authority or private operators; and,
- (d) the volumes that private crematorium operators project that they will attract in their investment appraisals for new crematoria, and the level of profitability that they forecast and achieve on these volumes.

6.100 As a framework for our assessment of the proportion of out-of-area customers and its implications in terms of competition between crematoria on the basis of price or quality, we note two points. Both points suggest that the extent to which private crematorium operators attract out-of-area customers will overstate the extent to which private crematoria compete for marginal customers:

- (a) All crematoria, regardless of whether they are operated by a private operator or local authority, seem to attract a proportion of out-of-area customers. As noted in paragraph 6.25, 14% of respondents to the Market Investigation consumer survey stated that they did not use the closest crematorium. The evidence set out in Table 15 shows that there are a wide range of reasons, often unrelated to quality or price, why customers may use a crematorium that is not their closest. This means that not all out-of-area customers are customers who choose a crematorium on the basis of price or quality and, as such, may be considered to be 'marginal' (in that they may switch between crematoria in response to changes in relative price and quality); and
- (b) to the extent that customers have heterogeneous preferences for any different price/quality combinations offered by different crematoria, and choose a crematorium that is not their closest to match these preferences, it is not necessarily the case that these customers are 'marginal' in the sense that they would switch from one crematorium to another in response to a relative change in price or quality. A customer choosing to travel out-of-area may be what we would describe as 'inframarginal' if their preferences are such that they would not switch to their closest crematorium in response to a change in relative price or quality (for example, they may prefer the offering of a newer private crematorium and

would not consider switching to their older, local authority crematorium in response to a change in relative price or quality).

*The nature of competition for out-of-area customers*

- 6.101 This part contains a brief discussion of the context in which crematoria compete for, and seek to attract, out-of-area customers.
- 6.102 Dignity, Westerleigh, and Memoria measure their success in attracting customers for attended services<sup>861</sup> slightly differently, but broadly, and for the purposes of this analysis, their customers are defined as being either from their 'core catchment area' or from 'out-of-area'. Customers in their core catchment area ("core customers") are those located closer to their crematorium than any other crematorium. Customers from outside of this core catchment ("out-of-area customers") are those who are located closer to another crematorium.
- 6.103 As noted above, Dignity, Memoria and Westerleigh submitted that they compete for customers from out-of-area on the basis of their superior offering and better value for money. Memoria and Westerleigh both provided specific examples of where they argue that their crematoria compete for customers who may have a closer alternative:
- (a) Memoria provided examples of where its crematoria attract customers who have a closer alternative. In relation to its Cardiff & Glamorgan site Memoria argued that it competes in Cardiff for customers who may be closer to Thornhill crematorium, and it competes with Langston crematorium in Newport (on the opposite side of Cardiff to its own crematorium), and in relation to its Amber Valley crematorium it competes for customers who have closer alternatives at local authority crematoria in Derby, Chesterfield, Nottingham and Mansfield.
  - (b) Westerleigh provided examples such as its Great Glen crematorium, which draws customers from the north and east of Leicester, where these customers have a closer alternative. Westerleigh noted that "many of these areas are located far closer to Gilroes [the local authority crematorium in Leicester] and in some cases customers have to drive past Gilroes to reach Great Glen." Westerleigh noted that "Gilroes is

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<sup>861</sup> In this analysis, we have attempted to exclude direct cremations (as the location of the crematorium is less important in these cases) and atypical customers (eg repatriated bodies from other countries).

higher priced and lower quality and Great Glen believes it wins customers from within Gilroes' catchment as a result."<sup>862</sup>

6.104 Dignity, Westerleigh and Memoria do not attempt to attract out-of-area customers (or funeral directors who are located between two or more crematoria) by offering discounts. Dignity, Westerleigh and Memoria stated that they do not offer incentives to attract funeral directors to use their crematoria,<sup>863</sup> and do not offer discounts to attract customers from further away. These operators noted the need to remain 'neutral' or having a business model that encourages use by 'offering good quality at a fair value.' Furthermore, Dignity and Co-op stated that their funeral directors do not receive commissions for using particular crematoria (although Co-op noted there was one exception). Nor do we have any evidence that funeral directors (either those who are local to the crematorium or from out-of-area) attempt to negotiate with crematoria on their fees (see paragraph 6.52).

6.105 Commentary and internal documents provided by Dignity, Westerleigh, and Memoria describe the extent to which they attempt to encourage out-of-area customers and funeral directors to use their crematoria:

(a) Dignity told us: "Dignity does not analyse or report its crematoria customer base or revenue applying the "core" vs. "non-core" postcode areas approach [ie considering whether customers are from out-of-area or not]. In Dignity's experience attracting crematoria customers from further away (and away from other crematoria) is important to improving the volumes and revenues at individual sites."

(b) Westerleigh's site level internal documents (such as 'site manager reports' and 'site monthly reviews') track how many cremations they conduct in relation to funeral directors in their local area. The discussions in these documents often suggest reasons why the number of cremations from certain funerals are down on previous months (these discussions often focus on why the number of funerals at individual funeral director branches may themselves be fluctuating). These documents do not appear to systematically split between funeral directors on the basis of whether they are 'in area' or 'out-of-area,' but occasionally make references to customers who are outside the catchment.<sup>864</sup> These documents also reference heat maps where Westerleigh monitors where its customers come from.

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<sup>862</sup> Westerleigh, Westerleigh Group's response to the CMA's working papers published on 30 January 2020, page 36.

<sup>863</sup> Memoria noted that it offers [redacted] to attract funeral directors.

<sup>864</sup> For example, Westerleigh's site manager reports note [redacted].



(c) Memoria states: “Local marketing and community awareness are very important parts of maximising our business performance. Especially when we are trying to highlight our facility and service qualities in non-core areas where families have 2-3 choices of which crematorium to use. To this end, we monitor our performance closely through the FD by Area report. In the event that we notice that a funeral director or an area in general is not using the facility, we tailor our marketing plans to target those areas through more FD Visits or local advertising to go straight to the public.” Memoria’s internal documents (such as its ‘FD by area’ reports) track how many “battleground” and “other area” customers (ie how many out-of-area customers) each of its crematoria are serving.

6.106 We note that whilst internal documents from both Westerleigh and Memoria show that they closely monitor where their customers come from, we have seen very few examples in these documents of follow-up actions taken by Dignity, Westerleigh, or Memoria in order to encourage out-of-area funeral directors or end customers to use their crematoria.<sup>865</sup> Nevertheless, we recognise there is evidence of Memoria attaching importance to raising awareness of its crematoria by out-of-area funeral directors as part of its business strategy.<sup>866</sup>

6.107 Finally, we note that Westerleigh and Memoria have argued that competition between a small number of rivals for out-of-area customers may be sufficient to lead to competitive outcomes.<sup>867</sup> In particular, Westerleigh noted that our concentration analysis “adopts an extreme and unrealistic view of the number of crematoria required for effective competition.”<sup>868</sup> Both Westerleigh and Memoria identified factors such as the minimum efficient scale required to make a crematorium viable, and the limits placed on crematoria development, as leading to local markets having a limited number of rival crematoria present.<sup>869</sup> We agree with Westerleigh and Memoria that a combination of

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<sup>865</sup> An example of where out-of-area funeral directors and the nature of the relationship that Westerleigh has built with such a funeral director is as follows: “the most pleasing is the increase of visits by [X]. His catchment area would naturally tend towards Thornton Crematorium (Sefton Council). However, [X]. Comparison of 2016 - 2017 has seen an impressive 73% improvement. An excellent working relationship has been formed with [X] & his team.”

<sup>866</sup> See paragraph 6.134(b).

<sup>867</sup> Memoria stated: “Memoria rejects the CMA’s assertion that sites with only a few (if any) rival crematoria within their catchment do not face meaningful competition,” Memoria Ltd, [Response to the CMA’s working papers published on 30 January 2020](#), page 4. Westerleigh has stated that it is “wholly” unrealistic that in order for the CMA to be satisfied that there is sufficient competition four rival crematoria are needed in each local area. Westerleigh, [Westerleigh Group’s response to the CMA’s working papers published on 30 January 2020](#), paragraph 2a.

<sup>868</sup> Westerleigh, [Westerleigh Group’s response to the CMA’s working papers published on 30 January 2020](#), page 18.

<sup>869</sup> Westerleigh, [Westerleigh Group’s response to the CMA’s working papers published on 30 January 2020](#), paragraph 30 and Memoria Ltd, [Response to the CMA’s working papers published on 30 January 2020](#), page 3.

economic and regulatory barriers to entry leads to markets for crematoria services being generally concentrated, with a small number of rivals in each market (see assessment of barriers to entry and concentration in paragraphs 4.55 to 4.104). However, we disagree that competition between a small number of rivals for out-of-area customers may be sufficient to lead to competitive outcomes. In general, we consider that, in a context where the demand-side is largely unresponsive to alternative competitive offers, competition between a small number of players is unlikely to lead to good outcomes.<sup>870</sup> Crematoria earning high margins across their existing core customer base would have little incentive to improve their offer, and hence reduce those margins, in order to attract comparatively few additional customers. Our analysis of market outcomes is set out in Section 7.

### *Proportion of customers from out-of-area*

6.108 In response our information requests, Dignity and Westerleigh calculated and provided, on a crematorium by crematorium basis, data on the number of cremations conducted for ‘core’ customers and the number of cremations conducted for ‘out-of-area customers’ in 2018. Dignity and Westerleigh based the customer location on the address of the deceased. Memoria provided data for each crematorium based on whether the funeral director the customer used was closer to their crematorium or closer to an alternative crematorium (so-called “battleground areas”).

6.109 Table 22 contains summary statistics on the proportion of out-of-area customers (and, for Memoria, funeral directors) for each of their crematoria.

**Table 22: Proportion of out-of-area customers at each crematorium (2018)**

	<i>Average</i>	<i>Minimum</i>	<i>1st Quartile</i>	<i>Median</i>	<i>3rd Quartile</i>	<i>Maximum</i>
Dignity	[REDACTED]%	[REDACTED]%	[REDACTED]%	[REDACTED]%	[REDACTED]%	[REDACTED]%
Westerleigh	[REDACTED]%	[REDACTED]%	[REDACTED]%	[REDACTED]%	[REDACTED]%	[REDACTED]%
Memoria	[REDACTED]%	[REDACTED]%	[REDACTED]%	[REDACTED]%	[REDACTED]%	[REDACTED]%

Source: CMA analysis of data provided by Dignity, Memoria, and Westerleigh.

Notes:

- (1) Data for the calendar year 2018.
- (2) For Dignity and Westerleigh, customer location is based on the address given for the deceased. This can be the home address of the deceased or the most recent residence (eg in the case of a care home).
- (3) For Memoria, location is based on the location of the funeral director branch using the crematorium.
- (4) For Dignity we defined their out-of-area customers as the remaining proportion of customers who were not defined by Dignity as the ‘nearest’ in the data provided.
- (5) For Westerleigh we defined their out-of-area customers as the qualitative pull in the data provided.
- (6) For Memoria we defined their out-of-area customers as their ‘battleground customers’ plus ‘other areas’ as a proportion of their total customers in the data provided. We excluded data relating to Memoria’s newest crematorium which opened part way through 2018 (proportions of out-of-area customers for newer crematoria may be lower compared with more mature crematoria).

6.110 Table 22 shows that, on average, around a third of the customers of each of the three largest private operators were out-of-area customers. [REDACTED]

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<sup>870</sup> This is not, for example, a ‘bidding market’ (see OFT415, [Assessment of market power](#), paragraph 4.4).

crematoria have the lowest median proportion of out-of-area customers ([X]’s median crematorium attracted [X]% of its customers from out-of-area), whilst [X] crematoria had the highest median proportion of out-of-area customers ([X]’s median crematorium attracted [X]% of its customers from out-of-area).

6.111 We did not gather equivalent data on customer locations from LCC, smaller private operators and local authority crematoria. However, we estimated the proportion of out-of-area customers for these crematoria based on data provided by Dignity, as set out below.

6.112 Dignity provided data on the crematoria used by its funeral director branches in 2017 (see paragraph 4.102). For each of the 191 crematoria conducting at least 50 cremations on behalf of Dignity funeral director branches in 2017,<sup>871</sup> we identified the Dignity funeral director branches that used that crematorium, the volume of cremations conducted on behalf of those branches, and whether the crematorium was the closest crematorium for that branch, or whether the branch had a closer alternative crematorium. In total we considered around 33,000 Dignity funerals (out of approximately 36,000 at-need cremation funerals organised by Dignity funeral directors in 2017). Based on this data, we estimated the proportion of out-of-area Dignity funeral director branches using crematoria operated by LCC, smaller private crematorium operators and local authorities in order to compare these results with those of Dignity, Westerleigh and Memoria in Table 22. Table 23 shows our results.

**Table 23: Proportion of out-of-area funerals at each crematorium conducted on behalf of Dignity funeral director branches (2017)**

	<i>Average</i>	<i>Minimum</i>	<i>1st Quartile</i>	<i>Median</i>	<i>3rd Quartile</i>	<i>Maximum</i>
Local authority crematoria	20%	0%	3%	12%	28%	100%
LCC	[X]%	[X]%	[X]%	[X]%	[X]%	[X]%
Small private operators	36%	0%	14%	23%	52%	83%

Source: CMA analysis of Dignity funeral director crematorium usage data.

Notes:

- (1) Based on data relating to 129 local authority crematoria, 4 London Cremation Company crematoria and 9 crematoria operated by smaller private crematorium operators.
- (2) Crematoria used by Dignity funeral director branches but conducting less than 50 cremations on behalf of Dignity in 2017 excluded. A total of 785 funeral director branches included in the analysis.

6.113 As the table above shows, this analysis indicates that all types of crematorium operator attract out-of-area customers. The average proportion of out-of-area customers that a crematorium attracts is similar across all private operators (around a third for Dignity, Westerleigh, Memoria, LCC, and smaller private operators), whilst for local authorities it is lower (at 20%). The median proportion of out-of-area customers that a crematorium attracts is lower for

<sup>871</sup> To reduce the risk that outliers could distort the results, we only included crematoria conducting 50 or more cremations on behalf of Dignity funeral director branches.

local authorities (12%) compared with private operators ([redacted]% for [redacted], and higher for other private operators, up to [redacted]% for [redacted]).

6.114 We note that the analysis set out above accounts for only a subset of the cremations conducted by crematoria operated by LCC, smaller private operators and local authorities (ie those funerals from Dignity funeral director branches only).

6.115 To test the likely accuracy of the analysis, we used the Dignity funeral director branch data to estimate the proportion of out-of-area Dignity funerals that Dignity, Westerleigh and Memoria crematoria conducted, and compared the results with the proportions derived from Dignity, Westerleigh and Memoria data, reported in Table 22. This enabled us to assess the extent to which the more limited data set provides a good approximation for the proportion of out-of-area customers based on a complete dataset. Both approaches report a similar average proportion of out-of-area customers for Dignity and Westerleigh, but the Dignity funeral director data set reports a significantly lower average for Memoria.<sup>872</sup> The median appears to be consistently lower when estimating proportions based on Dignity funeral directors,<sup>873</sup> while the minimum and maximum proportions are more extreme when estimating proportions based on Dignity funeral directors.<sup>874</sup> When comparing the results from the Dignity funeral director data set with the more complete data from Dignity, Westerleigh and Memoria, it therefore appears that the Dignity funeral director data set consistently underestimates the median proportions of out-of-area customers, and it significantly underestimates the average proportions in one case. Based on these results and notwithstanding the limitations of using a more limited dataset, the average and median values calculated for LCC, smaller private operators and local authorities using the Dignity funeral director data set can be considered a lower bound for their actual proportions of out-of-area customers.

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<sup>872</sup> Using data based on cremations from Dignity funeral director branches, the average proportion of out-of-area customers for Dignity, Westerleigh and Memoria crematoria are 32%, 32%, and 9% compared with [redacted]%, [redacted]% and [redacted]% when using customer data from Dignity, Westerleigh and Memoria crematoria. Whilst Dignity and Westerleigh averages [redacted], we note Memoria's averages based on Dignity funeral director usage [redacted]. This could be due to fewer observations.

<sup>873</sup> Using data based on cremations from Dignity funeral director branches, the median proportion of out-of-area customers for Dignity, Westerleigh and Memoria crematoria are 18%, 27%, and 10% compared with [redacted]%, [redacted]% and [redacted]% when using customer data from Dignity, Westerleigh and Memoria crematoria.

<sup>874</sup> This is likely to be due to the smaller number of observations when using data on Dignity funeral director crematoria usage. This means that crematoria estimated to have a low proportion of out-of-area customers are likely to have some out-of-area customers (just not from Dignity funeral directors), and those estimated to have a high proportion of their customers from out-of-area are likely to have some customers for whom they are the closest crematorium (ie customers from non-Dignity funeral directors) for whom they are the closest crematorium. Only having data on cremations conducted on behalf of Dignity funeral directors therefore means the proportion of out-of-area customers estimated may be skewed to more extreme values as not all customers are included in the analysis.

6.116 The fact that a material proportion of customers at both private and local authority crematoria are from out-of-area, and that there is a wide variation in these proportions across crematoria for all types of operator, indicate that not all out-of-area customers at private crematoria are customers who chose a private crematorium because of any superior offering or better value for money (relative to the customers' closest alternative). It is also relevant that flows occur in both directions between local authority and private crematoria, and between crematoria of the same type.<sup>875</sup> Based on our findings, we consider that the proportion of private crematoria customers that choose private crematoria on the basis of price or quality and may be considered to be 'marginal' is relatively limited and lower than the proportions indicated by Dignity, Westerleigh and Memoria.<sup>876</sup>

#### *Variation in proportions of out-of-area customers*

6.117 For each operator, there is a high degree of variation in the proportion of out-of-area customers that their crematoria attract (for Dignity this proportion ranges from [X]% to [X]%, for Westerleigh this proportion ranges from [X]% to [X]%, and for Memoria this proportion ranges from [X]% to [X]%). A number of factors may explain this variation. In this part we consider evidence relating to the extent to which:

- (a) The proportion of out-of-area customers is driven by local geographic factors;
- (b) the proportion of private crematoria customers from out-of-area is correlated with measures of price and quality; and,
- (c) whether the proportion of private crematoria customers from out-of-area depends on the operator type of their rivals.

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<sup>875</sup> See paragraphs 6.130-6.133.

<sup>876</sup> Under certain extreme assumptions, the difference in the average proportion of out-of-area customers at private and local authority crematoria could provide an indication of the proportion of private crematoria customers who choose the private crematorium on the basis of price or quality (this in turn may provide an upper bound for the proportion of customers who may be considered 'marginal' in that they may switch between crematoria in response to changes in relative price and quality – see paragraph 6.100(b)). The first assumption is that private crematoria are superior and better value for money compared with local authority crematoria (as the largest private crematoria told us). In this scenario, local authority crematoria would only gain out-of-area customers on the basis of non-price and non-quality related factors, such as family connections, while private crematoria would gain out-of-area customers both for the same reasons as local authority crematoria and also because of their better offer. A further assumption is that the proportion of customers gained out-of-area for non-price and non-quality related factors is similar for local authority and private crematoria. Based on the analysis above, the difference in the average proportion of out-of-area customers at private and local authority crematoria is around 10-15%.

### *Variation and local geographic factors*

6.118 We asked Dignity, Westerleigh and Memoria to describe any geographic characteristics or local factors which could result in a customer using their crematorium despite the customer being closer to another crematorium (or the customer travelling to a different crematorium despite being closer to one of their own crematorium). The three private operators identified a range of geographic characteristics and local factors that may make it easier or more difficult to attract out-of-area customers:

- (a) Dignity noted that: “geographical characteristics, such as presence of motorways and other roads and natural barriers, which may result in customers travelling to a certain crematorium ... better links might be one of the reasons driving customer choice.”
- (b) Westerleigh identified a number of local characteristics that may affect the choice of crematorium including the condition of roads and the presence of roadworks,<sup>877</sup> national identities (families in England but close to Scotland not using a crematorium in Scotland, families in Wales but close to England not using a crematorium in England),<sup>878</sup> and local identities and connections with particular cities.<sup>879</sup>
- (c) Memoria also identified similar local characteristics that may affect the choice of crematorium such as traffic links<sup>880</sup> and local associations and identities.<sup>881</sup>

### *Variation and measures of price and quality*

6.119 This part analyses whether the variation in the proportion of out-of-area customers at each crematorium is associated with differences in their relative prices and slot lengths compared with the closest alternative crematorium. We have also analysed whether the variation is associated with customer satisfaction scores.<sup>882</sup> If customers were choosing to travel to a crematorium that is not their closest because of its superior offering and better value for

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<sup>877</sup> For example, in relation to its [redacted] site Westerleigh states: “[redacted].”

<sup>878</sup> For example, in relation to its [redacted] site Westerleigh states: “[redacted].”

<sup>879</sup> For example, in relation to its [redacted] site Westerleigh states: “[redacted].”

<sup>880</sup> For example, in relation to its [redacted], Memoria notes: “[redacted].”

<sup>881</sup> For example, in relation to its [redacted] Memoria states: “[redacted].”

<sup>882</sup> We have compared the closest alternative crematoria as opposed to the closest rival given that we have limited evidence that customers choose a crematorium on the basis of ownership. We have evidence that location is important to customers. As such, we have compared the extent to which crematoria are successful in attracting out-of-area customers depending on their relative quality and other measures relative to the closest alternative. We note that in only 7 instances out of 80 is the closest alternative operated by the same crematorium operator. We have assessed whether the correlations described in this analysis are materially different if we exclude observations where the closest alternative crematorium is operated by the same operator and found that the correlations are not materially different.

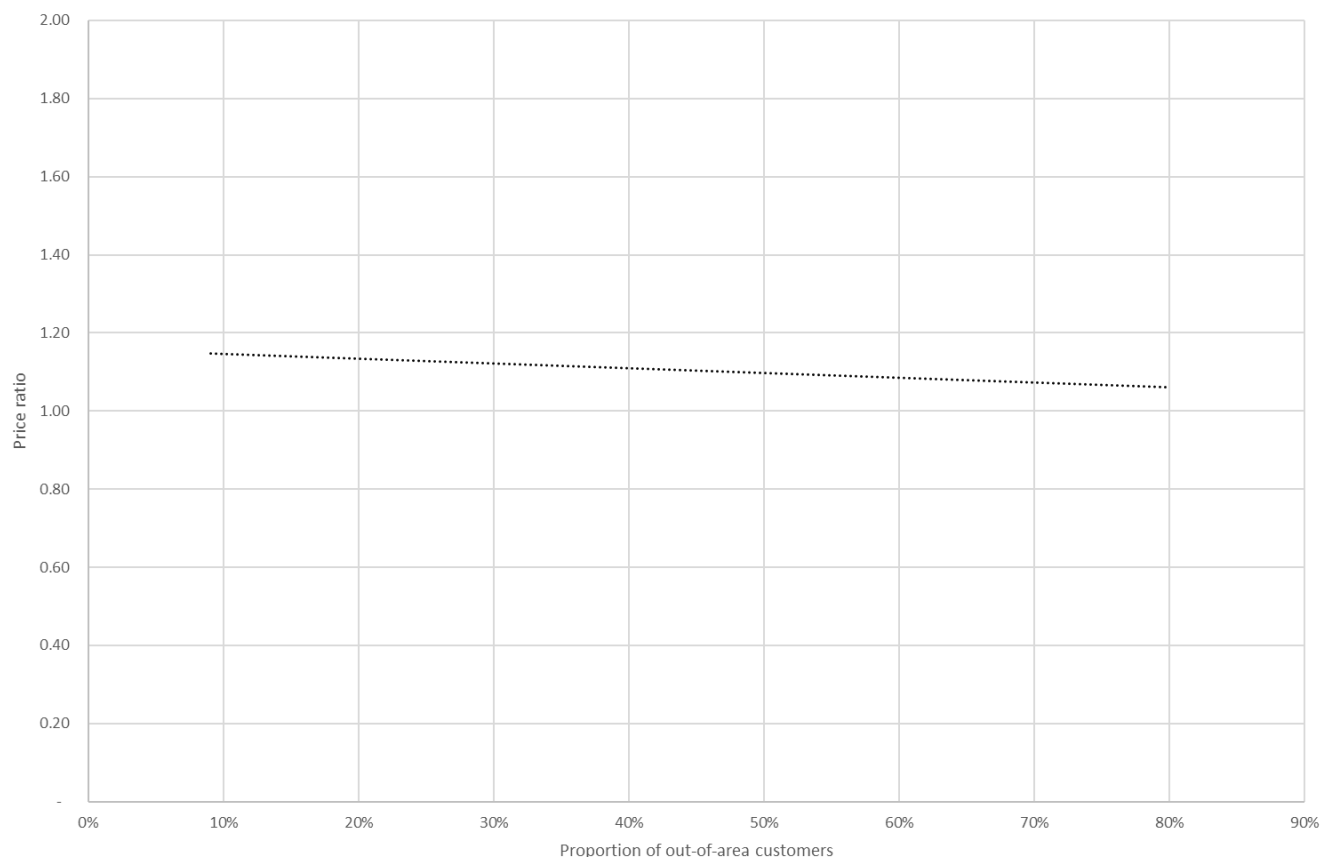
money, we would expect to see a relationship between measures of price and quality and the proportion of out-of-area customers that a crematorium attracts (all else being equal). We have also analysed the proportion of out-of-area customers at private crematoria that are located close to each other and the extent to which these crematoria gain out-of-area customers from each other's core area.

- *Price*

6.120 We analysed the relationship between a crematorium's price relative to its closest alternative, and the proportion of its customers that are from out of its core area.

6.121 Figure 14 plots the proportion of customers that are out-of-area for each crematorium operated by Dignity, Westerleigh and Memoria against the crematorium's relative price compared with the nearest alternative crematorium ('price ratio'). This is calculated as the standard fee of the private crematorium divided by the standard fee at its nearest alternative. A price ratio higher than 1 means that the private crematorium is more expensive than its alternative. A price ratio lower than 1 means that the private crematorium is less expensive than its alternative. If customers were travelling further to buy a cheaper cremation, we would expect there to be a negative relationship between the proportion of out-of-area customers and the price ratio: in other words, we would expect to observe higher proportions of customers from out-of-area associated with lower price ratios.

**Figure 14: Proportion of out-of-area customers and price ratio (2018)**



Source: CMA analysis of data from Dignity, Memoria and Westerleigh and Cremation Society fee data.

Note:

- (1) The dashed line is a line of best fit.
- (2) Based on 78 observations.
- (3) Price ratio calculated as the price of a standard fee cremation offered by the private crematorium divided by the price of cremation by their closest alternative.
- (4) Closest alternative crematoria may be operated by the same firm.
- (5) The same result holds when considering the average price of all competing crematoria within 30 minutes, and when considering the average price of the closest 3 competing crematoria.

6.122 Figure 14 indicates that there is a weak negative relationship between the proportion of private crematoria customers who come from out-of-area and the price ratio of these crematoria and their closest alternative. This indicates that where private crematoria are cheaper than the closest alternative crematorium (ie a price ratio of less than 1), they attract slightly more out-of-area customers than crematoria that are more expensive than their closest alternative crematorium (ie a price ratio greater than 1). We note that this analysis does not control for other factors, for example, crematoria with a higher proportion of out-of-area customers may not only be cheaper but may also be better than their nearest alternative crematorium in some other way (eg they may also offer longer slots compared with their nearest alternative).

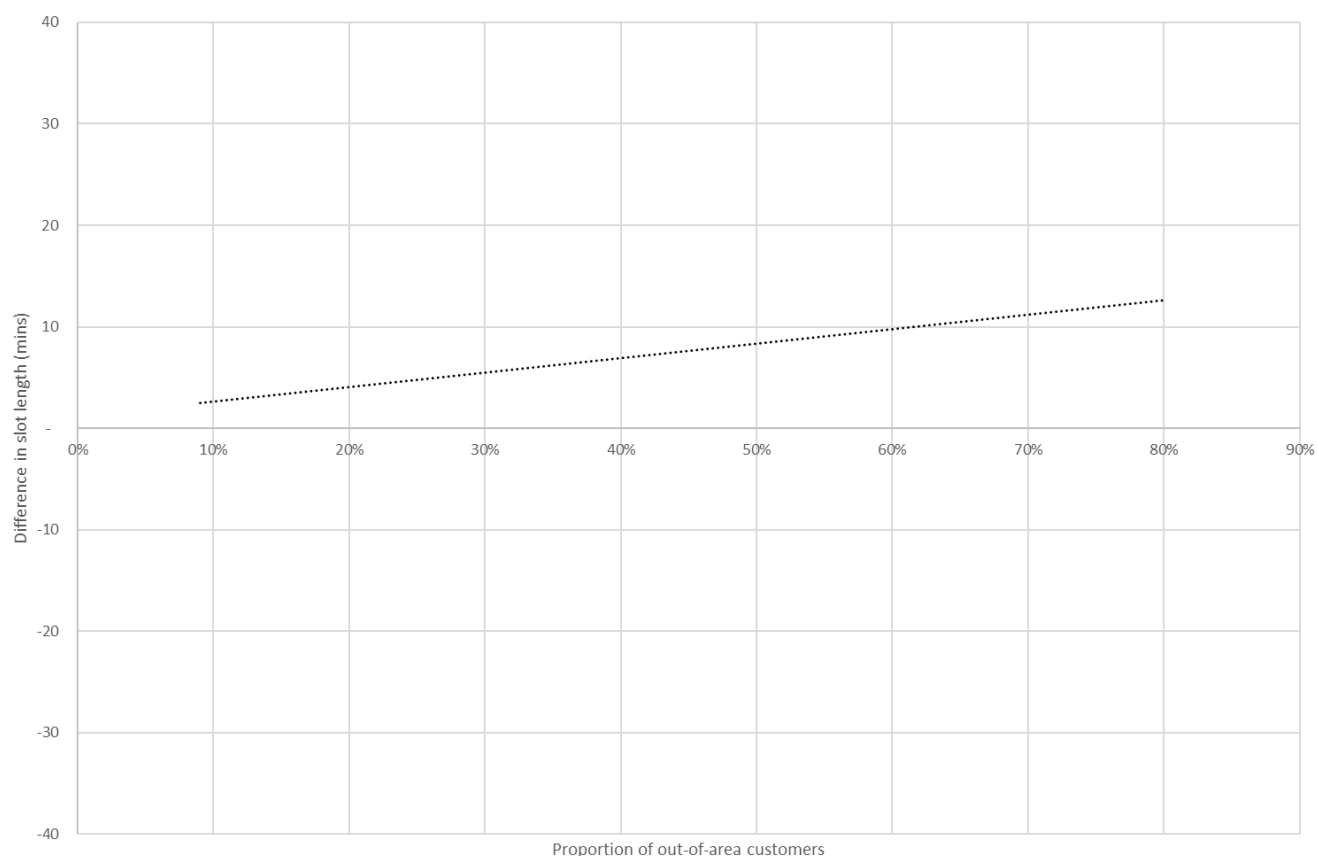


- *Slot length*

6.123 We analysed the relationship between a crematorium's slot length relative to its closest alternative, and the proportion of its customers that are from out of its core area.

6.124 Figure 15 plots the proportion of customers that are 'out-of-area' for each crematorium operated by Dignity, Westerleigh and Memoria against the difference between the crematorium's slot length and that of its closest alternative. Therefore, positive values indicate that the private crematorium has a longer slot length, 0 indicates that it has the same slot length and negative values indicate that it has a shorter slot length than its closest alternative. If customers travelled further to have a longer cremation slot, we would expect to observe a positive relationship between the proportion of out-of-area customers and the difference in slot length.

**Figure 15: Proportion of out-of-area customers and difference in slot length with closest alternative (2018)**



Source: CMA analysis of Dignity, Westerleigh and Memoria data on out-of- area customers and slot lengths, and slot length information provided by neighbouring crematoria.

Notes:

- (1) The dashed line is a line of best fit.
- (2) Based on 79 observations.
- (3) The alternative may be operated by the same firm.
- (4) A similar relationship arises when considering the relationship with the average slot length of their three closest alternatives, and with the average slot length of all their alternatives within 30 minutes.

6.125 As Figure 15 shows, the line of best fit indicates that there is a weak positive relationship between the proportion of private crematoria customers who come from out-of-area and the difference in slot length.<sup>883</sup> However, Figure 15 also shows a high degree of variation in the proportion of out-of-area customers for the same slot length differential. For example, the proportion of out-of-area customers for those crematoria with a slot that is 30-minutes longer than their closest alternative ranges from around 20% to over 50%. This indicates that crematoria with longer slot lengths have a higher proportion of out-of-area customers, albeit the relationship is not strong. As noted above, this analysis does not control for other factors, for example crematoria with a higher proportion of out-of-area customers may not only have longer slot lengths but may also be better than their nearest alternative crematorium in some other way (eg they may also charge a lower price).

- *Customer satisfaction levels*

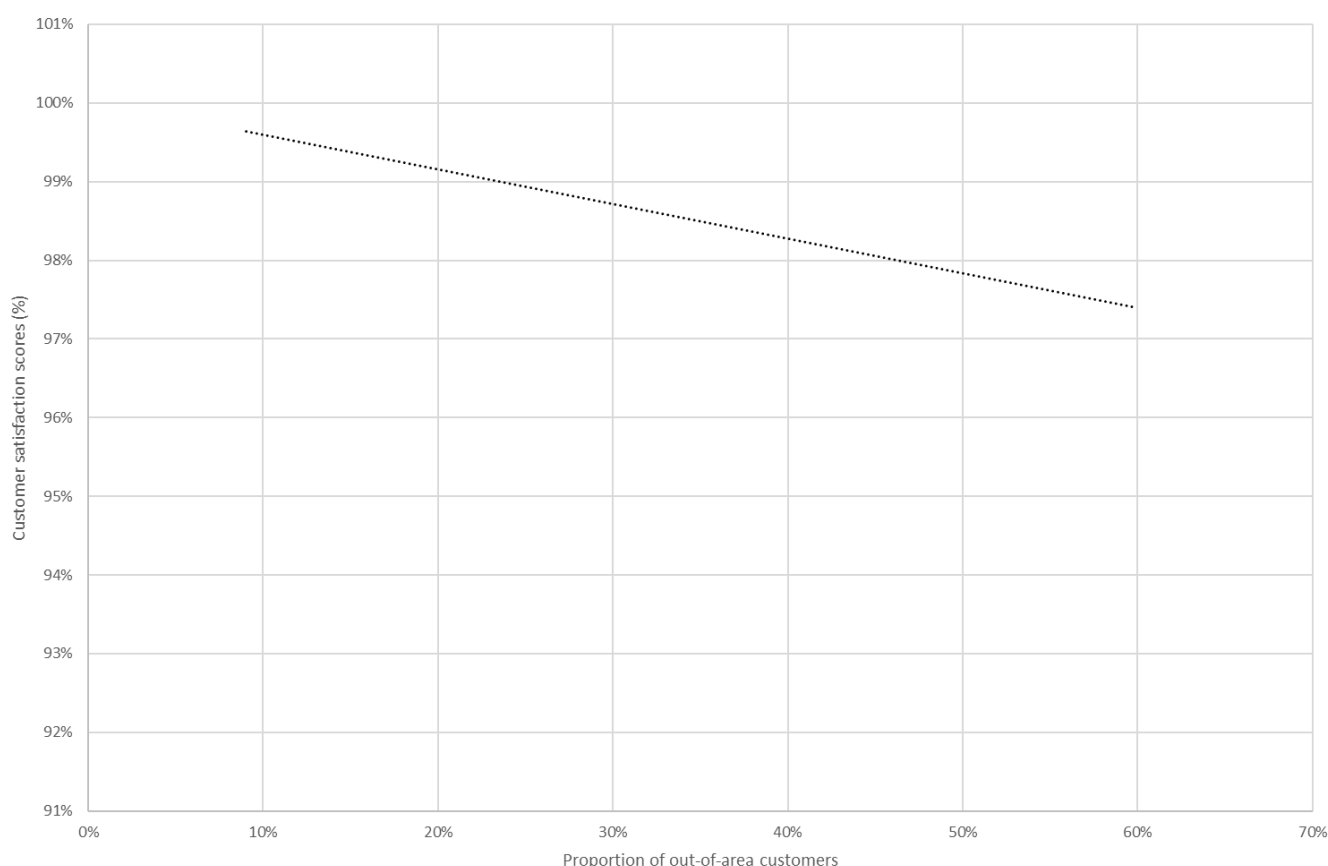
6.126 Memoria and Westerleigh collect data on customer satisfaction levels for each of their crematoria. The feedback scores are calculated on the basis of the percentage of respondents who rate the funeral service as Excellent or Good out of all respondents (from a scale of Excellent, Good, Satisfactory, Poor). This measure is meant to capture a general indicator of quality, rather than the customer satisfaction level in relation to any one specific quality measure. While we consider there are limitations in such customer satisfaction survey scores,<sup>884</sup> we have assessed whether there is any relationship between the proportion of out-of-area customers at private crematoria and these feedback scores. If a higher quality crematorium (as reflected by higher satisfaction scores) draws more out-of-area customers, this would be reflected in the data by a positive relationship (we do not have data on customer satisfaction at the neighbouring crematorium and as such this analysis does not consider customer satisfaction relative to alternatives).

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<sup>883</sup> When only considering the crematoria which have a differential between their slot lengths, the relationship becomes slightly more positive.

<sup>884</sup> In paragraph 7.68 we discuss the limitations of such customer satisfaction survey scores.

**Figure 16: Proportion of out-of-area customers and customer satisfaction scores (Memoria and Westerleigh) (2018)**



Source: CMA analysis of Westerleigh and Memoria data.

Notes:

- (1) Data for Memoria and Westerleigh's crematoria only.
- (2) Based on 35 observations.
- (3) The dashed line is a line of best fit.

6.127 Figure 16 indicates that there is a weak negative relationship between the proportion of out-of-area customers at Westerleigh and Memoria crematoria and the self-reported customer satisfaction levels, although we note a lack of variability in the customer satisfaction data, particularly for Westerleigh. This can be seen, for example, by observing that the two crematoria with the lowest customer satisfaction levels attracted a relatively high proportion of their customers from out-of-area, at similar levels to crematoria with much higher customer satisfaction levels. On the other hand, the crematoria which had 100% satisfaction levels are characterised by a high degree of variation in the proportion of out-of-area customers.

#### *Variation of out-of-area customers and closest rival operators*

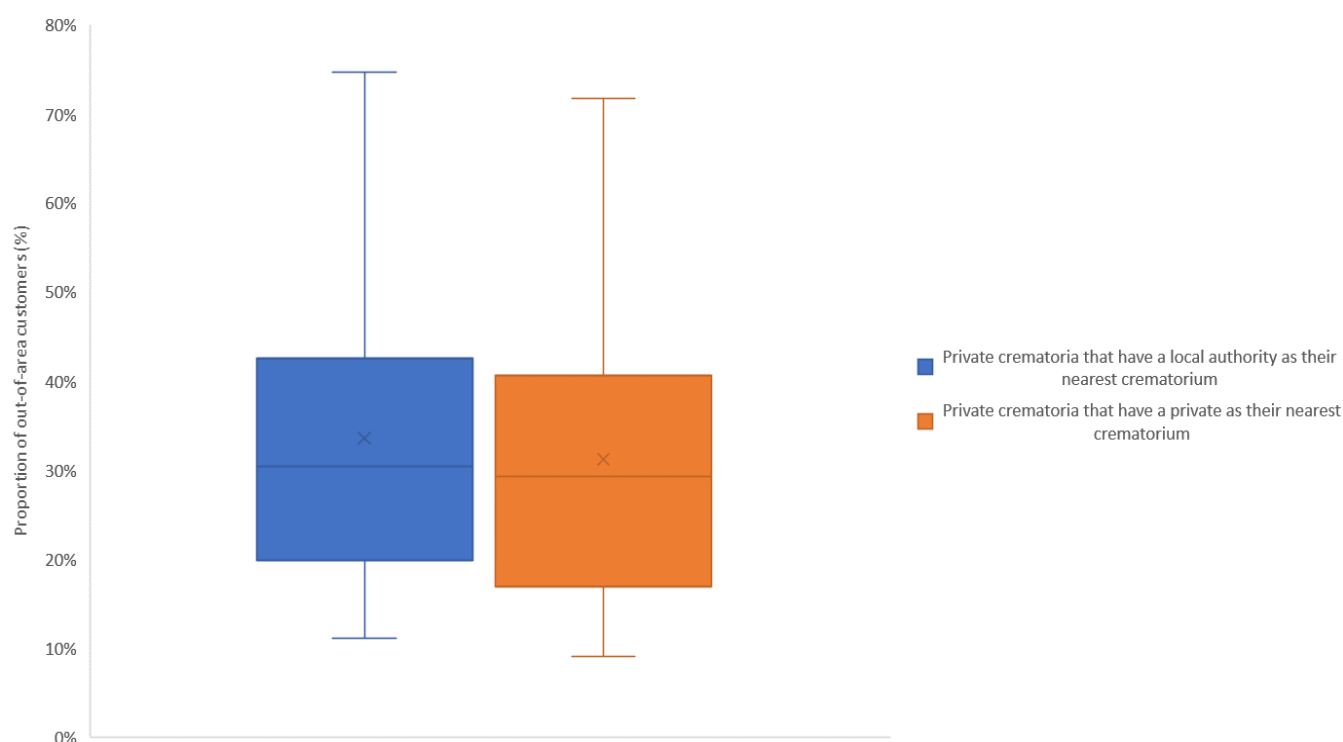
6.128 We have assessed whether the variation in the proportion of out-of-area customers depends on the identity of the operator of the neighbouring crematorium. Dignity, Westerleigh and Memoria argued that they offer a

higher quality service and better value for money relative to local authority crematoria (and, as such attract customers who have a closer local authority crematorium). If this was the case, and customers made their choice of crematorium on the basis of quality and value for money, we would expect private crematoria close to a local authority rival to attract higher proportions of out-of-area customers than where the closest rival is another private crematorium. To test this, we have considered evidence relating to:

- (a) The proportions of out-of-area customers at Dignity, Westerleigh and Memoria crematoria and whether the nearest crematorium is another private crematorium, or a local authority crematorium;
  - (b) the proportions of out-of-area customers at Dignity and Westerleigh crematoria when they neighbour each other (and the extent to which the neighbouring crematoria areas attract out-of-area customers from each other's areas); and
  - (c) the extent to which funeral director branches are more or less likely to use their second closest crematorium depending on whether it is a private crematorium or a local authority crematorium.
- *Proportion of out-of-area customers at private crematoria depending on whether nearest alternative is a private or local authority crematorium*

6.129 Figure 17 shows that, on average, for the three largest private crematorium operators 34% of their customers are from out-of-area when their nearest alternative is a local authority crematorium compared with 31% when their nearest alternative is another private crematorium. As such, they only attract marginally more customers when their nearest alternative is a local authority crematorium compared with when it is a private crematorium. Furthermore, we note that the extent to which Dignity, Westerleigh and Memoria crematoria attract out-of-area customers varies widely across crematoria, regardless of whether the closest alternative crematorium is operated by a local authority or a private operator, as shown in Figure 17.

**Figure 17: Variation in the proportion of out-of-area customers of private crematoria, split by whether the nearest alternative is a local authority or another private crematorium**



Source: CMA analysis of Dignity, Westerleigh and Memoria data.

Notes:

- (1) Number of Dignity, Westerleigh and Memoria crematoria which have a local authority as their nearest crematorium is 50 (only 49 plotted due to an outlier). Number of Dignity, Westerleigh and Memoria crematoria which have a private crematorium as their nearest crematorium is 30.
- (2) We have also considered whether the analysis above changes when excluding seven instances where a private crematorium has its nearest crematorium owned by the same private operator. It remains the case that there is variation in the proportion of out-of-area customers.

- *Extent to which private crematoria gain out-of-area customers from a neighbouring private crematorium*

6.130 There are a number of areas in which Dignity and Westerleigh operate more than one crematorium, or their crematoria are close to each other, and where we have data on the proportion of out-of-area customers. Table 24 shows the name, operator and proportion of out-of-area customers for each of their crematoria in these areas. Each row corresponds to an area.

**Table 24: Proportion of out-of-area customers at neighbouring Dignity and Westerleigh crematoria**

Name	Operator	% out-of-area customers	Name	Operator	% out-of-area customers	Name	Operator	% out-of-area customers
Telford	Dignity	[X]	Emstrey	Dignity	[X]	Hoddesdon	Westerleigh	[X]
Parndon	Westerleigh	[X]	Enfield	Dignity	[X]	Charing	Westerleigh	[X]
Wood			Hawkinge (Folkestone)	Dignity	[X]			
Barham	Westerleigh	[X]	Weston-super-Mare	Dignity	[X]			
Sedgemoor	Westerleigh	[X]	Mendip	Dignity	[X]			
West Wiltshire	Westerleigh	[X]	Houndwood	Dignity	[X]			
Melrose	Westerleigh	[X]	Holytown	Dignity	[X]			
West Lothian	Westerleigh	[X]						

Source: CMA analysis of Dignity and Westerleigh data.

6.131 Table 24 shows that neighbouring private crematoria all draw some customers from outside of their core catchment area. It is likely that some of these out-of-area customers come from the neighbouring catchment area for which we also have data. We note the following points which are consistent with our findings that all crematoria have a certain proportion of out-of-area customers: these proportions vary significantly; and they appear largely unrelated to relative quality levels:

- (a) In an example where the same operator is present in each of the neighbouring areas (Dignity in Telford and Emstrey) around [X] of customers of the two Dignity crematoria come from out-of-area. An examination of maps indicates that at least some of these customers come from the neighbouring area (ie there are customers of Emstrey coming from Telford and, to a lesser extent, vice-versa);
- (b) some crematoria that have been alleged to be of low quality have a relatively high proportion of out-of-area customers. For example, Westerleigh told us in June 2019 that Dignity's Enfield crematorium offered low quality services and a Westerleigh document from 2016 rated the crematorium as in very poor condition. Nevertheless, [X]% of customers from Dignity's Enfield crematorium have a closer alternative;<sup>885</sup> and
- (c) the proportions out of out-of-area customers are variable, ranging from around 10% to around 40% for these neighbouring pairs of private

<sup>885</sup> Dignity states: "Enfield crematorium offers a 60-minute slot and it is competitive in terms of availability and audio-visual facilities. Enfield has two chapels which can accommodate 84 guests each. Since Dignity took over the management of Enfield site from Haringey Council, Dignity has completely refurbished the two chapels on its site, invested in full mercury-abating cremators and made significant improvements to the grounds and gardens of remembrance." [Dignity plc response to the CMA's working papers on cremation services of 30 January 2020](#), Annex 3 page 22.

crematoria, with certain Dignity crematoria having higher proportions of out-of-area customers compared with Westerleigh crematoria and certain Westerleigh crematoria having higher proportions of out-of-area customers compared with Dignity crematoria.

- *Extent to which funeral director branches are more or less likely to use their second closest crematorium depending on whether it is a private crematorium or a local authority crematorium*

6.132 We also used the data from Dignity on the crematoria that its funeral director branches use (described in paragraph 6.112), to assess the extent to which funeral director branches are more or less likely to use their second closest crematorium depending on whether it is a private crematorium or a local authority crematorium. For the 209 Dignity funeral director branches that used two crematoria in 2017, we calculated the proportion of funerals conducted at the closest crematorium and the proportion conducted at the second closest crematorium, and split this by whether the crematoria were operated by local authorities or private operators.

**Table 25: Proportion of funerals conducted at two closest crematoria to Dignity funeral director branch, split by ownership, 2017**

	<i>Operator of closest crematorium</i>	<i>Operator of second closest crematorium</i>	<i>Proportion of funerals conducted at closest crematorium, %</i>	<i>Proportion of funerals conducted at second closest crematorium, %</i>
Local authority	Local authority	Local authority	74	26
Local authority	Local authority	Private	77	23
Private	Private	Local authority	65	35
Private	Private	Private	73	27

Source: CMA analysis of Dignity funeral director crematorium usage data.

Notes: based on data from 209 funeral director branches using two crematoria and where the second crematorium is within a one hour normal drive time of the closest crematorium. We have excluded a small number of funeral director branches (four) that used two crematoria where the two crematoria were equidistant from the funeral director branch.

6.133 Table 25 shows that when funeral directors have a local authority crematorium nearby, but use a crematorium further away, they are slightly more likely to use another local authority crematorium as they are to choose a private crematorium.<sup>886</sup>

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<sup>886</sup> We considered whether differences in the proportions of cremations held at the second closest crematoria varied with the drive time between the closest and second closest crematorium (such that when the second closest crematorium was further away fewer cremations were held there). We found that regardless of whether the second nearest is owned by a private operator or local authority, the second nearest tends to be located around 20 minutes further away (relative to the nearest crematorium).

## *Profitability and the need to attract marginal customers*

6.134 Finally, we consider the arguments from Westerleigh and Memoria that their crematoria would be unprofitable if they failed to attract customers who have a closer alternative crematorium:

- (a) Westerleigh stated: “investment in a number of its recently opened sites would not have been made, and a number of existing sites would not be profitable, if they were unable to draw customers from outside of their immediate catchment areas.”<sup>887</sup>
- (b) Memoria stated: “It is critical to Memoria’s business model to be able to attract these ‘battleground’ and ‘outer core’ customers. Fixed overheads ... makes up a high proportion of costs. This means that crematoria need to hit certain volume thresholds before they can achieve profitability. Without them, Memoria cannot make a viable return on the very substantial investments associated with building a new crematorium.”<sup>888</sup> Memoria made further, similar submissions in response to the PDR, and provided hypothetical models indicating a significant negative impact on profitability at two sites if they were only able to attract ‘core’ customers.<sup>889</sup>

6.135 In this part we assess the volumes and levels of profitability that private crematorium operators forecast in their investment appraisals. We also compare the volumes projected in these investment appraisals with the volumes that a new crematorium has to demonstrate it will conduct in order to be granted planning permission (based on the population for which it will be the closest crematorium). Finally, we assess the ROCE that crematoria achieve at different levels of volume (we discuss our analysis of crematoria profitability in Appendix U).

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<sup>887</sup> Westerleigh, [Westerleigh Group’s response to the CMA’s working papers published on 30 January 2020](#), paragraph 54.

<sup>888</sup> Memoria Ltd, [Response to the CMA’s working papers published on 30 January 2020](#), page 20.

<sup>889</sup> [Memoria response to PDR](#), section 3.1.2. We have doubts about the robustness of the examples submitted by Memoria. For the reasons discussed in paragraph 6.100 there are typically customer flows between core catchment areas regardless of crematorium type (private or local authority), and for reasons unrelated to price and quality. We consider an assumption that all out-of-area customers are vulnerable to being lost due to a hypothetical reduction in crematorium quality is extreme. Further, Memoria’s example outcomes appear dependent on accompanying strong assumptions about whether costs such as payroll and administration are fixed or volume-related.



- 6.136 It can be inferred from planning appeal decisions that in order to obtain a planning permission, a new crematorium proposal needs to show that it would be the closest crematorium for between 136,000 and 171,000 people.<sup>890</sup>
- 6.137 Given the average cremation rate across the UK<sup>891</sup> and a death rate of between 920 and 973 per 100,000,<sup>892</sup> we estimated that a crematorium gaining planning permission will be the closest crematorium for between 980 and 1,300 cremation customers per year. This range is higher than the number of cremations most private operators have told us are typically needed for a new crematorium to break even,<sup>893</sup> implying a degree of financial security.
- 6.138 In response to the PDR, Memoria submitted that our figures overstate the number of ‘core’ customers that a new crematorium could expect to serve.<sup>894</sup> Memoria provided no references to support its statement, nor of the extent of potential ‘borderline’ (similarly close) customer numbers. We note that the Memoria document we used to estimate the range of core customer numbers only refers to people ‘closer’ to the new facility and makes no reference to people for whom facilities are ‘similarly close’.<sup>895</sup> We therefore consider that the range we have used remains the best available approximation of typical ‘core’ customers.<sup>896</sup>

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<sup>890</sup> See paragraph 4.65.

<sup>891</sup> 78.2% in 2018, [Cremation Society cremation statistics](#).

<sup>892</sup> The [ONS Quarterly Mortality Reports](#), Figure 5, shows that in 2019 there were 919.8 deaths per 100,000 population in England. We note this was low relative to previous years. An average death rate over the period 2009-2019 was 972.6. We have calculated our lower bound of 980 cremations by multiplying the lower bound of population that have to be closest to a new crematorium from planning appeals, 136,000, by the 2019 death rate and the cremation rate). We have calculated our upper bound of 1,300 by multiplying the upper bound of the population that have to be closest to a new crematorium from planning appeals, 171,000 by the average death rate over 2009-2019 and the cremation rate.

<sup>893</sup> See paragraph 4.61.

<sup>894</sup> ‘In practice the 136-171,000 population areas that the CMA uses in its calculation will refer to the number of people for whom the proposed crematorium is either the closest *or similarly close* to existing crematoria. Therefore, in reality, it will include some “battleground” as well as “core” customers.’ ([Memoria’s response to the PDR](#); section 3.1.2; page 15).

<sup>895</sup> We have reviewed the document that was used to generate the 136,000 to 171,000 range (which was prepared by consultants on Memoria’s behalf – see Appendix B, footnote 105). In discussing quantitative need the language used is unequivocal, in terms of the ‘[number] of people closer to the proposed facility than any other crematorium...’ and ‘the population that will be located closer to the proposed site than any other crematorium ...’ There are no references to people for whom facilities are ‘similarly close’.

<sup>896</sup> We note that there is a proportion of customers for whom a crematorium is the closest, but who will not use this crematorium for reasons unrelated to quality and price (for example, because they have a family connection with another crematorium). Therefore, not all ‘core’ customers will use their closest crematorium, and as such the number of cremations that a new crematorium will serve due to it being the closest crematorium will be lower than between 980 and 1,300. However, a new crematorium may be compensated for this loss of customers as it will also likely gain customers for whom it is not the closest for reasons unrelated to quality and price (for example, because it is accessible or has availability).

## Private operators' investment appraisals

6.139 We assessed investment appraisals produced by Dignity, Westerleigh and Memoria for a total of 27 new crematoria. Table 26 summarises the key projection figures.

**Table 26: Summary of Dignity, Westerleigh and Memoria investment appraisals**

	<i>Dignity</i>	<i>Westerleigh</i>	<i>Memoria</i>
Time to maturity, years	[REDACTED]	[REDACTED]	[REDACTED]
Average annual volumes at maturity	[REDACTED]	[REDACTED]	[REDACTED]
Minimum annual volume at maturity	[REDACTED]	[REDACTED]	[REDACTED]
Maximum annual volume at maturity	[REDACTED]	[REDACTED]	[REDACTED]
EBITDA margins at maturity, %	[REDACTED]	[REDACTED]	[REDACTED]

Source: CMA analysis of Dignity, Westerleigh and Memoria investment appraisals. Numbers in table have been rounded.

6.140 Based on the investment appraisals, new crematoria do not seem to generally project volumes in excess of 1,300 cremations per year, which, based on our estimates above, corresponds to the maximum number of cremation customers for whom a new crematorium would be the closest. Only three of the 27 investment appraisals we reviewed projected volumes equal to or greater than 1,300 cremations per year at maturity. Table 26 shows that Dignity, Westerleigh and Memoria, on average, project that a crematorium will conduct around 1,000 cremations per year at maturity (Dignity projects the [REDACTED] per year). This evidence is consistent with the qualitative evidence presented in paragraph 4.61 that crematoria need to conduct approximately 1,000 cremations per year in order to be profitable.

6.141 No new crematorium operator projects to earn EBITDA margins<sup>897</sup> of less than 44% at maturity, and the majority of investment appraisals (22 out of 27) forecast earning margins in excess of 50%. The three appraisals projecting volumes of 1,300 cremations or more per year at maturity do not project EBITDA margins significantly in excess of the margins projected at sites expecting to achieve lower volumes. On average these sites project an EBITDA margin of 62%, compared to an average of 57% across the investment appraisals for crematoria conducting less than 1,300 cremations per year.

## Volumes and ROCE

6.142 We have assessed the ROCEs earned by crematoria that conducted fewer than 1,300 cremations in 2018 (or for private crematorium operators with multiple sites, the average ROCEs earned by operators conducting fewer than

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<sup>897</sup> Earnings before interest, tax, depreciation and amortisation. The CMA's guidelines primarily refer to the rate of return on capital (ROCE) as a means of measuring profitability. However, we have insufficient data to perform a robust ROCE analysis at a site level basis. We therefore considered the EBITDA margins earned on a site by site basis.

1,300 cremations on average). The estimate of 1,300 cremations corresponds to the top of the estimated range of the number of cremations for which a new crematorium can expect to be the closest.

6.143 There are eight crematorium operators (out of the 24 for which we have data) that conducted fewer than 1,300 cremations in 2018 (or who conducted less than 1,300 cremations on average, across their crematoria in 2018). We found that:

- (a) On average, these crematorium operators earned a ROCE of 11%, in excess of WACC;
- (b) these crematorium operators earned ROCEs of between 3% and 28%;
- (c) Five of the eight crematoria are earning a ROCE above WACC, some substantially so (the most profitable crematorium earned a ROCE of 28%); and
- (d) of the three operators earning a ROCE less than WACC, we note that two of these operators have relatively new crematoria. As such, the results for these two operators are unlikely to reflect the profits that the operators might expect to earn once their crematoria reach maturity.

*Summary of evidence and analysis in relation to out-of-area customers*

6.144 Dignity, Westerleigh and Memoria argued that customers who have a closer alternative crematorium ('out-of-area customers') choose their crematoria over closer alternative crematoria because of their superior offering and better value for money, and, without these customers, their crematoria would not be profitable.

6.145 We have reviewed submissions and internal documents from Dignity, Westerleigh and Memoria and found that whilst Westerleigh and Memoria closely monitor where their customers come from, there is limited evidence that they take significant actions to encourage out-of-area customers and funeral directors to use their crematoria. Dignity does not undertake any such monitoring.

6.146 We have assessed, for each type of crematorium operator, the proportion of their customers that use their crematoria but have a closer alternative. We have found that a material proportion of customers at both private and local authority crematoria are from out-of-area which indicates that not all out-of-area customers at private crematoria are customers who chose a private crematorium because of any superior offering or better value for money (relative to the customers' closest alternative). It is also relevant that flows

occur in both directions between local authority and private crematoria, and between crematoria of the same type. Based on our findings, we consider that the proportion of private crematoria customers that choose private crematoria on the basis of price or quality and may be considered to be 'marginal' is relatively limited and lower than the proportions indicated by Dignity, Westerleigh and Memoria. We note that this conclusion is consistent with our findings from the Market Investigation survey that 14% of customers (across all crematoria) chose a crematorium which was not their closest and that this decision was often unrelated to price or quality factors.

6.147 We have found that across crematorium operators there is a high degree of variation in the proportions of customers that they attract from out-of-area. The evidence shows that there are a range of geographic and local factors, unrelated to competition, that mean people may not use their closest crematorium and can drive these variations. We have found that the proportions of out-of-area customers at private crematoria increase as slot lengths are longer and fees are lower, but these relationships are not strong. The proportions of private crematoria customers who are from out-of-area varies widely and this is the case regardless of whether the nearest rival is a local authority crematorium or another private crematorium. In view of the arguments that private crematoria have put forward about their quality being higher than that of local authority crematoria, we might expect that private crematoria may attract higher proportions of out-of-area customers when their nearest rival is a local authority crematorium. However, we do not find this to be the case.

6.148 We have assessed the arguments put forward by the parties that their crematoria would not be profitable if they did not attract customers who have a closer alternative. We have found that new crematoria do not seem to generally project volumes in excess of 1,300 cremations per year, which is the top of the estimated range of the number of cremations for which a new crematorium would expect to be the closest. We have found that crematoria can expect to be the closest crematorium for between 980-1,300 cremations per year, on average, and crematoria conducting volumes in this range are generally profitable (earning a ROCE in excess of WACC). This is consistent with submissions by private operators on the volumes typically needed for a new crematorium to break even. However, we recognise that, all else being equal, a crematorium conducting higher volumes of cremations will become more profitable as it spreads its fixed costs over a higher volume of cremations. As noted in Section 4,<sup>898</sup> entry by new crematoria tends to be in

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<sup>898</sup> Paragraph 4.62.

areas where there is high demand, and where existing crematoria are operating well above break-even volumes.

### ***Entry analysis***

6.149 We have previously described the extent to which crematoria face geographically close rivals and the extent to which crematoria compete for out-of-area customers. This section sets out the quantitative and qualitative evidence and analysis in relation to how incumbent crematoria are affected by, and respond to, the opening of a new crematorium ('entry') in their local area. In particular, we describe the following analysis in relation to the extent to which there are competitive responses to entry:

- (a) The model that we used to assess how entry affects incumbent crematoria volumes and fees;
- (b) how entry affects incumbent crematoria volumes; and,
- (c) how crematoria respond to entry, both in terms of the fees that they set, and non-price aspects of their offering.

### ***Introduction to our quantitative analysis***

6.150 Our quantitative analysis is based on an assessment of the impact of entry on volumes and fees at incumbent crematoria using the 46 instances of entry that took place from 2008 to 2018, of which 44 were of private crematoria entry.<sup>899</sup> We analysed the effect of entry by a new crematorium on an existing, incumbent crematorium, by estimating how volumes changed at incumbent crematoria after entry, and how incumbent crematoria responded in terms of the fees that they set after the entry took place. A full description of the model that we used to analyse the effect of entry by a new crematorium and a summary of parties' comments on this analysis are described in Appendix M.

6.151 Table 27 shows the number of entries experienced by incumbents during the time period covered by the dataset, split by the drive time to the new entrant and type of incumbent (local authority or private crematorium).<sup>900</sup>

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<sup>899</sup> This analysis excludes the three replacements between 2008 and 2018 as these events do not change the number of crematoria in the area.

<sup>900</sup> A crematorium may enter a location within multiple incumbent crematoria drive time bands, particularly in the broader drive time bands, meaning that the total number of incumbent crematoria experiencing entry will be larger than the total number of entrants. Table 27 shows this. For example, there were 78 incumbent crematoria experiencing entry within a 20-30 minute drive time during the relevant period (with 48 of these incumbents being local authority crematoria and 30 of these incumbents being private crematoria).

6.152 The representativeness and the reliability of the estimated impacts depend on the number of observations the estimates are based on; the higher the number of incumbents experiencing entry, the more robust our results are likely to be. We note that only two crematoria (both local authority crematoria) experienced entry within the 0-10 minute drive time band and only seven private crematoria experienced entry within the 10-20 minute drive time band. The small number of observations in these drive time bands is likely to affect the robustness of the corresponding results.

**Table 27: Number of incumbents, by type, experiencing entry within each drive time band, 2008-2018**

<i>Drive time band (normal, min)</i>	<i>Drive time band (cortege, min)</i>	<i>Incumbent type</i>		
		<i>All</i>	<i>Local authority</i>	<i>Private</i>
0-10	0-17	2	2	0
10-20	17-33	35	28	7
20-30	33-50	78	48	30
30+	50+	549	366	183

Source: CMA analysis.

### *Effect of entry on incumbents' volumes*

#### *Quantitative analysis*

6.153 Our quantitative analysis shows that entry has a statistically significant impact on volumes in the years after entry and that this effect decreases the further away from the incumbent entry occurs. Column (1) in Table 28 shows that one additional crematorium within the 10-20 minute normal (17-33 minute cortege) drive time band reduces an incumbent's volume by 20%. This effect decreases to approximately a 7% reduction when the additional crematorium is within the 20-30 minute normal (33-50 minute cortege) drive time band. The effect on volumes from an additional crematorium in the 30+ minute normal (50+ minute cortege) drive time band is found to be not significantly different from zero.

6.154 We extended this analysis by assessing whether the impact on the incumbent's volumes from entry is significantly different between local authority and private crematoria.<sup>901</sup> If customers were more willing to travel further to reach a private crematorium than a local authority crematorium due to private crematoria's superior offering, we might expect entry of a private crematorium to affect volumes more strongly for local authority incumbents compared with the effect when the incumbent is a private crematorium. Based on our analysis, we find no clear evidence that this is the case. Column (2) in

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<sup>901</sup> We use 'interaction terms' to separate out the volume effects by local authority and private incumbents. Further details are included in Appendix M.

Table 28 shows that in the 10-20 minute normal (17-33 minute cortege) drive time band incumbent private crematoria lose greater volumes compared with incumbent local authority crematoria following the entry of a new crematorium.<sup>902</sup> In the 20-30 minute normal (33-50 minute cortege) drive time band<sup>903</sup> there is no difference in the volume losses at incumbent private and local authority crematoria. In the 30+ minute normal (50+ minute cortege) drive time band, volumes at local authority crematoria are reduced by 2% whilst volumes at private crematoria increase by approximately 3%. In relation to the latter, we would not expect entry to lead to increased volumes at incumbent crematoria, particularly those that are over 30 minutes normal (50+ minute cortege) drive time away.

**Table 28: Estimated percentage volume effect on incumbent crematorium from year of entry**

<i>Drive time band (normal, min)</i>	<i>Drive time band (cortege, min)</i>	(1) <i>Ln (volume)</i>	(2) <i>Ln (volume)</i>
0-10	0-17	-0.306***†	
10-20	17-33	-0.203***	
20-30	33-50	-0.0673**	
30+	50+	-0.00823	
<i>Effect on local authority (LA):</i>			
0-10	0-17		-0.288***†
10-20	17-33		-0.174***
20-30	33-50		-0.0965***
30+	50+		-0.0244***
<i>Effect on private:</i>		<i>(difference to effect on LA)</i>	
0-10	0-17		<i>No instances</i>
10-20	17-33		-0.118*†
20-30	33-50		0.0647
30+	50+		0.0586***
<i>Observations</i>		3,209	3,209

Source: CMA analysis.

† denotes drive time bands in which a small number of incumbents experienced entry.

Note: Standard errors are reported in parenthesis. All standard errors are clustered at the crematoria level. Asterisks indicate that the result is significantly different from zero with the following confidence levels: \*90%, \*\*95%, \*\*\*99%.

6.155 Memoria and Westerleigh used an alternative specification of the model in which the drive time bands are aggregated up to a 30-minute normal (50 minutes cortege) drive time. Memoria and Westerleigh state that the results from this model show that local authority crematoria lose greater volumes compared with private crematoria when experiencing entry.

6.156 Their alternative model estimated that local authority crematoria experiencing entry within a 30-minute normal drive time lose 15% of their volumes, whilst private crematoria experiencing entry within 30 minutes only lose 4% of their

<sup>902</sup> We place less weight on this result given that it is based on a small number of observations and is estimated to a 90% confidence level.

<sup>903</sup> Which includes two-thirds of entry events in a 30-minute normal drive time.

volumes.<sup>904</sup> In considering this alternative specification and corresponding results, we note that:

- (a) Aggregating drive time bands conceals mix effects. Local authority crematoria who experienced entry within a 30-minute normal drive time are more likely to be closer to the entrant than private crematoria.<sup>905</sup> As such, this aggregated model specification finds that local authority crematoria lose greater volumes than private crematoria, but this result is likely to be driven by local authority crematoria experiencing closer entries than private crematoria (which drive greater volume losses than entries further away) rather than by the different identities of the incumbent operators. In contrast, our disaggregated specification allows for a like-for-like comparison of the effects of entry on private and local authority incumbents when they experience entry at similar drive time distances; and
- (b) furthermore, an aggregated model specification does not allow us to examine the extent to which the effect of entry varies by drive time band. This is important as we are particularly interested in how proximity between crematoria increases the extent of any competitive constraint, and whether this varies by crematoria type.

6.157 Therefore, we consider our analysis preferable in assessing the extent to which any competitive constraint increases with proximity between crematoria, and whether this varies by crematoria type.

6.158 Dignity and Memoria have provided a number of alternative specifications of our model, which aim to control for potential issues (such as the impact of entry part way through the year) which they state could affect our results.<sup>906</sup> A full discussion of these alternative specifications and the results estimated are included in Appendix M, paragraphs 34 to 42. We find that the results from these alternative specifications are not significantly different to our results, even if the size of the estimated effects differs somewhat between models. As such, we consider that they do not materially change our findings that incumbent crematoria lose volumes when experiencing entry and these

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<sup>904</sup> Westerleigh, [Westerleigh Group's response to the CMA's entry analysis](#), paragraphs 29-30 and Memoria Ltd, [Response to the CMA's working papers published on 30 January 2020](#), page 41.

<sup>905</sup> Table 27 shows that of those crematoria experiencing entry within a 30-minute normal (50-minute cortege) drive time over the period considered, local authority crematoria are more likely to experience entry within a shorter drive time. Thirty out of 78 (38%) local authority crematoria experiencing entry had an entrant enter within a 20-minute normal (33 minutes cortege) drive time, whilst a lower proportion (19%) of private crematoria experiencing entry had an entrant enter within a 20-minute normal drive time (private crematoria are more likely to experience entry in the 20-30 minute drive time band).

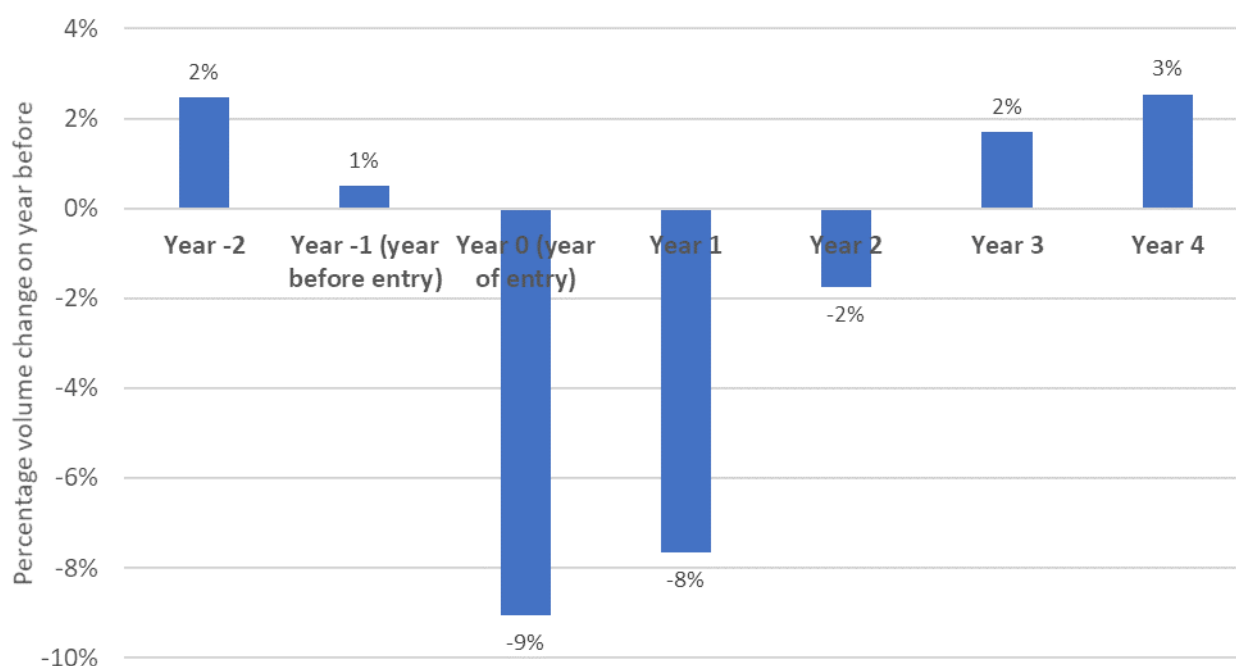
<sup>906</sup> [Dignity submission on the CMA's quantitative analysis of entry in the crematoria market](#), paragraphs 2.9 and 3.5. Memoria Ltd, [Response to the CMA's working papers published on 30 January 2020](#), page 42.



volume losses are greater the closer the incumbent is to the entrant, and that the effect does not differ between local authority and private crematoria.

6.159 We also assessed the extent to which incumbent crematoria lose volumes over a sustained period of time.<sup>907</sup> Volume figures suggest that, on average, incumbent crematoria lose significant volumes in the year of entry and the two years after entry, and that their volumes begin to level out in subsequent years, as shown in Figure 18.<sup>908</sup>

**Figure 18: Average changes in volumes on the previous year at incumbent crematoria experiencing entry (in year 0)**



Source: CMA analysis of Cremation Society data.

Notes:

- (1) Analysis of incumbent crematoria that experienced entry within a 20-minute normal drive time (33 minutes at cortege speeds) between 2008 and 2018.
- (2) Based on 27 crematoria in year -2, 28 crematoria in year -1, 28 crematoria in year 0, 24 crematoria in year 1, 15 crematoria in year 2, 9 crematoria in year 3 and 8 crematoria in year 4.
- (3) Given for some crematoria entry occurred recently, we have less observations for how volumes change in years three and four. Therefore, the average changes in volume are not directly comparable across years.
- (4) One crematorium analysed experienced entry by a crematorium operated by the same operator. Excluding this crematorium from this analysis has no material impact on the results presented.

6.160 Dignity submitted an extension of this analysis, which used data for 2019 and considered the impact on cremation volumes five and six years after entry,

<sup>907</sup> This is based on averaging volume data and does not control for other factors (as the fixed effects analysis does).

<sup>908</sup> The extent to which volumes change after entry may be driven, in part, by the responses made by rivals after entry. The responses to entry are the focus of the next section.

which it said showed that the competitive impact is more sustained. We have a number of reservations regarding Dignity's analysis, such that we cannot place significant weight on aspects of it, which are detailed further within Appendix M.

### *Qualitative analysis*

- 6.161 Alongside our quantitative analysis on the effect of entry on incumbent's volumes, we considered qualitative evidence on the extent to which incumbent crematoria which lost volumes following entry, lost customers who were close to the new crematorium, or lost customers from a wider area.
- 6.162 In this respect, we note a comment made in a planning document, prepared on Dignity's behalf, in relation to the consideration of potential volumes for a new crematorium: "A study area is then defined using a gravity model, that is by looking at the locations of existing crematoria and assuming that people will gravitate towards the nearest facility."
- 6.163 Nine local authorities, most of which had experienced entry during 2015 and 2016 and had lost volumes since that entry, described the geographic areas from which they had lost customers. Qualitative evidence from local authorities implies that when a new crematorium opens, the most significant loss of customers that an incumbent crematorium faces is generally from customers who are close to the new crematorium:
- (a) Kettering Crematorium told us that it lost volumes from the funeral directors based near Wellingborough where a new crematorium opened and from near Great Glen when another new crematorium opened. Volumes from funeral directors in these areas fell from [redacted] per year to [redacted] per year and from [redacted] per year to [redacted] per year respectively (from the year of entry/prior to entry to 2018).
  - (b) Leicester City Council stated that prior to entry of new crematoria, those living to the south of the city had no local provision of crematoria and could either travel to Leicester to use the crematorium or travel to Loughborough. After the entry of two new crematoria to the south, Leicester crematorium had served significantly fewer customers from the south of the city and experienced a loss of customers from within the city but located close to the new crematoria in the south and east edges of the city.
  - (c) Derby City Council's crematorium is located to the north-west of Derby, whilst Dignity's new Trent Valley crematorium is located 30 minutes

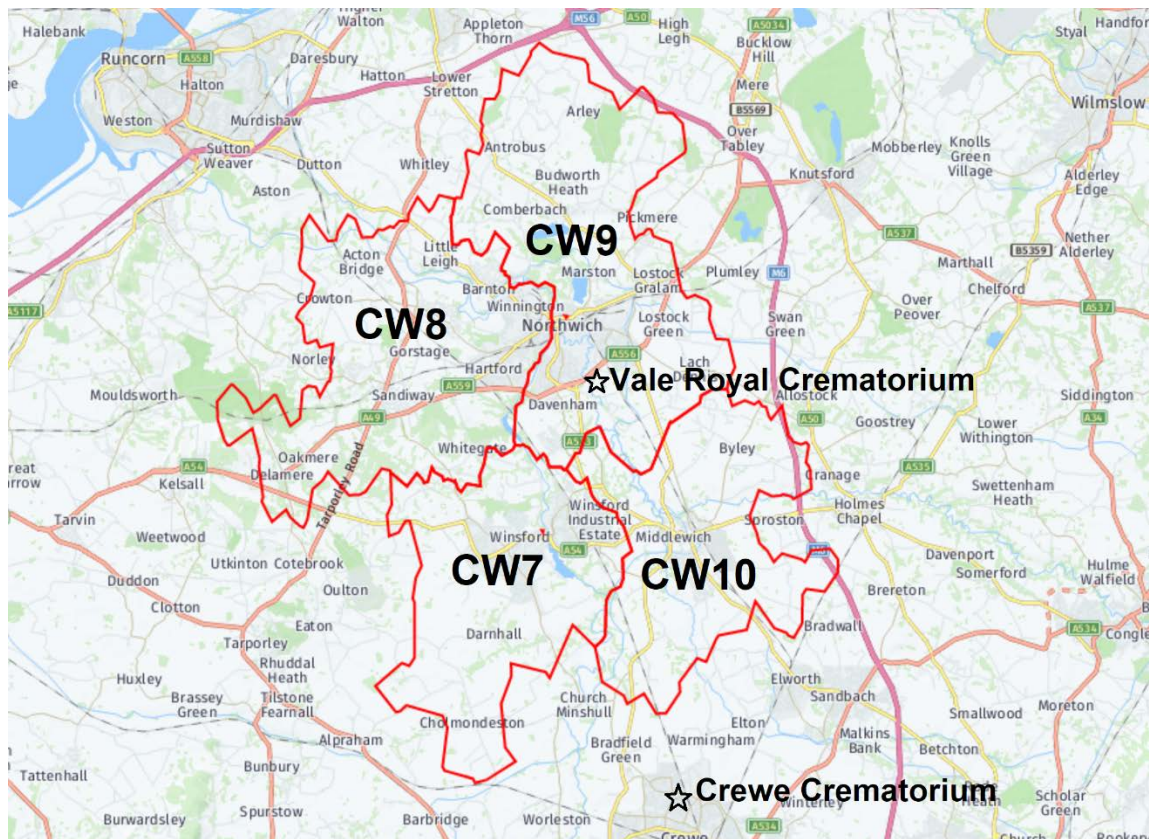
away<sup>909</sup> on the opposite side of the city in the south-east. Derby City Council told us that: “there is a good geographical pull from the Spondon/Chellaston/Elvaston [south-east] corner that will be drawn and are being drawn to Trent Valley. In fact, some of the funeral directors in that area we now rarely see; they are going to Trent Valley... It is generally from that south side of the city... whilst the Co-op is still coming to us, it is the Co-op branches from the north of the city, whereas the Co-op branches from the south of the city are being drawn towards Trent Valley.” Dignity has stated that this is what it expected to happen when it planned the crematorium: “The Council crematorium is to the North of Derby, a place called Markeaton... We have gone to the south of the City and introduced a new private facility to the South and hopefully pulling away some of the cremations to the South from that. Technically, it was no more difficult than that.” Dignity continues: “There are other areas where the crematorium might be the [sic] to the east of the City and you come in at the opposite end, the West side of the city. So that is the basic demographics of it.”

- (d) Cheshire East Council stated that after the Vale Royal crematorium opened in 2014 Crewe crematorium had lost volumes from the CW7, CW8, CW9 and CW10 postcode areas. By 2018 volumes in the CW8 and CW9 postcode area were [X]% lower than in 2014. Volumes in CW7 fell from [X] cremations to [X] cremations between 2014 and 2018 and volumes in CW10 were also reduced. Figure 19, below, shows the local area.

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<sup>909</sup> Non-cortege driving speeds.

**Figure 19: Postcode areas surrounding Vale Royal Crematorium**



Source: CMA analysis of Cheshire East Council.

(e) Conwy County Borough Council, Mansfield and District Crematorium Joint Committee, Taunton Deane Borough Council, and Great Yarmouth Borough Council made similar observations as the above in relation to losing some volume from funeral directors/customers located close to, or in between, their crematorium and the new entrant.

6.164 One exception to this pattern was the response from Bournemouth, Christchurch and Poole Council which saw a reduction in demand from across its borough, including those both close to, and further from, the new crematorium that had opened (Harbour View Crematorium). Bournemouth, Christchurch and Poole Council stated that they considered this to be because the new crematorium was owned by a local funeral director who has branches across the Bournemouth/Christchurch/Poole area and the funeral is marketed in such a way that the funeral and cremation services are purchased together.

6.165 Westerleigh stated that the evidence from local authorities set out in paragraph 6.163 relates to many areas where it has crematoria and that the experience of its crematoria directly contradicts the evidence set out in relation to the following local areas: Kettering, Leicester, Cheshire, and

Taunton. [X].<sup>910</sup> We do not consider that Westerleigh has provided factual evidence that contradicts the evidence provided by the local authorities in Kettering, Leicester, Cheshire, and Taunton set out above. We consider Westerleigh's more general argument on the extent to which its crematoria face competition throughout our assessment of local competitive constraints set out in this Section.

### *Response to entry*

#### *Impact of entry on incumbents' fees*

- *Quantitative analysis*

- 6.166 Using the analytical framework set out in relation to our quantitative analysis of the effect of entry on volumes, we assessed the impact of entry on an incumbent's standard cremation fee after controlling for general fee increases across all crematoria (among other factors). The results of this analysis, presented in Table 29, show the percentage change in an incumbent's cremation fee in the years following entry from having one additional crematorium within a given drive time band. Further details are included in Appendix M.
- 6.167 This analysis found a limited impact of entry on the cremation fee charged by incumbents and, when there is an impact, it is in a direction opposite to what we would expect from a competitive response (since we would expect the presence of more competitors to lead to more competition and lower fees). Column (1) indicates that only entry in the 20-30 minute normal (33-50 minute cortege) drive time band has a statistically significant effect on incumbent's fees, and the effect is an increase in fees by around 2%.
- 6.168 We extended the analysis to differentiate between incumbent types. We found that the effect of entry on fee was different between local authority and private incumbent crematoria. Column (2) shows that across all drive time bands the impact of entry on a local authority crematorium's fee is not statistically significant. However, the entry effect on a private operator's fee is statistically significant, although, as above, the direction of the effect is opposite to what we would expect. Private operators' fees increase by approximately 7% with one additional crematorium within a 10-20 minute normal (17-33 minute cortege) drive time,<sup>911</sup> with this effect reducing the further away entry occurs –

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<sup>910</sup> Westerleigh, [Westerleigh Group's response](#) to the CMA's entry analysis.

<sup>911</sup> We note that this finding is based on a small number of observations, see paragraph 6.152. However, even excluding this result the finding remains that the size of the fee increase reduces as distance to the entrant increases.

entry within a 20-30 and 30+ minute (33-50 and 50+ minute cortege) normal drive time increases the fee by around 5% and 2% respectively. In the following paragraphs, we set out qualitative evidence on the effect of entry on incumbents' prices and what may drive these pricing decisions.

**Table 29: Estimated percentage fee effect on incumbent crematorium from year of entry**

<i>Drive time band (normal, min)</i>	<i>Drive time band (cortege, min)</i>	<i>(1) Ln (fee)</i>	<i>(2) Ln (fee)</i>
0-10	0-17	0.0443†	
10-20	17-33	0.00188	
20-30	33-50	0.0206**	
30+	50+	-0.00193	
<i>Effect on local authority (LA):</i>			
0-10	0-17		0.0507†
10-20	17-33		-0.00479
20-30	33-50		-0.000615
30+	50+		-0.00759
<i>Effect on private:</i>		<i>(difference to effect on LA)</i>	
0-10	0-17		<i>No instances</i>
10-20	17-33		0.0689**†
20-30	33-50		0.0482**
30+	50+		0.0202***
<i>Observations</i>		3,184	3,184

Source: CMA analysis.

† denotes drive time bands in which a small number of incumbents experienced entry.

Note: Standard errors are reported in parenthesis. All standard errors are clustered at the crematoria level. Asterisks indicate that the result is significantly different from zero with the following confidence levels: \*90%, \*\*95%, \*\*\*99%.

### ○ *Qualitative evidence*

6.169 In the quantitative analysis, we found that incumbent local authority crematoria that experience entry do not change their fees in response. This is consistent with oral and written evidence provided to us by local authority crematoria. Fourteen local authorities that experienced entry described how they set their fees in response.<sup>912</sup> None of them stated that they responded to entry by reducing their fees. Two local authorities noted that increasing fees to make up for lost volumes is an option (but did not ultimately increase fees),<sup>913</sup> but we found limited evidence of this occurring in practice (only two of the local authorities we spoke to increased fees to make for the shortfall, and one of these increased the fee at the same time as increasing their slot length).<sup>914</sup> We were told that this reluctance to increase fees is because local authorities

<sup>912</sup> Kettering Borough Council, Conwy County Council, Leicester City Council, Derby City Council, Sefton Metropolitan Borough Council, Great Yarmouth Borough Council, Aberdeen City Council, Bournemouth, Christchurch and Poole Council, Middlesbrough Council, Portchester Crematorium Joint Committee, Boston Borough Council, Mansfield and District Crematorium Joint Committee, Cheshire East Council, and Coventry City Council.

<sup>913</sup> Kettering Borough Council and Conwy County Council.

<sup>914</sup> Coventry City Council and Leicester City Council.

have a desire to keep fees low, particularly due to concerns around funeral poverty and to maintain relatively low fees compared with rivals.<sup>915</sup> Local authorities told us that they tended to revise down revenue targets for the crematorium following entry to factor in the reduction in volumes.<sup>916</sup>

6.170 In relation to why incumbent crematoria may increase their fees after experiencing entry, we note the following statements made by market participants:

- (a) Memoria stated: “It is our opinion that it is no accident that the biggest rise in cremation prices has been accompanied by the biggest rise in the number of new crematoria. Therefore, while such new builds were largely in line with existing qualitative and quantitative guidelines to fulfil the demographic need, their building was inflationary because it seriously reduced the numbers cremated by existing crematoria.” Memoria considers that this was “worthwhile as a necessary development in order to improve standards of facilities and service to bereaved families.”
- (b) The ICCM stated: “Increasing competition through the provision of new crematoria has not driven costs down. As the number of cremations at an existing crematorium declines due to competition from newly built crematoria, the fees have to go up to maintain income levels to continue running and investing in the service.”<sup>917</sup>
- (c) Pure Cremation stated: “Building more crematoria... will increase funeral costs as each venue (old and new) must recover that substantial investment through a smaller number of services per locality.”<sup>918</sup>
- (d) Leicester City Council stated that: “[entry of new crematoria] is going to create additional pressures on existing crematoria because essentially it continues to water down the market by putting more players into it, which is obviously what competition is about, I suppose. But of course, with such large fixed costs, there may be a tendency then to just keep prices higher because they have got to make income back from a much more reduced number of services. Particularly in the private sector. Local authorities are

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<sup>915</sup> Conwy County Council, Derby City Council, Great Yarmouth Borough Council, Aberdeen City Council, and Bournemouth, Christchurch and Poole Council. See also Cheshire East Council, Portchester Crematorium Joint Committee, Boston Borough Council and Mansfield and District Crematorium Joint Committee.

<sup>916</sup> Conwy County Council, Sefton Metropolitan Borough Council, Great Yarmouth Borough Council, and Aberdeen City Council.

<sup>917</sup> [ICCM response to Issues Statement](#).

<sup>918</sup> [Pure Cremation response to interim Market Study report](#).

probably a bit more adaptable because we can offset some of those pressures.”

6.171 We asked Dignity and Memoria how they responded to specific recent instances of entry in relation to the fees that they set.<sup>919</sup> Memoria noted that the one instance of entry that we identified occurred some distance from their crematorium (around 30-minutes normal drive time) and, whilst the new entrant was cheaper than this crematorium, Memoria considered the new entrant was competing for different areas to its crematorium; as such it took no action and instead is keeping a ‘watching brief.’ In its response, Dignity stated that when its crematoria are affected by entry they do not respond by reducing fees or adjusting their price because there has been entry, but noted that entry of new crematoria have increased the competitive constraints that they face and have limited their ability to increase prices. Dignity also noted that, due to the importance of geography in choice of crematorium, when a new crematorium opens and customers from the area of the entrant are lost, reducing prices to compete is likely to be ineffectual in winning customers back.

#### *Capital expenditure and slot length*

- *Quantitative analysis*

6.172 We have assessed whether incumbent crematoria have responded to entry by increasing their capital expenditure, which may indicate that they are making investments to improve quality following an increase in competition. We have compared the level of capital expenditure at crematoria that have experienced entry with that at crematoria who have not experienced entry. We obtained data from private operators and local authorities in relation to capital expenditure and significant investments made in the five years between 2014 and 2018 at each of their crematoria. Data was provided by Dignity, Westerleigh, Memoria, 15 small private operators and 162 local authority crematoria.<sup>920</sup> We excluded investment data relating to cemeteries<sup>921</sup> and new build crematoria in the years up to and including the year of entry.

6.173 We grouped these crematoria between those that had experienced entry within a 30-minute normal drive time during the relevant period and those that

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<sup>919</sup> We identified Dignity and Memoria crematoria that had experienced entry within a 30-minute (normal) drive time since 2014. We did not ask Westerleigh as we considered that their sites had only experienced entry at or around the same time as Westerleigh themselves were entering a local area.

<sup>920</sup> We did not have data from LCC (six crematoria), seven smaller private crematoria and 22 local authority crematoria.

<sup>921</sup> Where this is apparent.



had not experienced any entry. We found that the average capital expenditure by those experiencing entry was around £443,000 over the five years whilst those not experiencing entry spent, on average, around £604,000.<sup>922,923</sup> We looked at the data in more granular detail and found examples of many crematoria who have not experienced entry making significant investments.<sup>924</sup> We found many local authorities making investments, none of whom appear to have experienced entry (to provide some context and examples, Blackpool spent £[REDACTED] on a new extension, Honor Oak spent £[REDACTED] on a refurbishment and gardens, Falkirk spent £[REDACTED] on a chapel extension, improved parking and refrigeration – among other improvements – and Ayr spent £[REDACTED] on an extension and car park improvements).

- 6.174 We consider that this evidence points towards investment decisions being likely taken relatively independently of local entry events. In particular, we note that local authority crematoria may not be subject to normal commercial pressures and decisions may be taken for other reasons.
- 6.175 However, we recognise that there are limitations in the data available. Private and local authority operators record and categorise their investments in different ways. We obtained data from 162 local authority crematoria, all of which may have recorded their investments differently from each other and have different definitions for what they regard to be a significant investment (for example, different local authorities have different criteria for regarding an investment to be significant, ranging from £5,000 to £500,000). Furthermore, data provided by private crematorium operators and local authority crematoria may not be directly comparable. We note that private crematorium operators have, in some instances, included investments that local authorities have not. For example, they have included investments in general maintenance such as carpet cleaning, waste removal and CCTV monitoring in their responses, whereas local authorities did not include these. We also note that if

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<sup>922</sup> Where we have data for 257 crematoria in total. Fifty-four crematoria experienced entry in this period.

<sup>923</sup> We considered whether these figures are affected by the age or operator of the incumbent crematoria. As such, we have compared the average capital expenditure over the period 2014-2018 of older (pre-1990) local authority crematoria by those who have experienced entry and those who have not. The average capital expenditure over the period by those who experienced entry was around £517,000 (36 crematoria) and the average capital expenditure over the period by those who did not experience entry was around £758,000 (119 crematoria).

<sup>924</sup> We note that private operators did not tend to be affected by entry whilst local authority crematoria did tend to be affected. We considered whether the composition of operators being affected by entry led to these results. We found that both private operators and local authority crematoria experiencing entry invested less, on average, compared to those that did not experience entry during the time period.

investment decisions are taken with a time lag, more recent actions to respond to entry may not be captured in our analysis.<sup>925</sup>

6.176 In relation to slot lengths, using the analytical framework set out in relation to our quantitative analysis of the effect of entry on volumes and fees, we estimated the effect of entry on incumbent crematoria's slot length. We note that we have fewer years of data for slot lengths (2012 to 2018) compared to the data on volumes and fees (2008 to 2018).<sup>926</sup> Further details of this analysis and its results are set out in Appendix M.

6.177 Most of the estimated effects in this analysis were found not to be significant. Entry in the 0-10 minute drive time band was found to have a statistically significant effect on slot length. However, as noted in paragraph 6.152, only two incumbent crematoria experienced entry in this drive time band and the small number of observations in this drive time band is likely to affect the robustness of this result (and in any event, entry this close to an existing crematorium is very rare).

- *Qualitative evidence*

6.178 We asked Dignity and Memoria how they responded to recent instances of entry other than in relation to price.<sup>927</sup> Memoria told us that they conducted a full assessment of the new entrant's facility and service offerings. Memoria stated that it is constantly reassessing its position in relation to the new entrant. Dignity stated that 'were there to be space for improvements, Dignity would invest time and resources to improve the quality of its offering (for example, the availability of visual tributes and music systems, refurbishment and redecoration works).' Specific actions listed by Dignity for each of its twelve crematoria which had experienced recent entry were:

- (a) Redecoration/refurbishments (4 crematoria);
- (b) improve grounds and gardens (1 crematorium);
- (c) replace cremators (1 crematorium);
- (d) increasing slot lengths from 45 to 60 minutes (2 crematoria); and

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<sup>925</sup> In its [response to the PDR](#) (section 3.3.3) Memoria submitted that our 'analysis of impact of entry on investment is unchanged and therefore remains extremely crude.' We have already recognised the limitations in the data available in framing our considerations.

<sup>926</sup> Due to changes in the way that the Cremation Society gathered data in relation to slot length.

<sup>927</sup> We identified Dignity and Memoria crematoria that had experienced entry within a 30-minute (normal) drive time since 2014. We did not ask Westerleigh as we considered that their sites had only experienced entry at or around the same time as Westerleigh themselves were entering a local area.

(e) upgrades of visual tributes and music systems (2 crematoria).

6.179 Local authorities who had experienced entry by a new crematorium told us about the significant investments that they have made, but in many instances, these were not made specifically because of a new entrant, but because the work needed to be done in order to provide a service to their local residents. For example, one local authority stated: “We haven’t done anything that we wouldn’t have already done anyway.”<sup>928</sup> However, a number of local authorities did state that the entry of a rival crematorium had made them consider what they offer, and potentially make service improvements by thinking about the design of the crematorium, or comparing themselves in relation to the facilities on offer by the entrant.<sup>929</sup>

6.180 As noted in paragraph 6.178(d), Dignity increased slot lengths after entry near two of its crematoria (out of 12 crematoria which had experienced recent entry). We note that Memoria already offers slot lengths of one hour at all of its crematoria. Local authorities that had experienced entry by a new crematorium generally either increased their slot length after the entry of a new crematorium (four crematoria),<sup>930</sup> or are considering extending their slot length (two crematoria).<sup>931</sup> Local authorities noted that slot length extensions are possible due to the loss of volumes that occurred due to entry,<sup>932</sup> although two local authorities considered that they already had an appropriate slot length.<sup>933</sup> As such, we find that crematoria experiencing entry are not consistently increasing their slot lengths. The four local authorities that had increased their slot length after entry, either did not increase their fees to reflect the longer slot length,<sup>934</sup> or increased their fees marginally.<sup>935</sup>

6.181 Memoria provided additional evidence of changes in the offering (such as extending slot length and investing in front of house facilities) made by local authority crematoria which it describes as ‘rival competitive actions’ (including both in response to Memoria’s entry and more generally in response to increased competitive pressure since its entry). As part of our broader investigation, we asked 183 local authorities to explain the reasons behind various changes they had made to their offering (see paragraphs 6.71 to 6.73). Based on their responses, as well as public statements from local

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<sup>928</sup> Kettering Borough Council, Conwy County Council, Sefton Metropolitan Borough Council, Great Yarmouth Borough Council.

<sup>929</sup> Derby City Council, Trafford Council, Swindon Council.

<sup>930</sup> Kettering Borough Council, Leicester City Council, Derby City Council, Aberdeen City Council and Portchester.

<sup>931</sup> St Helen’s Council, and Bournemouth, Christchurch and Poole Council.

<sup>932</sup> St Helen’s Council, and Bournemouth, Christchurch and Poole Council.

<sup>933</sup> Sefton Metropolitan Borough Council, and Great Yarmouth Borough Council.

<sup>934</sup> Kettering Borough Council, Derby City Council, Aberdeen City Council.

<sup>935</sup> Leicester City Council (45 minutes to 1 hour, 4.5% fee increase).

authorities in relation to their crematoria, we assessed the extent to which the changes in the offering highlighted in Memoria's submission were indeed a specific response to Memoria's entry or driven explicitly by competition with rival firms. A summary of our findings is in Table 30. Note that Table 30 includes only instances of actions taken by local authority crematoria, not private crematoria, due to the scope of information we had gathered.

**Table 30: "Rival competitive actions" identified by Memoria and reasons given by the local authority for taking the action**

<i>Rival competitive action identified by Memoria</i>	<i>Year of Memoria entry</i>	<i>Local authority statement on reasons for taking action</i>
Memoria states that Thornhill crematorium undertook asbestos removal and a major refurbishment in August-October 2019 as a rival competitive action.	2011	Cardiff Council made a statement which explains the upgrade at Thornhill crematorium is so that "the bereaved get to say their final farewells in surroundings that are more sympathetic to the occasion."
Memoria states that following its entry in 2011, Thornhill crematorium increased slot times from 30 to 45 minutes in 2013.	2011	Cardiff Council provided evidence showing that they extended service times at Thornhill crematorium from 30 minutes to 45 minutes in 2002 following customer feedback to meet demand (we note this was several years before Memoria opened a new crematorium).
Memoria notes that Teesside crematorium refurbished both chapels in 2018 and is working on improving service standards and flexibility.	2014	Middlesbrough Council recognises the threats from rival crematoria: "The crematorium is a major source of income for the Council, and never before has it had to operate in a more challenging environment. Facing the twin threats of the current Redcar [Memoria] and Cleveland offer and the potential of a future Stockton offer."
Memoria states that Scarborough crematorium started to offer discounted early morning slots in 2018 as rival competitive action.	2014	Scarborough Borough Council states that they benchmark against crematoria in East Riding and York (but not Memoria's crematorium at Kirkleatham).
Memoria states that Markeaton crematorium started to offer cheaper early slots since Memoria entered. Furthermore, Memoria also noted a price cut at Markeaton crematorium in 2017 as a response to their entry.	2014	Derby City Council stated that they responded to the opening of Memoria's crematorium at Amber Valley by reviewing the fees and charges at Markeaton crematorium, taking account of the private sector charging policies.
Memoria states that Markeaton crematorium will be increasing their slot length from 40 to 60 minutes as a competitive response.	2014	Derby City Council states longer funeral appointments are being considered at Markeaton crematorium due to building design and what competitors are offering.
Memoria notes that Markeaton crematorium invested in some refurbishments in 2017.	2014	Derby City Council stated that, with the exception of meeting the requirements of mercury abatement legislation they have not made any major investments in the facilities at Markeaton crematorium since 1 January 2014, but have also noted that "due to commercial pressure from two private sector crematoria recently opened in the area, a new crematorium (& cemetery) are under early consideration."
Memoria states that Mansfield crematorium started to offer cheaper early slots as a rival competitive action.	2014	Mansfield and District Crematorium and Joint Committee stated that they responded to the opening of Memoria's crematorium at Amber Valley by reviewing their fees and charges and by engaging in more advertising.
Memoria states that Swindon crematorium introduced a 40-minute slot in 2019.	2015	Swindon Borough Council stated that they did not take any specific action to respond to the entry of the South Oxfordshire (Memoria) crematorium as they did not conduct many funerals from that area prior to Memoria opening a new crematorium.
Memoria states that Gilroes crematorium (Leicester) made some upgrades (enclosing the area between two chapels) in 2018.	2015	Leicester City Council noted that the last major refurbishment at Gilroes crematorium was in 2013. Leicester City Council also noted that after the entry of Memoria in the local area they: "increased the length of chapel booking and service times from 45 minutes to 60 minutes. Only able to do this as a consequence of conducting fewer cremations at Gilroes crematorium. Introduced direct cremations in 2017 to match competitor offer. Reviewed visual tribute offering, providing revised packages similar to competitors. Benchmarked fees with competitors".
Memoria states that Kettering crematorium increased slot length to 60 minutes in 2020 as a rival competitive action.	2015	Kettering Borough Council stated that in "2018 we extended the service time from 45 minutes to 60 minutes. We were observing that 45 minutes was not enough time and that services were regularly overrunning, car parks were full and mourners were "crossing over" with other services."
Memoria states that Gorleston crematorium started to offer discounted early morning slots in 2016 (shortly after Memoria entry). Memoria also notes that Gorleston have also upgraded their music system, provide webcasting, and more generally worked to improve service and facility levels since Memoria's entry.	2015	Yarmouth Borough Council stated that they did not take any specific action at Gorleston crematorium following the entry of the Memoria crematoria at Waveney.

Memoria states that Colwyn Bay started to offer a (substantial) early morning discount in 2019 and introduced webcasting as a competitive response.	2016	Conwy County Borough Council stated that: "we do not directly compare our fees and/or services with any specific crematoria... we do not behave reactively if there are sudden changes."
Memoria states that Chester lowered non-resident prices since Memoria opened.	2016	Cheshire West and Cheshire Council stated that they set fees "as part of the Council's budget setting process. This includes providing best value and meeting the priorities of our residents. Consultation with the public takes place as part of the budget process." We note that this statement does not directly address the issue of how <i>non</i> -resident prices are set. The opening of a new Memoria crematorium in Denbighshire was not referenced in their response.

Source: CMA analysis of local authority replies to information requests, [Cardiff News Room](#), [Middlesbrough Council Executive Member for Environment and Commercial Services minutes \(5 July 2017\)](#).

Notes:

- (1) Four actions identified by Memoria where we have no information are excluded from the table (in relation to Chesterfield's refurbishment, Chester's new music system, Rugby crematorium offering a reduced fee for early morning slots, and a refurbishment of the Vale Crematorium in Luton).
- (2) Three instances which are identified as the construction of a new crematorium, or plans to construct a new crematorium by a local authority (Stockton-on-Tees Borough council, North Herts District Council and Central Bedfordshire District Council) who do not currently provide a crematorium excluded (we do not consider entry by a local authority who currently does not operate a crematorium as a 'response' to Memoria).

6.182 Table 30 shows that four out of the 11 local authorities<sup>936</sup> did explicitly respond to the entry of a Memoria crematorium nearby. For example, Leicester City Council increased slot lengths (also noted at paragraph 6.180) and reviewed the provision of certain facilities, and Middlesbrough Council mentioned operating in a 'challenging' environment, due to the presence of nearby rivals, including a Memoria crematorium at Redcar. Also, Derby City Council noted 'commercial pressure from two private sector crematoria' and that it takes account of private sector offerings. However, in the majority of cases (seven out of 11), the 'rival competitive actions' identified by Memoria – even if the action was confirmed to have taken place after entry occurred – appear an overstatement once contrasted with the evidence from the local authorities explaining the reasons for their actions, such as making planned upgrades or responding to feedback from local residents and funeral directors. We note that three of these 11 local authorities explicitly stated that they did not take specific actions in response to Memoria's entry. Overall, we consider that this evidence provides examples of competitive rivalry in certain local areas, but does not suggest a picture of widespread or systematic competitive responses.

### *Summary of evidence on entry*

6.183 Our analysis of entry indicates that new crematoria have attracted customers from existing crematoria soon after entry. Volume losses are larger the closer the new crematorium is to the existing crematorium. This is consistent with the evidence on customers' preferences for proximity, and, indeed, in the vast majority of entry examples that we have examined, we have been told that the majority of volume losses experienced by incumbent crematoria are from the

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<sup>936</sup> Middlesbrough, Derby, Mansfield and Leicester.

area local to the new crematorium. The one exception involves a funeral director who opened a crematorium with a very differentiated offering.

- 6.184 After entry, average volumes at incumbent crematoria have declined, but after about two years they appear to level out. The effect of entry on incumbents' fees appears to be different for private crematoria and local authority crematoria. Contrary to what we would expect after entry, after controlling for general fee increases across all crematoria (among other factors), incumbent private crematoria that have experienced entry increased their fees, whilst incumbent local authority crematoria did not respond to entry in terms of the prices that they set. Instead, they tended to revise down revenue targets for the crematorium following entry to factor in the reduction in volumes.
- 6.185 To the extent that incumbent crematoria have responded to entry by making investments or increasing slot lengths, we consider that the extent of this type of response has been overstated by Dignity, Westerleigh and Memoria. We note that a limited number of private crematoria have experienced entry in their immediate local area. We have seen examples of local authorities responding to entry by increasing their slot lengths (due to the additional capacity that new entrants have created) and making some changes to their offering, although this behaviour is not the norm. Furthermore, we have seen many examples of investment decisions taken independently of competitive conditions.

### ***Conclusions on assessment of local competitive constraints***

- 6.186 The first part of Section 6 assessed how competition between crematoria works generally across the UK. This part has assessed the extent of competition between crematoria at a local level.
- 6.187 We have found that crematoria do not generally have geographically close rivals. Very few crematoria have a rival that is geographically close (in particular, only eight crematoria have a rival within 10 minutes). Half of crematoria do not have a rival within 30 minutes and one-quarter of crematoria do not have a rival within 40 minutes. Only one-third of crematoria have at least one rival within their catchment area. For those crematoria with at least one rival within their catchment, the nearest rival is, on average, located towards the boundary of the catchment area. This evidence is consistent with the analysis set out in Section 4, where we have found that there are barriers to entry in relation to the planning regime and the volumes required to enter profitably, which means that new crematoria do not tend to enter close to incumbents.

6.188 Dignity, Westerleigh and Memoria argued that their out-of-area customers choose their crematoria over closer local authority crematoria due to their superior offering and better value for money, and, without these customers, their crematoria would not be profitable. We have found that:

- (a) Both local authority and private crematoria generally (not just those of the three largest private operators) attract customers who have a closer alternative, although private crematorium operators appear to attract higher proportions of out-of-area customers than local authority crematoria on average;
- (b) across local authority and private crematoria there is a high degree of variation in the proportion of customers that they attract from out-of-area. The evidence shows that there are a range of geographic and local factors, unrelated to price or quality, that can drive these variations;
- (c) based on the above two observations, the proportion of private crematoria customers that choose the private crematorium on the basis of price or quality and can be regarded as 'marginal' (ie they would switch between crematoria in response to a change in relative price or quality) appears relatively limited and lower than Dignity, Westerleigh and Memoria have argued; and
- (d) new crematoria do not typically project that they will obtain volumes in excess of the number of cremation customers for whom they can expect to be the closest crematorium. Crematoria can expect to be the closest crematorium for between 980-1,300 cremation customers per year and crematoria obtaining volumes in this range are generally profitable.

6.189 We found that crematoria experiencing entry lose volumes soon after entry. Incumbent private crematoria that have experienced entry increase rather than reduce their fees, whilst local authority crematoria generally do not respond to entry in terms of the prices that they set. We have seen examples of local authorities responding to entry by increasing their slot lengths (due to the additional capacity that new entrants have created) and making some changes to their offering, although this behaviour is not the norm.

## **Conclusions on how crematoria compete**

6.190 Local proximity and familiarity are important to customers in choosing a crematorium. The decision-making process for customers in choosing a crematorium therefore appears to be relatively straightforward: the large majority of customers use the closest crematorium or one they are familiar with, and do not compare alternatives.

- 6.191 Funeral directors are aware of the local crematoria that are available and, as an informed intermediary, could, in principle, help customers choose the crematorium that best meets their needs. However, the vast majority of customers know which crematorium they want to use in advance of the arrangement meeting, and as such, the funeral director's role is limited. Furthermore, funeral directors do not attempt to negotiate with crematoria on attended cremation fees, nor do they typically resist crematoria fee increases (we only heard of a small number of instances where this has occurred, not always successfully). The cremation fee is typically considered as a 'given' by the funeral director, and, because it is a disbursement, is something that the funeral director passes directly on to customers and that the funeral director has no incentive to try to reduce.
- 6.192 We consider that it is only the customers who compare alternative crematoria and, therefore, are potentially responsive to quality and price differentials, that could potentially drive effective competition between crematoria. Furthermore, the proportion of customers who compare between crematoria, and are responsive, would need to be sufficiently large in order to drive any such competition. However, the evidence consistently shows that the demand-side is largely unresponsive to alternative competitive offers and there is only a very small proportion of customers who compare between crematoria. For these customers, the evidence suggests that quality, alongside location and convenience, is an important factor in their choice.
- 6.193 The strategies adopted by crematorium operators to attract these (and other) customers vary. Only a few local authorities have told us that they put significant effort into attracting customers to use their crematorium, while many local authority crematoria do not appear to actively seek to attract customers: we note that local authorities' general focus on serving their local community is not necessarily compatible with seeking to attract people from further afield. In fact, a number of local authorities charge higher cremation fees to customers from outside their boundaries, who are likely to have alternatives. This means that, to the extent there is any price discrimination in the provision of local authority's crematoria services, lower fees are charged to those customers who are less likely to have alternatives, rather than those who have more, contrary to what we would expect. We have found that local authorities often consider their crematoria provision as a community service, and nearly all local authority crematoria cross-subsidise other council services with any surpluses that they generate from the provision of crematoria services. Local authorities generally benchmark their quality and fee levels with a large number of alternative operators, but few local authorities provided examples of instances of when they have set quality and fee levels in response to the actions of specific local rivals.



- 6.194 While some private crematorium operators may take action to attract customers, it is not clear that all private crematorium operators do, and we have seen little evidence of such actions. When actions are taken, they typically involve building relationships with the local funeral directors rather than promoting their crematoria to customers directly.
- 6.195 Private crematoria, which are typically newer than their local authority rivals, are able to differentiate themselves through their newer buildings, facilities and grounds, and attract a proportion of customers for whom these factors could be important and may have otherwise used a closer local authority alternative (although some smaller funeral directors and rival crematorium operators have noted the lack of investment at some of the private crematoria). Based on our analysis, the proportion of customers that private crematoria may be able to attract from further afield based on a superior offering compared with local authorities' crematoria is, on average, relatively limited and lower than the three largest private crematorium operators have argued. Our analysis suggests that, in order to break even, private crematoria do not typically need to compete for out-of-area customers, given that new private crematoria have a large 'captive' customer base, by virtue of their location close to poorly served population centres (a requirement to obtain planning permission), together with typical underlying customer flows between core areas for reasons unrelated to price or quality.
- 6.196 The entry of new crematoria does not appear to stimulate competition in the local areas where entry occurs, as we would typically expect. Existing crematoria lose customers to new crematoria soon after entry, and this effect is stronger the closer the entrant, but generally they take little action in response. Local authority crematoria tend to simply revise revenue targets down, whilst private crematoria typically increase their fees to make up for lost revenue (ie the opposite of what would be expected if there was intense competition to capture and retain customers). We have seen only a few instances where entry has led to existing crematoria making improvements or extending their slot length (which may be permitted by the additional capacity that new crematoria add).
- 6.197 We recognise that competitive conditions will vary somewhat between local areas. This may reflect variability in the number and nature (in terms of identities and business strategies) of crematoria which are in proximity to each other. For example, in areas which have experienced new entry customers will have more choice than before and there will be more capacity available (including at incumbent crematoria) and patterns of local crematoria usage are likely to be impacted. Certain private crematorium operators appear to make some efforts to attract additional demand from outside their 'core' geographic area, whereas others do not. Nevertheless, we have found that

competitive responses from incumbent operators are generally muted. While we recognise there may be some competition between certain crematoria, and that this may vary across different areas, we consider that the evidence set out above indicates that generally competitive constraints are weak relative to what would be expected in a well-functioning market.

- 6.198 Based on the evidence, we therefore consider that crematoria across the UK face limited competitive constraints when setting prices and quality, although we note that quality is more important than price to customers generally and to the few customers who compare alternatives more specifically.

## 7. Outcomes

### Introduction

- 7.1 Evaluating outcomes of the competitive process in their different forms in a market – eg prices and profitability, levels of innovation, product range and quality – helps the CMA determine whether there are competition problems and, if so, the extent to which customers may be harmed by them. Prices and profits are among the more observable and measurable outcomes and an analysis of these may be useful in understanding the extent and nature of competition and can be helpful in measuring customer detriment.<sup>937</sup>
- 7.2 In particular, persistent strategies of increasing prices, combined with stable and relatively high profits, may be indicative of weak competitive constraints. Profits and prices can also give an indication of the level of harm that customers have been suffering over time as a result. Similarly, large differences in the prices of similar products charged by different suppliers may indicate weak competitive constraints and can give an indication of the level of harm that customers could avoid by switching between suppliers. Finally, considering quality outcomes can give a sense for whether customers are receiving a good quality service and, together with the analysis of profits, whether differences in quality explain differences in price across providers.
- 7.3 We recognise that in the supply of funeral director and crematoria services there is a degree of differentiation across providers in terms of the products and services offered and service quality, as well as the geographic areas where they operate. The presence of a multitude of providers spread across many geographic areas, alongside the inherent difficulties in objectively and comprehensively measuring quality (as further explained below), means that assessing price and quality outcomes is not straightforward. We have adopted a variety of measures and approaches to address this.
- 7.4 In this Section, we consider a range of indicators of outcomes, with a particular focus on prices and profitability. We also examine various elements of quality, including back of house quality. In reaching conclusions on the outcomes of the competitive process in the supply of funeral director and crematoria services, we take into account the totality of the evidence across the three indicators. In the following paragraphs, we make a few preliminary observations on these indicators, before turning to our analysis of the evidence in the remainder of this Section.

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<sup>937</sup> CC3 (Revised), paragraphs 103 and 104.

## ***Introduction to pricing analysis***

- 7.5 Prices are an important measure of customer outcomes. In a well-functioning market,<sup>938</sup> we would expect prices to broadly align to and move together with efficiently incurred costs across the industry (although there can be variations between individual firms). While prices may increase in the short term to reflect changes in demand or supply conditions, competition would be expected to bring prices back into line with long run efficient costs.
- 7.6 We assessed the prices of funeral directors and crematoria in the following ways:
- (a) We analysed changes in prices over time across a range of providers. Taken in conjunction with other evidence and in the absence of other explanatory factors, such as cost increases, static or continually rising prices may indicate a lack of competition.<sup>939</sup> Where possible, our assessment has covered different products separately, reflecting possible differences in demand or supply conditions. We have also considered some measures that encompass the totality of the products offered (such as average revenues for some funeral directors).
  - (b) For funeral directors, we also analysed price differentials, separately for simple and standard funerals, within smaller geographic areas.

## ***Introduction to the analysis relating to quality***

- 7.7 We have sought to understand various measures of quality relevant to the provision of funeral director and crematoria services. A competitive market is likely to generate different price/quality combinations across providers in accordance with the preferences of different customers, who can observe, understand and choose between the available combinations. Competition (and entry) in the different price/quality segments would ensure customers get good value for money and profits are not excessive. Where aspects of quality are not observable by customers (even after the purchase), suppliers' incentives to invest in those aspects of quality may be significantly dampened.
- 7.8 In undertaking this analysis, we note that:
- (a) There are many different aspects of quality. Some (such as the quality of vehicles and responsiveness of front office staff) are observable at least

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<sup>938</sup> In its market investigation reports, the CMA uses the term 'a well-functioning market' in the sense, generally, of a market without features causing an AEC, rather than to denote an idealized, perfectly competitive market (CC3 (Revised), paragraph 30).

<sup>939</sup> CC3 (Revised), paragraph 108(a).

after purchase, while others are largely unobservable, in particular back of house facilities and processes (such as care of the deceased). For both of these, there are aspects which may be tangible (such as type and variety of vehicles and premises, or the facilities available in preparation areas) and others which are intangible (such as the levels of service and care provided by staff). Funeral directors, and to some extent crematoria, can differentiate on many of these aspects.

- (b) While some quality aspects are measurable (such as the availability of certain facilities), many are not (such as the appearance and style of the premises or behaviour of staff). The fact that some aspects are not measurable does not mean that they are not important, or that they cannot be assessed.

- 7.9 To the extent possible given the challenges highlighted above, we have gathered evidence (on both observable and unobservable quality) to understand the degree of variation between providers and whether the competitive process is leading to poor quality outcomes.
- 7.10 Receiving a good quality service is an outcome that matters to customers independently of price. As discussed below, profitability analysis can then give an indication as to whether prices are high relative to the level of quality provided.

### ***Introduction to profitability analysis***

- 7.11 Another important indicator of the extent of competition in a market is the level of profit of the firms involved. A competitive market is likely to generate significant variations in profit levels between firms as supply and demand conditions change, but with an overall tendency towards levels commensurate with the cost of capital of those firms (regardless of the level of quality they provide). At particular points in time, the profits of some firms may exceed what might be termed the 'normal' level. Reasons for this could include, for instance, cyclical factors, transitory price or other initiatives, the fact that some firms may be more efficient than others and the fact that some firms may be earning profits gained as a result of past innovation. However, competition should put pressure on profit levels, so that they move towards the cost of capital in the medium to long run. A situation where profits are persistently above the cost of capital for firms that represent a substantial part of the market could be an indication of limitations in the competitive process.

- 7.12 We have assessed the profitability of funeral directors and crematorium operators in accordance with the principles set out in the CMA guidelines.<sup>940</sup> These guidelines highlight three key elements of our approach to profitability analysis:
- (a) We compare the returns made by firms against their cost of capital, as estimated using the capital asset pricing model (CAPM);<sup>941</sup>
  - (b) we are concerned to understand whether firms representing a substantial proportion of the market are making returns which are persistently in excess of their cost of capital;<sup>942</sup> and
  - (c) we are concerned with economic rather than accounting measures of profit and may, therefore, make adjustments to the financial information of the firms being analysed in order to identify economic profits.<sup>943</sup>

### ***Structure of section***

- 7.13 The Section is structured as follows, starting with funeral director services, before turning to crematoria services:
- (a) First, we consider evidence on pricing outcomes;
  - (b) second, we consider quality indicators; and
  - (c) third, we consider profitability analysis which can be useful in interpreting pricing evidence (particularly in the presence of quality and therefore cost differences).

## **Funeral directors**

### ***Price outcomes***

- 7.14 As set out in paragraph 2.72, the provision of funeral director services is highly fragmented, with in excess of 2,000 funeral director firms and 6,000 branches operating in the UK. As described in paragraphs 5.20 to 5.24, prices are not available in a consistent and transparent manner across the diverse supplier base, which includes many very small companies and sole traders, and the services are to some extent differentiated between funeral directors. This has posed challenges to our information-gathering process, but it reflects

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<sup>940</sup> CC3 (Revised).

<sup>941</sup> CC3 (Revised), Annex A, paragraph 16.

<sup>942</sup> CC3 (Revised), paragraphs 116-119.

<sup>943</sup> CC3 (Revised), paragraph 115.

the realities of the market we are investigating and we have adapted our approach accordingly. We have relied on a variety of sources for our analysis of prices, including: data gathered from publicly available sources such as insurance companies and price comparison websites; data on average revenues gathered from a variety of Large and Smaller funeral directors; and information from the internal documents of the Largest funeral directors.

- 7.15 The diversity of the supplier base, the differentiation between providers, and local conditions may lead to differences in demand, or differences in costs. We have sought to take some of these differences into account where we can (such as by examining price differences within smaller areas or comparing prices across similar funeral types). We have sought to analyse separately prices for standard and simple funerals where data allows. Where this is not possible (for example, in relation to average revenue figures for many funeral directors) we have considered data across all funeral types as part of our assessment of standard funerals, given these generally account for a very high proportion of funeral director volumes.<sup>944,945</sup>
- 7.16 We set out below our findings regarding price levels and trends, and then on price differentials. More detail can be found in Appendices N and O respectively.

### *Price levels and trends*

#### *Standard funeral price levels*

- 7.17 We have drawn upon a variety of data sources to understand the pricing levels in the industry. Figure 19 shows the distribution of professional fees charged by a sample of funeral directors in 2018, as gathered by SunLife.<sup>946</sup> It

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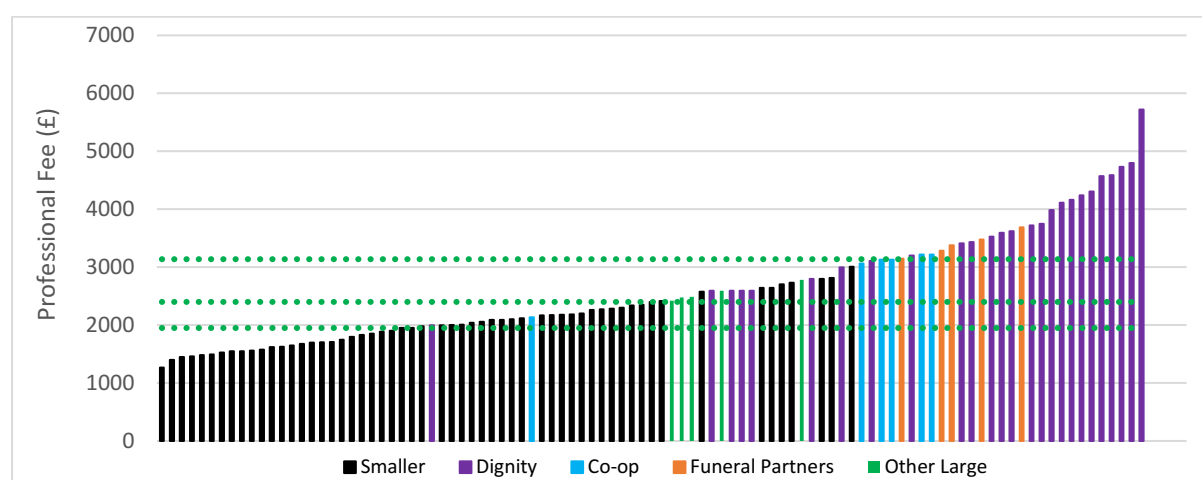
<sup>944</sup> In 2018 approximately 75% of at-need funerals for the three Largest funeral directors consisted of standard funerals, and approximately 85% for the regional co-ops. For the Smaller funeral directors, standard funerals made up the highest proportion of sales for all funeral directors we contacted (except a direct cremation specialist) making up approximately 80% to 90% of at-need funerals in our questionnaire averages.

<sup>945</sup> We have gathered information from a variety of sources and with varying levels of granularity. Co-op stated that this is likely to cause a variety of issues regarding data interpretation and the comparison between groups of funeral providers, making it impossible to compare price/quality differentials ([Co-op: Response to PDR](#), paragraph 6.11 and Appendix 1 paragraphs 2.11-2.16). We have been careful to explain the nature of each data source and the extent to which they can or cannot be compared. As discussed at paragraph 7.108, the question of whether specific high prices are justified by (costly) high quality, as would be the case in a well-functioning market, cannot be answered by considering quality in isolation. The assessment needs to consider relevant prices, costs and profitability measures, since in a well-functioning market competition would restrict profits to reasonable levels for any given quality level. Our analysis of funeral director profitability is set out in paragraph 7.109 to 7.170.

<sup>946</sup> SunLife has used external research firms to track standard funeral prices via a survey of 100 branches since 2004. The figures presented here are for funeral directors' professional fees, which include collection and care of the deceased, hearse and attendants and director, one limousine, use of chapel of rest, attending to all essential documentation, oak veneer coffin.

is based on a telephone survey of 100 funeral branches that provide itemised prices for various elements of what constitutes a funeral. Dignity and Co-op noted that this is a relatively small sample (in the context of the total population of funeral directors), the composition of which changes over time. It has also been argued that SunLife has an incentive to raise concerns over funeral director prices and price inflation.<sup>947</sup> We have considered these points and note that the data covers a range of different funeral director types and the different regions of the UK. We have tested a number of adjustments to see the effect this has on the results (particularly when considering price trends), and compared the results against other data available, such that we consider we can attach weight to this analysis (see Appendix N).

**Figure 19: Funeral director professional fees (2018)**



Source: CMA Analysis of SunLife data.

7.18 The green horizontal lines in Figure 19 represent the 25<sup>th</sup> percentile, median and 75<sup>th</sup> percentile. The median price for this sample was £2,400. The figure shows that in this sample the top 25% most expensive funeral directors were branches of Dignity, Co-op and Funeral Partners, although there was a mix of providers in the top half of the distribution. The funeral directors with the lowest prices consisted mainly of smaller funeral directors. However, there is a significant dispersion among all of the funeral directors, with professional fees ranging from approximately £1,500 to £4,500.<sup>948</sup>

7.19 Other sources of data point to similar distributions of prices. A sample of standard funeral prices collected from a price comparison website (Beyond)

<sup>947</sup> SAIF response to working papers, page 4. In gathering evidence from its members on the average revenue earned for a basic funeral, SAIF also asked whether they had any comments on SunLife's research, many of which stated the figures were misleading and/or designed to 'scare' people into buying funeral plans/life insurance.

<sup>948</sup> We exclude Dignity's highest sampled price in the SunLife dataset (£5,718), [X].



indicates that the median price in 2019 was £2,065, with prices varying between £800 and £3,985.<sup>949</sup> As described in Appendices N and O, we expect this to underestimate the price of a standard funeral.<sup>950</sup>

- 7.20 We considered the average revenue per funeral (excluding disbursements)<sup>951</sup> for standard funerals sold by the three Largest funeral directors. This is not completely comparable with the figures above, as it reflects the average amount paid by consumers in total, including optional add-ons and discounts. The average revenue per funeral for the Largest funeral directors in 2018 was £[REDACTED] for Co-op, £[REDACTED] for Dignity and £[REDACTED] for Funeral Partners. These are similar to the average prices found in the SunLife data (£2,982 for Co-op, £3,644 for Dignity). We set out the average total revenue (including disbursements) for standard funerals of these funeral directors and three of the regional co-ops in Table 31 and Appendix N paragraphs 96 to 125.
- 7.21 We also considered the average revenue per funeral (excluding disbursements), based on revenue and volume information for the period 2014 to 2018 provided by the 13 Large funeral directors (as defined in Table 3). This is not completely comparable to the listed price, as it will be affected by differences in the mix of products and services. The average revenue per funeral (across all funeral types) across the relevant period for each of the firms ranges from £2,160 to £3,504. The average revenue per funeral for the three Largest funeral directors was higher than the Other Large funeral directors in most cases, although some Other Large funeral directors' average revenues per funeral were considerably more than the Largest.
- 7.22 We also obtained revenue and volume information for the period 2014 to 2018 from a sample of Smaller providers (discussed at 7.124 to 7.129). From this sample, looking at average total revenue (including disbursements),<sup>952</sup> the Smaller funeral director firms are, on average, charging lower total prices than Large funeral director firms. When looking at both the Large and Smaller providers together, of the 46 results presented, the lowest 47% of average revenues are entirely made up of firms within the Smaller category, with a greater mix of Large and Smaller firms across the top 50% of average revenues.

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<sup>949</sup> We used Beyond's dataset to construct the price for an equivalent package to that measured by SunLife.

<sup>950</sup> In particular, lower priced funeral directors have a greater incentive to list themselves on a price comparison website, which would give rise to self-selection bias. Further, we have excluded Dignity's prices from this analysis due to concerns with the data discussed in Appendix O.

<sup>951</sup> Referred to as ARF.

<sup>952</sup> We have focused on the average total revenue, including disbursements, as in a number of cases the funeral directors did not reliably split their income between revenue from funeral director services and disbursements.

- 7.23 Qualitative evidence submitted by smaller funeral directors in response to the PDR<sup>953</sup> indicates that price differentials vary between local areas. Four funeral directors submitted that larger funeral directors offered prices significantly above their own, with price differences of £600 and up to £2,000 suggested.<sup>954</sup>

#### *Standard funeral price trends*

- 7.24 We have drawn upon a variety of data sources to analyse changes in prices for standard funerals over time. While we have more sources of evidence as to price changes in more recent years and have considered these in our analysis below, we have also considered evidence on price trends over a longer period as these trends are informative of how the sector has developed and put more recent changes into context (particularly in the context of growing concerns around funeral poverty and affordability in recent years as discussed in Section 2, which may have affected funeral directors' pricing strategies).
- 7.25 The longest time series of data available comes from SunLife and covers the period from 2006 to 2019.<sup>955</sup> As noted above, we have tested a number of adjustments to see the effect this has on the results, and compared the results against other data available, such that we consider we can attach weight to this analysis. The analysis we present in this section takes account of adjustments we have made.<sup>956</sup>

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<sup>953</sup> In response to a question from the NAFD to its members relating to the detriment estimate provided in the PDR, some funeral directors made some comments about prices in their local area (see: [NAFD Supplementary submission](#)). As discussed at paragraph 7.15, given it is not clear what funeral types these comments refer to but as standard funerals generally account for a very high proportion of funeral director volumes, we have included this as part of our assessment of standard funerals. However, we note it is not clear to what extent these comments compare funerals on a like-for-like basis.

<sup>954</sup> See the response to question 4 by F P. Guiver & Sons, Gillotts Funeral Directors, Mark F H Rae Funerals, Williamson Brothers in [NAFD Supplementary submission](#).

<sup>955</sup> Co-op raised concerns with extending our pricing analysis based on SunLife data back to 2006. ([Co-op: Response to provisional findings](#), Appendix 1 paragraph 2.8). We have considered evidence on price trends over a longer period as these trends are informative of how the sector has developed and puts more recent changes into context. We consider it appropriate and informative to make use of the data that exists to examine both past trends in prices and more recent changes. We have not put undue weight on data from earlier years, and have disaggregated and highlighted throughout our analysis more recent changes (for example, the rate of price inflation since 2016), drawing on a range of quantitative and qualitative evidence to understand the dynamics of the funeral market over time and as it stands now.

<sup>956</sup> We have adjusted this data to reflect the share of at-need funerals undertaken by Dignity and Co-op each year, as their branches were either over-represented (Dignity) or under-represented (Co-op) in the dataset. In Appendix N we also adjust the data to reweight by region to reflect the spread of deaths across the country. While we cannot apply both adjustments simultaneously due to the limitations of the data, the adjustment for region only has an effect in certain years, and in some cases indicates prices in SunLife's results may be somewhat understated. We have also adjusted total funeral prices (including disbursements) to reflect the proportion of funerals which are cremations, but this does not affect the professional fee figures presented here. We have also examined whether the churn in funeral directors within the data has an effect and have found it does not appear to materially affect the results.

- 7.26 Our analysis of the SunLife dataset indicates that standard funeral prices increased by 4.5% on average per year<sup>957</sup> (1.6% when adjusted for inflation)<sup>958</sup> over the thirteen years between 2006 and 2019. However, the trends have changed within this period.
- (a) Up to 2016, this was higher at 5.4% on average per year (2.4% when adjusted for inflation), which cumulatively over 10 years amounts to an average price increase of £969 (£544 when adjusted for inflation).
  - (b) This was offset to a very limited extent by increases below the inflation rate in the last three years of the period, over which period prices grew at an average annual rate of 1.8% (-1.3% when adjusted for inflation) yielding a £129 average price increase (-£100 when adjusted for inflation) over the period 2016 to 2019.<sup>959</sup>
- 7.27 Figure 20 below compares funeral director professional fees over time against what they would have been if they had increased at the general inflation rate since 2006. It shows that had the professional fees increased in line with a general measure of inflation since 2006, they would have been 18% (using RPI) or 24% (using CPI) (or £456 or £608) cheaper in 2019 than they actually were.

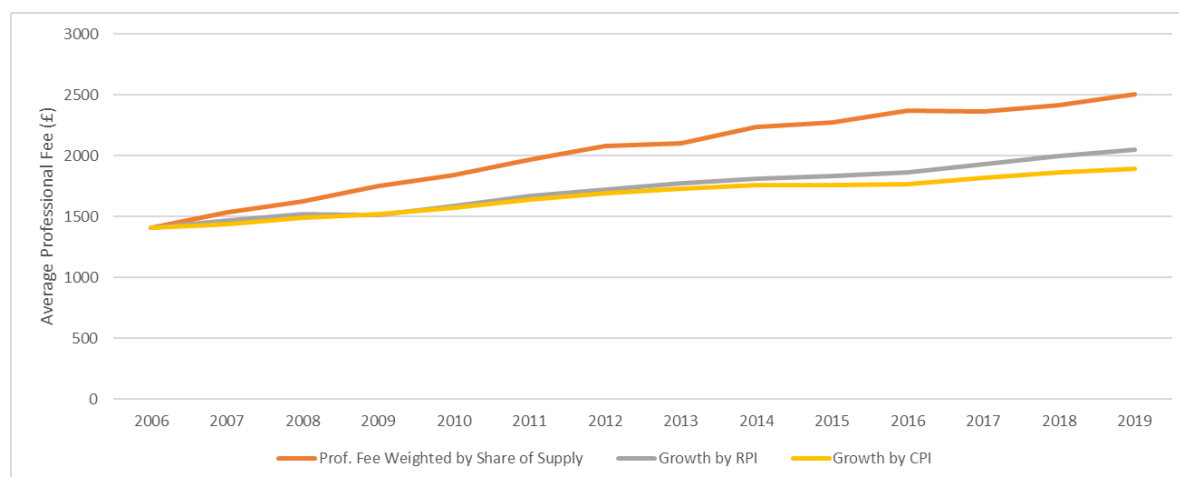
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<sup>957</sup> This is the Compound Average Growth Rate (CAGR) which is the mean annual growth rate over a specified period of time longer than one year.

<sup>958</sup> We have used the Retail Price Index (RPI) when adjusting for inflation. We do not have a measure of inflation specifically of funeral director costs, or those inputs which form the majority of funeral director costs (eg labour costs). Some funeral directors have indicated they consider inflation to be relevant when setting their prices or reflects their cost increases ([§]) considers that RPI is a fair reflection of its own cost inflation; ([§]) said that in the last five to ten years, its costs had generally risen in line with inflation; ([§]) believes its costs have increased in line with inflation). RPI in general overestimates inflation as measured by the Consumer Price Index (CPI).

<sup>959</sup> Co-op argued that some SunLife findings do align with its experience of significantly declining price indices (weighted by share of supply) in real terms in the period 2016-2019, while disbursements (weighted by burial/cremation volumes) grew consistently and at higher rates compared to professional fees. It argued this shows: first, there are increasing competitive pressures and dynamism in the supply of at-need funerals; and second, the increasing trend in disbursement costs should be carefully taken into account when trying to evaluate the funeral directors market on the basis of ATR (Co-op: [Response to provisional findings](#), paragraph 6.9, 6.10). As discussed in paragraphs 7.30 to 7.33, our analysis of the SunLife trends post-2016 indicates prices increased below the inflation rate in this period, but this appears to be driven by slightly different behaviours across funeral directors. As discussed in paragraph 7.33, the change in pricing policies by Co-op and Dignity have been at least partially driven by a recognition their prices had become out of line with other providers. With regard to the analysis of ATR data, we have used this only where data excluding disbursements was not available and we have been careful in our interpretation of this information where used.

**Figure 20: Increase in funeral director professional fees compared to measures of inflation**



Source: CMA analysis of SunLife and ONS data.

Notes:

(1) Only the average total price of a funeral was available for 2004 and 2005. Between 2004-2005 the price increased by 2.4%, compared to CPI at 2.1% and RPI at 2.8%. Between 2005-2006 the price increased by 10.3%, compared to CPI at 2.3% and RPI at 3.2%.

(2) The growth of median gross annual earnings, which may better reflect the growth of funeral director's costs rather than general inflation, was found to be broadly equivalent to CPI over the period and is therefore not included in this graph.

## 7.28 We considered other evidence on recent price trends:<sup>960</sup>

- (a) We calculated the average revenue per standard funeral (excluding disbursements) for the Largest funeral directors for the period from 2013 to 2018 and found that they followed a similar trend to that shown in the SunLife dataset (see Table 31). On this metric, price inflation started to slow after 2016 for Co-op, with prices falling in 2018 for Dignity and Funeral Partners (albeit the reductions in prices are low compared with previous increases). We also calculated the average total revenue per standard funeral (including disbursements)<sup>961</sup> for three regional co-ops and found that price increases were constant throughout the period (although varied between providers) and lower compared with the Largest funeral directors.

<sup>960</sup> Co-op stated that despite the limitations in the analysis, 'we consider that the information disclosed by the CMA on selling prices is generally consistent with our experience of a decreasing price trend in the market in recent years' (Co-op: [Response to the PDR](#), Appendix 1 paragraph 3.3) and sets out its analysis of each dataset in turn (paragraphs 3.3-3.32). We consider that the evidence indicates that there has not been a consistent change in trend in prices across all funeral directors in recent years.

<sup>961</sup> Referred to as ATR.

**Table 31: ARF and ATR for standard funerals for Largest funeral directors and regional co-ops**

ARF Largest three (£)					ATR Largest three (£)				ATR regional co-ops (£)			
	Co-op	Dig.	F.P.	Largest comb.	Co-op	Dig.	F.P.	Largest comb.	Cent	East	South	Reg. co-ops comb
2013	[3<] (3<)	[3<] (3<)	[3<] (3<)	[2.5-3.0k] (3.0-3.5k)	[3<] (3<)	[3<] (3<)	[3<] (3<)	[3.5-4.0k] (4.0-4.5k)	[3<] (3<)	[3<] (3<)	[3<] (3<)	[3.0-3.5k] (3.5-4.0k)
2014	[3<] (3<)	[3<] (3<)	[3<] (3<)	[3.0-3.5k] (3.0-3.5k)	[3<] (3<)	[3<] (3<)	[3<] (3<)	[4.0-4.5k] (4.5-5.0k)	[3<] (3<)	[3<] (3<)	[3<] (3<)	[3.0-3.5k] (3.5-4.0k)
2015	[3<] (3<)	[3<] (3<)	[3<] (3<)	[3.0-3.5k] (3.0-3.5k)	[3<] (3<)	[3<] (3<)	[3<] (3<)	[4.0-4.5k] (4.5-5.0k)	[3<] (3<)	[3<] (3<)	[3<] (3<)	[3.0-3.5k] (3.5-4.0k)
2016	[3<] (3<)	[3<] (3<)	[3<] (3<)	[3.0-3.5k] (3.5-4.0k)	[3<] (3<)	[3<] (3<)	[3<] (3<)	[4.0-4.5k] (4.5-5.0k)	[3<] (3<)	[3<] (3<)	[3<] (3<)	[3.5-4.0k] (3.5-4.0k)
2017	[3<] (3<)	[3<] (3<)	[3<] (3<)	[3.0-3.5k] (3.5-4.0k)	[3<] (3<)	[3<] (3<)	[3<] (3<)	[4.5-5.0k] (4.5-5.0k)	[3<] (3<)	[3<] (3<)	[3<] (3<)	[3.5-4.0k] (3.5-4.0k)
2018	[3<] (3<)	[3<] (3<)	[3<] (3<)	[3.0-3.5k] (3.0-3.5k)	[3<] (3<)	[3<] (3<)	[3<] (3<)	[4.5-5.0k] (4.5-5.0k)	[3<] (3<)	[3<] (3<)	[3<] (3<)	[3.5-4.0k] (3.5-4.0k)
CAGR:												
2013-2018	[3<] (3<)	[3<] (3<)	[3<] (3<)	4.4% (2.0%)	[3<] (3<)	[3<] (3<)	[3<] (3<)	4.5% (2.0%)	[3<] (3<)	[3<] (3<)	[3<] (3<)	2.8% (0.4%)
2013-2016	[3<] (3<)	[3<] (3<)	[3<] (3<)	5.8% (4.0%)	[3<] (3<)	[3<] (3<)	[3<] (3<)	5.5% (3.7%)	[3<] (3<)	[3<] (3<)	[3<] (3<)	2.9% (1.2%)
2016-2018	[3<] (3<)	[3<] (3<)	[3<] (3<)	2.4% (-1.0%)	[3<] (3<)	[3<] (3<)	[3<] (3<)	2.9% (-0.5%)	[3<] (3<)	[3<] (3<)	[3<] (3<)	2.6% (-0.9%)

Note:

- (1) This includes Adult, Traditional and Classic funerals for Co-op; Standard and Bespoke funerals for Dignity; and Standard, Discretionary Discount, and Options/Pre-set Packages/bundle funerals for Funeral Partners. Note that this takes into account Dignity's miscellaneous invoices.
- (2) Southern Co-op records all at-need funerals as standard, although some of their funerals may be more similar to simple funerals. As a result, their standard funeral ATR may be understated here.
- (3) East of England Co-op's standard funeral ATR may be understated here as it reports niche funeral types, which are generally cheaper, as standard funerals.
- (4) The prices in real terms are in brackets, using 2018 as the base year and adjusted for RPI sourced from [ONS](#).

(b) We obtained revenue and volume information for the period 2014 to 2018 from another nine Large funeral directors (discussed further in Appendix S).<sup>962,963</sup> These firms have seen an increase in average revenue per funeral (excluding disbursements) across the period and have not

<sup>962</sup> One Large funeral director provided total revenue only and so we were not able to split disbursements from other revenue.

<sup>963</sup> Co-op suggested there are inconsistencies between the analysis of the Large funeral directors in the pricing analysis which used the ATR ('pricing levels and trends' working paper and Table 31 of the PDR) and in the profitability analysis which used the ARF (Appendix S to the PDR) (Co-op: [Response to the PDR](#), Annex 1 paragraphs 3.16-3.18). The different measures used are a result of the fact that following publication of the 'Funeral directors pricing levels and trends' working paper we made the assumption that disbursement costs were equal to disbursement revenues (for Large firms only where disbursement revenue had not previously been presented). This allowed us to make approximations of the trends in ARF (net of disbursements). We did this only for firm-level analysis and so the analysis of package-level volumes and revenues for the regional co-ops was conducted on the basis of ATRs.

displayed a similar downward trend in the average revenue to that observed for [X] and [X] in recent years.<sup>964</sup>

- (c) We also obtained revenue and volume information for the period 2014 to 2018 from a sample of Smaller providers (discussed at 7.124 to 7.129 and Appendix S). It is difficult to identify any clear trend amongst the Smaller funeral directors in average total revenue (including disbursements),<sup>965</sup> but there is no evidence of a downward trend at the end of the five-year period, rather a continuation of the year-on-year volatility that is likely to be the result of small volumes relative to the Large funeral directors and composition effects. As noted above, the average total revenue per funeral for these companies was on average lower than for the Large companies (although some were at similar levels to the Large companies).
- (d) A dataset we obtained from a price comparison website (Beyond),<sup>966</sup> which is likely to be skewed towards lower priced funeral directors,<sup>967</sup> shows that prices increased on average per year by 1.6% (-1.5% when adjusted for inflation) for the period 2016 to 2019. Around half of funeral directors increased prices by more than inflation between 2016 and 2019, and half increased prices by less than inflation.<sup>968</sup>
- (e) We also considered price trend data derived from a survey of customers conducted annually since 2014 for Royal London.<sup>969</sup> However, we have attached limited weight to this evidence in this case, given certain weaknesses in the methodology employed. In particular, survey respondents were asked to recall spending details for a funeral they arranged up to five years earlier: in 2019, nearly six in 10 respondents (59%) could not remember how much they were charged for a

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<sup>964</sup> We note that the 'Funeral directors pricing levels and trends' working paper presents price changes in nominal terms, in comparison to changes in RPI (as per paragraph 92), while the analysis in the PDR (for example at paragraph 7.27 (b)) was expressed in nominal terms (as most readers find it easier to engage with nominal prices). The description of the trends was adjusted to reflect this.

<sup>965</sup> As discussed in Appendix S we were not able to split out disbursement revenue for the Smaller firms.

<sup>966</sup> We have data from Beyond for the period March 2016 to May 2019.

<sup>967</sup> As noted in Appendix N, lower priced funeral directors are likely to have a greater incentive to list their prices on a price comparison website. Only one of the Large funeral directors provided its branch prices on Beyond's website (we have excluded Dignity's prices from this analysis due to concerns with the data discussed in Appendix O).

<sup>968</sup> Price reductions were greater considering the period 2017 to 2019 with a larger number of funeral directors appearing in the dataset, as discussed in Appendix N.

<sup>969</sup> The National Funeral Cost Index Report. In particular we have analysed the customer survey data which is used to calculate average customer spending.

coffin/shroud, while 70% of those who hired a limousine could not remember what it cost.<sup>970</sup>

- 7.29 The above evidence indicates that there has not been a consistent change in trend in prices across all funeral directors in recent years. While some funeral directors outside of the Largest providers have seen prices grow by less than inflation on average since 2016 (as shown by data from Beyond),<sup>971</sup> the Other Large funeral directors have continued to increase prices (as measured by average revenue per funeral) largely in line with the past. There is similarly no obvious change in trend for the Smaller funeral directors from whom we have gathered revenue data.
- 7.30 The change in trend post-2016 within the SunLife data appears to be driven by slightly different behaviours across funeral directors. Over the period 2006 to 2019, Dignity and Co-op both increased their prices by 5.3% on average per year (2.3% above inflation) while the other funeral directors<sup>972</sup> in the sample increased prices by 4.3% on average per year (1.4% above inflation). However, these trends reversed in the last two years. Between 2017 and 2019, Dignity and Co-op's prices levelled out and grew at 0.03% and 0.7% on average per year, respectively (falling by -2.8% and -2.1% per year in real terms, respectively), while the other funeral directors in the sample increased prices by 3.8% per year on average (rising by 0.8% per year in real terms).
- 7.31 We set out in Section 5 and Appendix N that there is generally a hierarchy of different pricing observed, with Dignity pricing at a premium, Co-op pricing somewhat lower and other funeral directors generally charging less than this (to varying degrees). This is broadly reflected in our pricing data (although we note the average revenue per funeral of some Other Large funeral directors, and the average total revenue of some Smaller funeral directors, are above those of Dignity and Co-op).<sup>973</sup> The differential in prices appears to have become more acute over time (as the differing trends described above suggest). In a well-functioning market, we would not expect such a widening of price differences unless this reflected improvements in quality relative to lower priced providers.

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<sup>970</sup> CMA analysis of Royal London data. Q12: How much was the charge for the coffin or the shroud? Base: all who organised a funeral in the last five years (n=3,134) and Q11: How much was the charge for the limousine(s)? Base: all who organised a funeral in the last five years and had one or more limousines (n=1,980).

<sup>971</sup> As we do not have data prior to 2016 on these funeral directors, we cannot tell whether this represents a change in their behaviour or not.

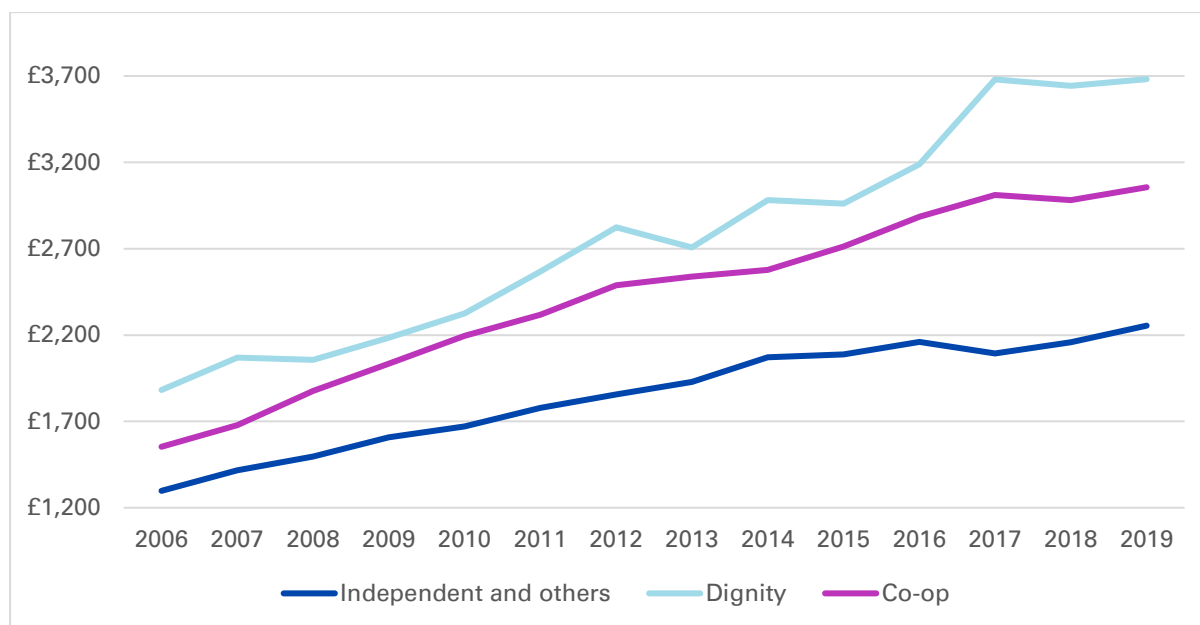
<sup>972</sup> That is, all funeral directors other than Dignity and Co-op.

<sup>973</sup> As shown in Figure 23, Dignity's average weighted ATR per funeral was lower than [redacted] of the Other Large funeral directors, [redacted] of the Smaller funeral directors [redacted], while Co-op's average weighted ATR per funeral was below that of [redacted] of the Other Large funeral directors and [redacted] of the Smaller funeral directors [redacted]. As set out in Appendix S, in 2018 Co-op and Dignity's average revenue per funeral was lower than [redacted] of the Other Large funeral directors.

- (a) Based on our analysis of SunLife data, the differential between Dignity, Co-op and others' prices fluctuated between 2006 and 2016, with Dignity having been between 6% and 23% more expensive than Co-op and 36% and 52% more expensive than the average of the other funeral directors in SunLife's sample over the period.
- (b) The gap widened significantly to 22% above Co-op and 76% above other funeral directors on average in 2017 and had only slightly narrowed to 20% above Co-op and 63% above others by 2019, thus remaining significantly higher than it had been historically.
- (c) In monetary terms, the gap between the nominal price of Dignity and funeral directors other than Co-op widened from £584 in 2006 to £966 in 2012 and £1,428 in 2019. It narrowed down by only £157 between 2017 and 2019. The gap between Co-op and Dignity grew from £329 in 2006 to £336 in 2012 and £626 in 2019, having peaked at £669 in 2017.<sup>974</sup>

7.32 This is shown graphically in Figure 21 below.

**Figure 21: Professional fees quoted by Dignity, Co-op and other funeral directors 2006 to 2019 (in nominal terms)**



Source: CMA analysis of SunLife data.

7.33 The price trends shown by SunLife data for Dignity and Co-op is aligned with our understanding of their pricing strategies, as set out in their internal

<sup>974</sup> In real terms (using 2018 as the base and deflating by RPI), the gap between the real price of Dignity and funeral directors other than Co-op widened from £830 in 2006 to £1,121 in 2012 and £1,392 in 2019. It narrowed down by £246 between 2017 and 2019. The gap between Co-op and Dignity grew from £467 in 2006 to £390 in 2012 and £610 in 2019, having peaked at £691 in 2017.



documents. We have not seen or heard any suggestion that the annual price rises they implemented across their portfolio of branches were justified by a drive to raise quality relative to competitors across their existing businesses. We note that:

- (a) Price rises well in excess of general inflation were a core part of Dignity's strategy for a considerable period of time. An analyst report of March 2018 notes that Dignity's business risk profile was historically considered satisfactory due to its strong reputation, successful acquisitions and price increases to maintain market share.<sup>975</sup> When challenged by a customer about increases in its prices in the six years to October 2017, Dignity responded: 'It has been the Board's policy, over the last six years to increase funeral prices by circa 7% per annum.' A competitor of Dignity ([X]) noted [X] that a policy of 7% price rises had been in place at Dignity since 2002 (the year it was created through a management buyout). This competitor commented that [X]. Long-term growth in average revenue per funeral (as reported in Dignity's annual report) is broadly consistent with this, although it is slightly lower (at 5% in the 10 years to 2017). Dignity's own management told their Board in late 2017: 'For over 15 years we have pursued a policy that holding the line in our pricing was more important to us than the degree of volume erosion we suffered as a result. This was built on the observation that clients were likely to rely heavily on previous experience and recommendation when choosing a funeral director.'
- (b) Co-op took the decision to follow Dignity's lead and increased its prices by a similar annual rate, noting that only 8% of customers shopped around. [X].
- (c) Funeral Partners stated that typically, annual price increases had been implemented across the board, but this year (speaking in 2019), more than in previous years, Funeral Partners implemented price reductions (in response to local competitive price pressure), along with marginal price increases and standard price increases (to suit local markets and to cover increased costs).<sup>976</sup> It noted that in 2019, decreasing average revenue per funeral was driven by the increased focus on price in the market and publicity around the CMA.<sup>977</sup> For Funeral Partners, centrally decided price increases of £100 and £150 were applied across all their price bands in 2015 and 2016 respectively, with an increase of between £100 and £200

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<sup>975</sup> S&P Global Ratings, 22 March 2018.

<sup>976</sup> [Funeral Partners hearing summary](#) paragraph 12.

<sup>977</sup> This is discussed further at paragraph 5.121.

in 2017.<sup>978</sup> In 2018, it noted that Co-op and Dignity used to be more expensive than Funeral Partners but that the ‘landscape’ had changed in the previous 24 months, with Co-op and Dignity’s marketing, the CMA and associated press highlighting prices – it noted ‘Its [price] never been a big issue before, others are making it an issue’. As a result, it moved to a more ‘tactical’ pricing approach as noted above and in Section 5.

- (d) Co-op reappraised its strategy in late 2015, as discussed in paragraph 5.105 and Appendix I paragraphs 4 to 21, while Dignity changed its strategy in 2018, [§]. These changes in policies have been at least partially driven by a recognition their prices had become out of line with other providers.<sup>979</sup>

- 7.34 In our evidence gathered from interviews with smaller funeral directors, there were various approaches to setting prices. Ensuring the firm’s price was not out of line with others in the area or ensuring prices were ‘fair’ was mentioned in interviews, but with greater focus on covering costs (see Appendix H paragraph 181). Similar factors were mentioned by regional co-ops (Appendix H paragraphs 178 to 180).

#### *Simple funeral price levels*

- 7.35 We have separately examined recent levels and trends in simple funeral prices, because of the increased focus that Co-op and Dignity in particular have placed on these types of funerals. As noted previously in paragraphs 5.110 and 5.120, such funerals can be significantly cheaper than standard funerals, but also come with a range of restrictions.
- 7.36 For this analysis, we used data gathered by price comparison website Your Funeral Choice, which relates to the price of a specified simple funeral,<sup>980</sup> for the period 2014 to 2018.<sup>981</sup> This dataset indicates the average price in 2018 was around £1,900, with an interquartile range of £1,800 to £1,995.

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<sup>978</sup> It also increased the number of price bands over this period, which would affect pricing implemented in different homes.

<sup>979</sup> In its Hearing Co-op stated it considered [§]. Dignity said that it had significantly reduced its prices because the decline in its volumes had shown that its pricing was in the wrong place ([Dignity hearing summary](#) paragraph 35).

<sup>980</sup> It specifies that a simple funeral includes the funeral director fees for meetings, paperwork and running the funeral; the collection of deceased and care prior to funeral; a hearse or appropriate vehicle for transport to the funeral and a basic coffin.

<sup>981</sup> Results presented here reflect funeral directors present throughout the period and removing those showing high volatility in the data (year-on-year changes of more than 30%).

- 7.37 We gathered data on average revenues for simple funerals from the three Largest funeral directors and two of the regional co-ops.<sup>982</sup> The average revenue per simple funeral for the regional co-ops from whom we received information were [£1,500-£2,000] combined (or £[£] and £[£] for Central England Co-op and East of England Co-op respectively), while for the three Largest funeral directors it was slightly higher than this at around £[2,000-2,500], likely reflecting the fact that customers added further products/services to those included within the simple package headline price.<sup>983</sup>
- 7.38 By contrast, a survey of SAIF members that gathered data on average revenue per funeral for a 'basic' funeral (which appears to be closer to the specification of a simple funeral than a standard funeral) found that professional fees (excluding disbursements) were on average £1,676. Further detail is provided in Appendix N paragraphs 83 to 87.
- 7.39 These datasets therefore indicate overall the level of simple prices to be in the region of £2,000, although can be lower than this (as indicated by data provided by SAIF). As noted in paragraphs 7.58 to 7.60 and Appendix O, there is however a wide variation in prices from different providers.

#### *Simple funeral price trends*

- 7.40 We do not have data on simple funerals for earlier periods in the same way as for standard funerals (although we also note that they represented a very small proportion of funerals prior to 2014 – see paragraphs 5.116 to 5.118). We therefore do not know to what extent the trends described below are long running, or whether they reflect recent changes by some providers in the way discussed for standard funerals above. Table 32 shows the average price for different providers or groups of providers defined by Your Funeral Choice.<sup>984</sup>

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<sup>982</sup> Southern Co-op records all at-need funerals as standard funerals and so is excluded from this analysis. Midcounties Co-op provided revenue and volume figures, but due to our concerns over how it reported disbursements between funeral types, it has been excluded from this analysis. Other funeral directors from whom we requested information generally did not break down the data by package type such that we could reliably split out simple volumes and revenues.

<sup>983</sup> The difference is greatest for Funeral Partners, whose average price is listed at £1,815 in Your Funeral Choice, but whose ARF was £[£] in 2018. This difference may also be due to the fact Funeral Partners charges different prices for simple funerals in different price bands, not all of which may be present in the Your Funeral Choice data. The differences for Co-op (price in Your Funeral Choice of £1,995 compared with ARF of £[£]) and Dignity (price in Your Funeral Choice of £2,001 compared with ARF of £[£]) are less substantial.

<sup>984</sup> Your Funeral Choice separately identifies 'small chains' (defined as having 5+ branches) and 'independent' funeral directors (those with less than 5 branches). We have identified Funeral Partners branches from within the 'small chain' group.

**Table 32: Mean price for simple funeral by company type accounting for churn and volatile data<sup>985</sup>**

	<i>Co-op</i>	<i>Dignity</i>	<i>Funeral Partners</i>	<i>Small chain</i>	<i>Independent</i>	<i>Comb.</i>
2014	£2,068 (£2,275)	£2,561 (£2,817)	£1,560 (£1,716)	£1,857 (£2,043)	£1,719 (£1,891)	£2,008 (£2,209)
2015	£2,055 (£2,239)	£2,562 (£2,791)	£1,590 (£1,732)	£1,888 (£2,057)	£1,745 (£1,901)	£2,021 (£2,202)
2016	£1,997 (£2,137)	£2,552 (£2,731)	£1,639 (£1,754)	£1,932 (£2,068)	£1,772 (£1,897)	£2,026 (£2,168)
2017	£1,995 (£2,062)	£2,266 (£2,342)	£1,755 (£1,814)	£2,018 (£2,085)	£1,801 (£1,861)	£1,991 (£2,057)
2018	£1,995 (£1,995)	£2,001 <sup>986</sup> (£2,001)	£1,815 (£1,815)	£2,051 (£2,051)	£1,809 (£1,809)	£1,942 (£1,942)
Sample size	376	400	6	383	635	1800
CAGR 2014-2018	-0.9% (-3.2%)	-6.0% (-8.2%)	3.9% (1.4%)	2.5% (0.1%)	1.3% (-1.1%)	-0.8% (-3.2%)

Note: The prices in real terms are in brackets, using 2018 as the base year and adjusted for the Retail Price Index (RPI) sourced from [ONS](#).

7.41 As set out in Table 32, simple funeral prices averaged across all funeral directors in the Your Funeral Choice dataset decreased by -0.8% on average per year (-3.2% adjusted for inflation) between 2014 and 2018.<sup>987</sup> However, different funeral directors displayed different trends.

- (a) Co-op's simple funeral price remained constant between 2014 and 2015, decreased between 2015 and 2016, and remained constant between 2016 and 2018 (representing an average decline of -3.2% over the period 2014 to 2018 when adjusted for inflation).
- (b) Dignity's simple funeral price remained constant between 2014 and 2016 (representing a fall of -1.5% adjusted for inflation) before decreasing between 2016 and 2018 (an average of -11.5%, and -14.4% adjusted for inflation).

<sup>985</sup> We removed branches which were not present in each year between 2014 and 2018. There were 13 branches which were removed from the analysis due to being duplicate data. Values with year on year price changes of greater than 30% were removed from the analysis due to the likelihood of misreporting prices, this affected only a small number of branches (11 out of 1,811).

<sup>986</sup> In 2018 Dignity changed all of its simple funerals to a national price of £1,995, the slightly higher average shown in the Your Funeral Choice data is likely due to some data for 2018 being collected before the national price change. Average price in 2019 was £1,995 which is consistent with other information gathered on Dignity's simple funeral prices.

<sup>987</sup> We note that Co-op and Dignity branches make up a disproportionate number of branches in this dataset compared with their market share (accounting for 43% of the branches in the dataset).

(c) 'Independents' and 'small chains' (as defined by Your Funeral Choice) saw simple funeral price increases on average between 2014 and 2018, albeit the former by less than inflation.<sup>988</sup>

7.42 This is consistent with what we observe in the average revenue per funeral (excluding disbursements) of the largest funeral directors for simple funerals (see Table 33).

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<sup>988</sup> Funeral Partners increased by more than inflation (1.4% real CAGR), but this is based on a very small number of its branches.

**Table 33: ARF for simple funerals for three Largest funeral directors**

	ARF (£)			
	Co-op	Dignity	Funeral Partners	Combined
2013	[3<] (3<)	[3<] (3<)	[3<] (3<)	[2.0-2.5k] (2.0-2.5k)
2014	[3<] (3<)	[3<] (3<)	[3<] (3<)	[2.0-2.5k] (2.5-3.0k)
2015	[3<] (3<)	[3<] (3<)	[3<] (3<)	[2.0-2.5k] (2.5-3.0k)
2016	[3<] (3<)	[3<] (3<)	[3<] (3<)	[2.0-2.5k] (2.0-2.5k)
2017	[3<] (3<)	[3<] (3<)	[3<] (3<)	[2.0-2.5k] (2.0-2.5k)
2018	[3<] (3<)	[3<] (3<)	[3<] (3<)	[2.0-2.5k] (2.0-2.5k)

Note:

- (1) Includes Funeral Partners' Basic and Essential funeral packages. Does not include Dignity's Limited funeral. Note that this takes into account Dignity's miscellaneous invoices.
- (2) The price in real terms are in brackets, using 2018 as the base year and adjusted for the Retail Price Index (RPI) sourced from [ONS](#).

7.43 Table 33 shows that:

- (a) Between 2013 and 2015, Co-op's average revenue per simple funeral grew at an average of [X]% ([X]% in real terms), before being reduced in 2016 by [X]% ([X]% in real terms), and remaining level between 2016 and 2018 ([X]% in real terms).
- (b) Dignity's average revenue per simple funeral grew between 2013 and 2017 at an average of [X]% ([X]% in real terms), and significantly decreased in between 2017 and 2018 by [X]% ([X]% in real terms).
- (c) Funeral Partners had the lowest average revenue per simple funeral in 2013 compared with Co-op or Dignity, before it grew considerably between 2013 and 2016 ([X]%, or [X]% in real terms), decreased between 2016 and 2017 ([X]%, or [X]% in real terms), and grew to a lesser extent in 2017 and 2018 ([X]%, or [X]% in real terms).

### *Cost drivers*

- 7.44 In a well-functioning market, generalised increases in prices may be expected in response to industry-wide increases in costs, while individual firms would be unable to increase their prices in response to firm-specific cost increases as customers would switch to lower priced firms (all else equal). However, our review of financial information and internal documents of the Large funeral directors does not support the finding that the price increases observed are justified by industry-wide operating cost pressures.

- 7.45 First, as set out from paragraph 7.168, we have found that the Large funeral directors, as a group, have persistently made returns significantly in excess of their cost of capital. This indicates that, rather than reflect movements in costs, prices have in fact remained significantly above costs throughout the period.
- 7.46 Second, the evidence we have received from smaller funeral directors indicates that industry-level cost inflation has been in line with the general economy.<sup>989</sup> Similarly, the investment appraisals prepared by the Largest funeral directors in relation to the acquisitions of existing firms and/or the opening of new branches carried out over the past few years used an inflation figure which was in line with that of general inflation. This suggests that their experience of the industry is one in which costs rise in line with the level of inflation rather than increasing in real terms.
- 7.47 Commenting on the Market Study report, Co-op told us it had needed, in 2018, to undertake a programme of investment, largely impacting two main cost categories – property costs and transport costs – as a result of increased competition. It later clarified that these decisions were taken in response to increasing levels of competition combined with an increase in focus on quality, as well as a need to serve members where they live.<sup>990</sup> We are not persuaded by this argument.
- (a) Co-op's higher property costs are, to some extent, affected by its strategy of opening new branches during this period. This was a commercial strategy specific to Co-op rather than being a necessary response to changes in general competitive conditions.
  - (b) More generally, we note that property costs (the second largest cost item for firms after staff) have experienced low inflationary pressures. Retail rents on average have been stable over the 10 years to 2016 and business rates have increased at a rate broadly similar to inflation.<sup>991</sup>
  - (c) With respect to transport costs, we note that internal documents provided by Co-op suggest [§]. Co-op told us that such investment enhances its competitive offer. However, we consider that, while some investment in vehicles may be required for general upkeep, any such increase in

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<sup>989</sup> [Funerals Market Study Final Report](#), par 6.11. While a couple of smaller funeral directors mentioned that they had experienced increased staff costs, these did not appear to us to be industry-led cost pressures.

<sup>990</sup> [Co-op: Response to PDR](#), para 6.22.

<sup>991</sup> [Property Data Report 2017](#), page 14

transport costs is again likely to be specific to Co-op rather than the result of general competitive dynamics with an impact on most/all firms.

- 7.48 Some parties have argued that key drivers of price rises have been increases in the amount of time that the deceased is in the funeral director's care (requiring increased storage capacity)<sup>992</sup> and personalisation of funerals,<sup>993</sup> as well as other factors such as the increase in obesity levels<sup>994</sup> and bad debts.<sup>995</sup>
- 7.49 We recognise that the amount of time that the deceased is in the care of a funeral director has increased. However, we have heard from a number of smaller funeral directors in the course of our site visits that the time between death and a funeral has increased from five days to 10 because of changes to the registration process and the need to obtain two doctors' certificates for the purpose of cremation, which would only partially account for the increase in time in care reported by the Largest funeral directors, which we have heard may be at least partly due to the way they operate their business, rather than industry-wide issues.<sup>996</sup> In addition, in some internal documents, Co-op identified time in care as a key performance indicator and emphasised it as a target for staff, demonstrating that the firm considers it to be a metric which is to some degree within the control of the funeral director. The evidence demonstrates that management discipline can have a significant impact on the underlying time in care, with emails between staff noting that time in care can be reduced as a result of improved 'culture and mindset', and even demonstrating a fall of time in care from more than 30 days to less than 20 as a result of: (i) booking a date as soon as the first call is received from the family (prior to making the remainder of the funeral arrangements), and (ii)

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<sup>992</sup> [REDACTED], Dignity emphasised that the time between death and the funeral had increased by 10 days to 20 days in recent years and that some bodies are held for around a month, which is a major reason for rising costs. This was also raised by a small funeral director which stated 'The length of time in our care is increasing and DOES effect cost' (as it means that it needs to liaise with the family over a prolonged period of time, may need to take additional measures for care of deceased (embalming, more use of chemicals or body bags) and need additional fridge space). Co-op similarly noted that time in care will differ with different funeral directors, suggesting that funeral directors with more appropriate facilities bring the deceased into their care more quickly after the date of death, whereas others leave the deceased in third party mortuaries for longer periods of time. (Co-op: Response to PDR, paragraph 6.22).

<sup>993</sup> The NAFD has argued that this has increased the amount of time required to organise a funeral. A small funeral director ([REDACTED]) highlighted that it takes a lot longer to discuss with a family the different options for who would lead the funeral service; that choice of bespoke coffins (with relevant design time and individual carriage costs), printing requirements, advanced AV facilities, downloading music for families, taking special routes to attend extended funeral services all adds to the time required; that families now want the telephone answered rather than being content to leave a message; and that they now stock a wider range of standard coffins plus special order options. Co-op told us that personalisation requires significant staff time as it involves close dialogue with the client that leads to solutions and actions that are specific to each particular case. It noted that this cost can therefore not become more efficient over time. (Co-op: Response to PDR, paragraph 6.23).

<sup>994</sup> NAFD response to the Market Study statement of scope.

<sup>995</sup> NAFD hearing summary, paragraphs 4 and 5.

<sup>996</sup> We have seen evidence from internal papers of [REDACTED] and [REDACTED], and heard from former employees of the Largest firms, that the Largest firms' process inefficiencies are likely to be a material cause of their much longer time in care (compared to smaller firms) and, in particular, scheduling assets and staff across several branches.



tracking progress of the arrangements of funerals where the deceased has been in care for over 21 days without a funeral date.

- 7.50 In any event, we do not consider that increased time in care would be a large driver of costs, based on estimates of daily mortuary costs from a supplier of such services [REDACTED].
- 7.51 With regards to the personalisation of funerals, we are not persuaded that this results in a significant increase in costs:
- (a) First of all, as described in paragraphs 3.160 to 3.168, many aspects of personalisation relate to the type of ceremony carried out and personal touches that people bring to the proceedings. There is no reason why such changes should have a material impact on the cost of the funeral director services.
  - (b) We recognise that the role of funeral directors may have had to change in recent years and find more compelling the argument that the skill set required to fulfil the role is changing, as it involves a shift from the pomp and circumstance of a formal procession to the use of technology to assemble PowerPoint presentations or music files. Such changes, however, do not appear to be drivers of cost per se – indeed, this type of change could easily result in reduced costs<sup>997</sup> once the transition in ways of working has been managed.
- 7.52 Finally, we have also heard views that increases in factors including obesity and bad debt have been further contributions to increasing cost-bases. With respect to bad debts, we note that this is something that firms are able to manage in the normal course of business. For example, we have seen evidence that funeral directors ask for upfront payments when they are concerned about the ability of customers to pay.<sup>998</sup> We recognise that the rising rates of obesity may increase some costs, eg increasing the number of pall bearers required; the potential need for some larger refrigeration units and bariatric stretchers.
- 7.53 Overall, we consider that there are some areas where costs may have increased in real terms (ie more rapidly than inflation) but these will be mitigated by other areas, such as retail property rents, where costs have risen more slowly. Therefore, consistent with the evidence we collected from a number of small funeral directors, we find that (efficient) costs across the industry are likely to have increased broadly in line with inflation rather than

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<sup>997</sup> To illustrate this point, we note that live music performed by organists (which used to be the norm at funerals) has been largely replaced by streamed music content.

<sup>998</sup> This was explained in interview with [REDACTED].

more rapidly. This finding is consistent with our finding of persistently high levels of profits (see profitability analysis below).

### *Summary*

- 7.54 Based on the evidence from SunLife (the longest time-series data available), supported by evidence from the internal documents of the Largest providers, prices for standard funerals increased substantially for at least 10 years until 2016. In more recent years, prices for standard funerals have been increasing more slowly. A change in behaviour is particularly noticeable with regard to Co-op and Dignity, with their standard prices [X] reducing in real terms since 2016 (albeit at a slower rate than their initial increases). Prior to 2016, these funeral directors' prices had been increasing faster than many other funeral directors on average. The datasets we have on the pricing behaviours of other funeral directors show less clear trends: data from SunLife indicates other funeral directors have on average continued to increase standard funeral prices but at a slower rate since 2016, and Beyond data indicates prices from some other funeral directors have overall increased less than inflation since 2016.<sup>999</sup> Average revenues across all funerals from Other Large and Smaller funeral directors from whom we have collected data show no particular change in trend more recently. Overall it is not clear the recent changes in pricing approach by Co-op and Dignity for standard funerals reflect a change in the market more widely.
- 7.55 The long-term sustained levels of price inflation we have described are consistent with a competitive process that does not work well, unless it can be explained by significant and on-going cost pressures on the industry. Our analysis does not indicate the existence of such significant cost pressures in this case.
- 7.56 The prices of simple funerals have decreased in recent years, particularly for the largest funeral directors since 2016 or more recently, but they currently account for a minority of funerals, as discussed in Section 5.
- 7.57 Although we recognise that this analysis does not control for factors such as the quality of the services being provided, or local factors which may drive price differences between providers, when combined with other analyses set out in this Section, it points towards a lack of effective competitive pressures on pricing across the UK as a whole.

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<sup>999</sup> The Beyond data indicates some lower priced providers have reduced prices since 2017, although we do not have information as to what had happened to these providers' prices previously and so how far this represents a change in trend.

### *Price differentials within local areas*

- 7.58 As noted above, in the provision of funeral director services, there is a degree of differentiation between funeral directors in terms of the product range and quality offered, as well as of geographic location. We have undertaken analysis to compare prices between funeral directors by ‘controlling’ for some of these differences to the extent possible, namely the product range, as we compare prices for simple and standard funerals separately, and the location, as we compare prices for funeral directors located in the same local area and thus likely to face similar demand and cost conditions. We do not, however, control for quality differences (we discuss in paragraphs 7.105 to 7.108 below how far there is a link between price and quality).
- 7.59 We would expect to observe a degree of price differentiation between funeral directors in a well-functioning market where customers are shopping around.<sup>1000</sup> However, we consider that when the price differential for a comparable product<sup>1001</sup> between funeral directors in the same local area is large, cost/quality differences may not fully explain the differential. This may rather reflect a lack of shopping around and, hence, of market signals, which leave funeral directors to make their own judgments as to how to meet customer needs (including through their pricing decisions) as described in Section 5 and paragraph 7.34.
- 7.60 Our analysis of price differentials is set out in more detail in Appendix O. We have separately analysed the degree of price dispersion for simple and standard funerals within local authority areas, using data from price comparison websites (Your Funeral Choice and Beyond respectively) for the period January 2018 to May 2019. Price dispersion is measured by the difference between the maximum and minimum price observed for funeral directors (in the datasets) within these local authority areas.<sup>1002</sup> This analysis indicates that:
- (a) The average price dispersion across all areas was around £750 for simple funerals and £700 for standard funerals when Dignity’s prices are excluded.<sup>1003</sup>

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<sup>1000</sup> By customers shopping around, we mean customers actively seeking the lowest priced offer for any given level of quality.

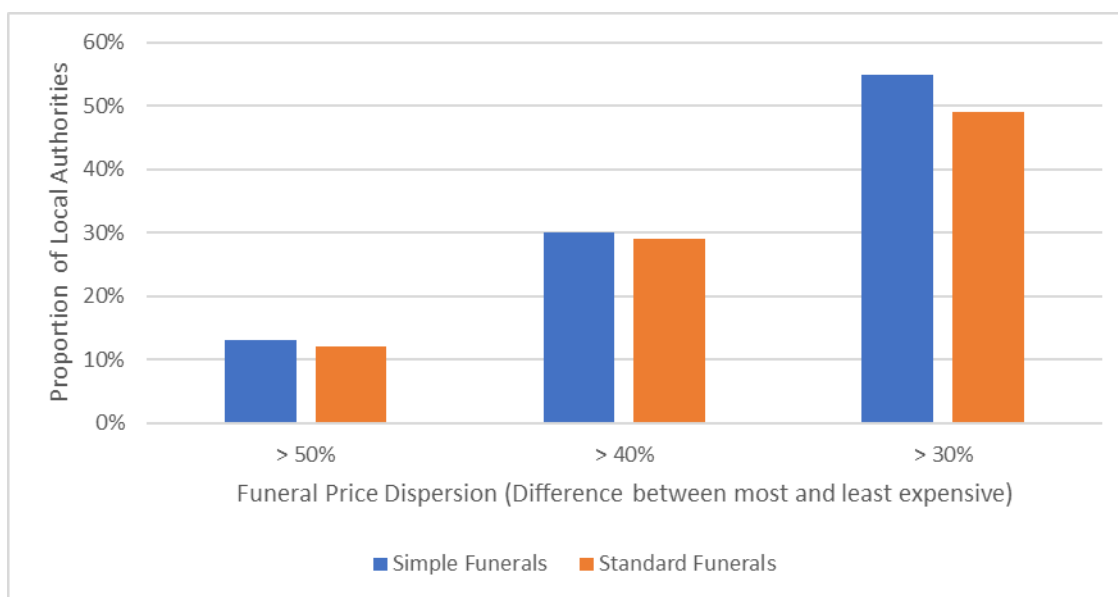
<sup>1001</sup> For standard funerals we control for what is included in the product, while prices for simple funerals are gathered in relation to a specified funeral product, see Appendix O for further information.

<sup>1002</sup> We have focused on areas which have at least three funeral director branches to ensure the statistics are meaningful.

<sup>1003</sup> The price dispersion for standard funerals where Dignity’s prices are included was significantly higher (around £1,700). As set out in Appendix O, we have some concerns around the data for Dignity in the Beyond dataset and so put more weight on results excluding Dignity. In particular, Dignity’s prices have been included

(b) Across both simple and standard funerals, we found that price dispersions are large across a high proportion of the local authority areas. The results of this analysis are shown in Figure 22. This shows the proportion of local authorities where the difference between the most and least expensive funeral director is above a certain threshold. For example, the far right-hand bar shows that in almost 50% of local authorities, the percentage difference between the most and least expensive standard funeral was greater than 30%.

**Figure 22: Summary of price dispersion across different local authorities**



Source: CMA analysis of Your Funeral Choice and Beyond data

Notes:

(1) Only local authority areas with 3 or more funeral director branches are included.

(2) Average standard funeral price dispersion excludes Dignity branches and includes the period January 2018 to May 2019.<sup>1004</sup>

(3) Average simple funeral price dispersion includes the period January 2018 to May 2019.

7.61 The magnitude and widespread nature of the price differentials may indicate that customers generally are not shopping around such that lower priced funeral directors are not constraining higher priced funeral directors. We note that the magnitude of the price differential may be somewhat underestimated, given it may be missing price data that could affect the price dispersion statistics, and relates to funeral directors that are likely to be positioned

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through mystery shopping and therefore may be out of date, and Dignity had a complaint to the Advertising Standards Authority upheld regarding the inaccuracy of its prices on Beyond's website. Further, as described in Appendix O, we have noted that the price dispersion for simple funerals is larger than for standard funerals. This may be due to the smaller number of funeral directors included in the Beyond dataset, meaning there may be a greater number of missing funeral directors which may affect the results. We place less reliance on the exact figures calculated for the price dispersion than on the observation that these appear material.

<sup>1004</sup> The version of this chart published in the PDR included Dignity branches in the standard funeral price dispersion analysis. We have replaced this with the analysis excluding Dignity branches.

towards the lower price-end of the market.<sup>1005</sup> We recognise that the boundaries of each local authority area may not correspond with what we would normally regard as an economic market, such that we may be comparing prices across branches which face somewhat different demand or supply conditions, but we would not expect any such differences within or between neighbouring authorities to fully account for such wide price differentials.

- 7.62 Although we recognise that there are some limitations to this analysis (noted above in paragraph 7.58 and in Appendix O), when combined with other analyses set out in this Section, it points towards a lack of effective competitive pressures on pricing at the local level that is widespread across the funeral directors markets.<sup>1006</sup>

### ***Quality***

- 7.63 In contrast with prices, objective data on levels of (and trends in) the quality of funeral director services is harder to identify. 'Quality' is multi-dimensional: there are tangible aspects (such as premises and vehicles) and intangible ones (such as staff quality); some aspects are observable, while others are not. Many of these aspects are hard to quantify, and/or differences between them across suppliers are hard to measure. Where this is the case, we consider other evidence relating to the quality of provision.
- 7.64 We set out below evidence on the levels of quality outcomes in relation to 'front of house' and 'back of house' services, and on quality differentiation between providers. We have used evidence from a wide variety of industry sources, as referred to below.

### ***Front of house quality***

- 7.65 In relation to those aspects of quality that customers can observe, the evidence from the sector as a whole suggests that most customers are

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<sup>1005</sup> As noted above, lower priced funeral directors have a greater incentive to list themselves on a price comparison website, which would give rise to self-selection bias. Further, we have not included Dignity branches in the figures for standard funerals, which are generally at the higher priced end of the market.

<sup>1006</sup> Co-op stated that the CMA analysis aims only at identifying the existence of a certain degree of price dispersion; it does not contain any concrete evidence on whether (and how) these differences in prices translate into an adverse effect on competition (Co-op: Response to PDR, Annex 1 paragraph 6.8). As noted above we consider that this analysis, when combined with other analyses set out in this Section, points towards a lack of effective competitive pressures on pricing at the local level - that is, the levels of price dispersion observed are the result of a lack of effective competitive pressure (as discussed at paragraph 7.59), rather than the cause.

satisfied with the service they receive, although a small proportion express some dissatisfaction.

7.66 Evidence relating to the sector as a whole includes:

- (a) Nearly nine in 10 respondents to our Market Investigation consumer survey (89%) considered that the funeral director they used had met their service expectations in full or had exceeded them.<sup>1007</sup> In this context, four in five respondents (79%) said they had recommended or would recommend their funeral director to someone else.<sup>1008</sup> Similarly, nearly all of the participants in the Market Study consumer research had no complaints about the funeral directors they used.<sup>1009</sup>
- (b) A small number of complaints are either made to, or dealt with by, funeral industry bodies: SAIF provided details of 48 complaints; and around 200 complaints made to the NAFD were dealt with under the Funeral Arbitration Scheme in 2018. This figure is set against the approximately 500,000 at-need funerals supplied annually, although the number of complaints could be expected to be low given likely low awareness of the industry bodies, and because less serious complaints are less likely to reach them.

7.67 These findings are consistent with the Largest funeral directors' monitoring of their own customers' satisfaction through written questionnaires and follow-up telephone calls. Each of the Largest funeral directors reported high satisfaction levels.<sup>1010</sup>

7.68 We consider that customer satisfaction scores can have limitations in the context of funeral director services. Customers are often inexperienced purchasers and may not know how to assess service standards since they may have no alternative experience to compare against. Furthermore, there may be a reluctance amongst customers to admit that a funeral was below their expectations, given the sensitive nature of the purchase. This would cause reported satisfaction rates to be particularly high.

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<sup>1007</sup> [Market Investigation consumer survey](#), Tables 262-264, Question FD41. Base: all UK adults 18+ involved in making at need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279). A third of respondents (32%) said the funeral director had *met and exceeded* their expectations, while 57% said their expectations had been *met in full*.

<sup>1008</sup> [Market Investigation consumer survey](#), Tables 265-267, Question FD42. Base: all UK adults 18+ involved in making at need burial or cremation funeral arrangements since J/A/S/O 2017 who used a funeral director (n=279).

<sup>1009</sup> [Market Study consumer research](#), paragraph 4.5.5

<sup>1010</sup> See Appendix P, paragraphs 2 to 4.

- 7.69 In addition, we note that consumers' ability to assess quality may be impaired by the stress they are under as well as their limited experience of arranging a funeral. Academic evidence highlights that it may be difficult to assess the quality or value of a funeral given its various ceremonial and symbolic aspects, and that purchasers feel under pressure to conform and to get it right.<sup>1011</sup> As noted earlier, Korai and Souiden state that, 'because the services are non-recurring and consumers want the painful process to end quickly, post-purchase evaluation is often neglected.'<sup>1012</sup>
- 7.70 As a result of the factors discussed above, it is also possible that concerns among customers may be under-reported to some extent (for example, because of the psychological cost of thinking about what went wrong). Nevertheless, while we recognise the limitations of the evidence available, overall it does not suggest widespread serious concerns around the front of house (observable) quality provided by funeral directors.

#### *Back of house quality*

- 7.71 In this section we consider the evidence we have gathered on the quality of back of house aspects of funeral directors' services.
- 7.72 As discussed earlier (at paragraph 5.168), where quality is not observable by customers (even after the purchase), suppliers' incentives to invest in quality may be significantly dampened. Suppliers may also choose to invest in more observable aspects of quality at the expense of less observable ones.
- 7.73 In the case of funeral director services, customers are to a large extent not aware of back of house quality and appear to be purchasing funeral director services on the assumption that certain minimum quality standards are in place, and in particular, that the industry is regulated. As noted earlier, research conducted for the CMA found that 69% of respondents believe funeral directors to be regulated or licensed.<sup>1013</sup> The understandable customer reluctance and/or inability to engage with back of house quality (for example seeking to inspect the areas in which the deceased is prepared and stored), combined with an incorrect expectation that this is an aspect of quality subject to independent regulation, means that there is little direct customer pressure on funeral directors to maintain back of house quality of standards.

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<sup>1011</sup> See discussion in Section 3 in relation to the impact of inexperienced consumers and social pressures on consumer interaction with the funeral process (paragraphs 3.49 to 3.68).

<sup>1012</sup> Korai, B. and Souiden, N. (2017). Rethinking functionality and emotions in the service consumption process: the case of funeral services. *Journal of Services Marketing*, 31(3): 247-264.

<sup>1013</sup> See paragraph 3.134(b).

- 7.74 Suppliers may choose to invest in quality, and sacrifice potential profit, for reasons other than competitive pressure, for example, ethical considerations or a sense of duty to customers or staff. We recognise that many funeral directors do make investments in order to provide what they judge to be an appropriate level of quality and respect in the treatment of the deceased. However, there is evidence to suggest that not all funeral directors do this and, in any event, in the absence of effective market signals and/or effective external monitoring and inspection, there will not necessarily be any correlation between price and quality, and customers will be unable to rely on appropriate quality standards being observed.
- 7.75 We have collated a range of evidence: from inspections and audits carried out by the NAFD, SAIF, the Scottish Inspector of Funeral Directors, and some of the Largest funeral directors; from customer complaints; and from submissions made to us by funeral directors, embalmers, and other industry participants on funeral directors' back of house standards of quality.
- (a) We received a significant number of submissions from a wide range of funeral directors, and from industry observers alleging failings in the back of house standards at some funeral directors. Moreover, complaints data from the Largest funeral directors and from the trade bodies show that their customers sometimes raise concerns in relation to the care or presentation of the deceased, or of their possessions or cremated remains, and that this can be very distressing when it occurs.
  - (b) The Scottish Inspector of Funeral Directors, in conducting premises inspection audits, identified 'departures from common or good practice in relation to the care of the deceased, record keeping, training and experience of staff, identity checks, authorisation and permissions', although the annual report, and the underlying individual reports, do not lend themselves to quantifying the extent of these incidents.<sup>1014</sup>
  - (c) The inspections by the NAFD and SAIF do not identify widespread problems amongst their members' facilities, but some industry participants have commented that the inspection regimes of the NAFD and SAIF do not place enough emphasis on back of house facilities, and as a result leave some scope for their members to have poor back of house facilities.

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<sup>1014</sup> 'Annual Report Inspector of Funeral Directors July 2017–18' (Published August 2018, Scottish Government) page 8.



Moreover, around 25% of funeral director branches are not members of a trade association and are therefore not subject to inspections.<sup>1015</sup>

(d) Other respondents have argued that a lack of sufficient training in the industry is harming quality.<sup>1016</sup>

7.76 We summarise below the evidence we have received about alleged poor back of house standards, primarily covering issues relating to hygiene, including the lack of:

- Appropriate vehicles and equipment for transfer of the deceased;
- a clean and clinical environment to prepare the deceased;
- adequate mortuary/storage facilities;
- refrigeration; and
- appropriate ventilation and drainage facilities in the cases where embalming is performed on the funeral director's premises.

For further details see Appendix P.

7.77 We have also heard about instances of a lack of dignity in the treatment of the deceased including poor identification procedures and the deceased not being dressed in the clothes provided by their family.

#### *Comments on back of house quality levels*

7.78 A number of funeral directors and other industry participants, including the trade associations, told us that some funeral directors are, or may be, providing low quality back of house services, although only some were able to provide supporting evidence.

7.79 In interpreting the comments made to us, we are mindful of the fact that existing funeral directors may have an incentive to criticise their actual or potential competitors, and to raise barriers to entry (for example, by raising concerns that suggest the need for licensing). There is also an element of subjectivity, and room for disagreement, over what constitutes poor quality in the absence of universally recognised minimum standards.

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<sup>1015</sup> [Funerals Market Study Final Report](#), paragraph 2.50.

<sup>1016</sup> See Annex 2 of Appendix P.

- 7.80 We are aware that back of house quality is difficult for third parties to assess and therefore one has to rely on evidence from those who have access to back of house facilities (such as from current and former employees, acquirers of businesses, embalmers, and evidence reported in ‘undercover’ media investigations). Such evidence is likely to be qualitative. Nevertheless, where the same sort of concerns repeatedly arise they must be given proper weight. We have received evidence from a broad range of firms and individuals, including relatively new entrants, that at least some funeral directors are perceived by others as providing unacceptable levels of quality in relation to their back of house facilities and processes.
- 7.81 Co-op argued that, ‘the quality of service provided to consumers and the standard of care for their loved one is very inconsistent across the industry, with some funeral directors focusing on low prices at the expense of the quality of service and standard of care they offer [...]. In our view, the inadequate level of quality in the market, particularly for the unobservable aspects which take place behind the curtain, constitutes a market failure’.<sup>1017</sup> In support of this view, Co-op told us that it has received anecdotal evidence of poor standards in the course of mystery shopping exercises in preparing business cases for new openings.<sup>1018</sup>
- 7.82 We also note that Co-op itself has sometimes been criticised for its back of house standards – for example, in media reports and in a small number of whistleblowing reports from its own staff which alleged some serious shortfalls. Co-op itself has told us that: ‘... across the network, we have [X]. We are completely honest about that. We recognise that. We do not enjoy reading those reports which are not at the standards we would expect.’<sup>1019</sup>
- 7.83 Dignity submitted that: ‘certain aspects of quality (such as care of the deceased and provision of safe mortuary facilities) may not be observable by customers. Lower quality suppliers may not, therefore, be supplying customers with the service that customers think they are receiving. Dignity believes that the CMA will find that there is sufficient evidence to support the introduction of minimum quality standards to address this issue, particularly in relation to unobservable factors’.<sup>1020</sup> Dignity also made comments based on its experience from past acquisitions.<sup>1021</sup>

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<sup>1017</sup> [Co-op response to the issues statement.](#)

<sup>1018</sup> As well as some poor front of house facilities.

<sup>1019</sup> See Appendix P, paragraph 13.

<sup>1020</sup> [Dignity response to the issues statement, paragraph 4.9.](#)

<sup>1021</sup> See Appendix P, paragraphs 15 to 16.

- 7.84 As with Co-op, Dignity has received some criticism from the media; we also heard a small number of criticisms from ex-employees and embalmers, suggesting below-standard back of house facilities in two parts of the UK, and [X] in another part of the country, and Dignity itself noted that it could improve in some areas.<sup>1022</sup>
- 7.85 Funeral Partners submitted that its business model of acquiring ‘independent’ funeral directors put it in a good position to comment on quality in the sector, and told us that it finds, ‘that although many independent funeral homes [it] acquires have ‘back of house’ standards commensurate with Funeral Partners’ quality, a number have lower standards ...’.<sup>1023</sup>
- 7.86 A number of the regional co-ops submitted that there are large variations in back of house standards, including providers who do not meet minimum acceptable standards.<sup>1024</sup> The main issues raised related to inadequate care and preparation facilities.
- 7.87 Both trade associations told us that it was known within the sector that there are funeral directors operating with unacceptably low standards of care.<sup>1025</sup>
- 7.88 Some of the smaller funeral directors we spoke to, including both established firms and new entrants, also argued that some funeral directors have poor quality back of house facilities.<sup>1026</sup> Issues raised included sub-standard facilities, lack of training, and a ‘race to the bottom’ occurring to enable lower pricing.
- 7.89 We have received views from around 45 embalmers. Many of these have experience of working at the premises of a number of different funeral directors. Broadly, the comments received from embalmers suggest that there is wide variation in back of house standards in the industry, with many funeral directors meeting good standards, but also large numbers not meeting all of the requirements that the embalmers who responded thought were necessary. Estimates of the proportion not meeting these standards varied widely, with several respondents submitting that more than half do not, and respondents differing in their views of whether ‘independent’ or larger funeral directors are more likely to provide poor quality. The issues raised included standards and cleanliness of mortuary and storage facilities, staff training and poor procedural safeguards.<sup>1027</sup>

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<sup>1022</sup> See Appendix P, paragraph 17.

<sup>1023</sup> See Appendix P, paragraphs 18 to 20.

<sup>1024</sup> See Appendix P, paragraphs 21 to 24.

<sup>1025</sup> See Appendix P, paragraphs 26 to 30.

<sup>1026</sup> See Appendix P, paragraph 31.

<sup>1027</sup> See Appendix P, paragraph 33.

- 7.90 These views were also supported by a small number of submissions we received from celebrants and other industry insiders. Dignity also commissioned qualitative research with industry participants including coroners, hospice workers, doctors and others. Whilst we have placed limited weight on this research, we note that these participants raised similar points.<sup>1028</sup>

#### *Evidence on refrigeration/storage*

- 7.91 Refrigerated storage was frequently cited by industry participants as a necessary minimum facility. The Largest funeral directors told us that the majority of their branches have on-site refrigeration facilities, and that the remainder have access to off-site facilities.
- 7.92 Currently, the SAIF National Code of Conduct<sup>1029</sup> does not expressly require that funeral directors have access to refrigeration, while the NAFD Funeral Director Code (updated as from 15 October 2020) requires that funeral directors ‘have suitable refrigerated mortuary facilities; or have access to suitable refrigerated mortuary facilities by virtue of an enforceable service level agreement with a third-party’.<sup>1030</sup> SAIF told us that among its membership in Scotland, SAIF has made access to refrigeration a requirement of its Code.
- 7.93 While we do not here attempt to define what is acceptable in relation to refrigeration or storage facilities, we note that we have received some submissions<sup>1031</sup> criticising:
- (a) The practice of off-site storage (on the grounds that this is not what families expect, particularly over longer distances);
  - (b) the use of large storage facilities (on the grounds that this is not respectful of the deceased); and

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<sup>1028</sup> [Time to talk about quality and standards, p27](#). We note that the majority of these participants were identified by Dignity to the research agency (rather than ‘free-found’) and so while the research findings are relevant to our inquiry, we have placed limited weight on them, particularly insofar as they relate to the relative quality of Dignity’s facilities compared with its competitors.

<sup>1029</sup> [SAIF’s Code of Conduct](#), 7.4 states that: ‘There must be well-appointed and well-maintained areas and facilities for the preparation of the deceased and the holding of bodies.’ 7.6 states that: ‘The deceased must be treated with the utmost respect at all times.’

<sup>1030</sup> [NAFD Funeral Director Code, O. \(2.3\)](#). The NAFD’s previous Code of Practice did not expressly require its members to have access to nearby refrigeration.

<sup>1031</sup> See Appendix P, paragraphs 46 to 47.

- (c) the amount of available refrigeration space, including at some of the Large funeral directors, and the use of ‘temporary’ refrigeration facilities (on the grounds that this does not maintain the correct temperature).

### *Findings of Scottish Inspector of Funeral Directors*

7.94 The Scottish Inspector of Funeral Directors inspected 55 premises between August 2017 and June 2018 as part of the Scottish Government’s assessment of the appropriateness of licensing and regulation. These inspections covered:

- (a) Culture, ethos and confidence in management;
- (b) conveyance and care of the deceased;
- (c) understanding, recording and acting on the wishes of the deceased or bereaved, both pre-need and at-need;
- (d) asset management; and
- (e) audit of procedures, practice and record keeping.

7.95 In her first annual report the Inspector summarised the key themes and recommendations that she drew from those inspections.<sup>1032</sup> Overall, the Inspector found, ‘that there are many areas of common practice across Scotland with a number of businesses developing areas of excellence.’ However, as mentioned in paragraph 7.75(b), she also identified ‘departures from common or good practice in relation to care of the deceased, record keeping, training and experience of staff, identity checks, authorisation and permissions’. She concluded that her initial findings ‘do reinforce the need to establish an agreed and acceptable level of good practice through regulatory intervention, and to provide an independent source of reassurance to the public’. This view was subsequently re-affirmed in the Inspector’s separate report to Scottish Ministers in August 2019 recommending the introduction of a licensing scheme for funeral directors in Scotland.<sup>1033</sup>

### *The NAFD and SAIF inspections*

7.96 The NAFD conducted 7,502 inspections in the four years to the end of 2018, of which 12% were ‘non-compliant’ with the NAFD code of practice, during

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<sup>1032</sup> [Inspector of Funeral Directors: annual report 2017-2018](#). For further detail see Appendix P, paragraphs 51-55.

<sup>1033</sup> [Report to Scottish Ministers on the introduction of a regulatory licensing model including Progressive Licensing scheme for Funeral Directors in Scotland](#).

which time the NAFD only monitored back of house quality on an ‘advisory’ rather than a compliance basis.<sup>1034</sup> However, the NAFD explained that, ‘a serious breach would almost certainly constitute a breach of the Code of Practice, which would lead to a fail’. It has only recently (in 2019) begun collating data on compliance with its Code of Professional Standards (which covers back of house facilities).

- 7.97 On 15 October 2020 the NAFD updated its code of practice as The Funeral Director Code, which will replace the NAFD Code of Practice. The NAFD told us that between 15 October 2020 and 16 April 2021, no NAFD member will be subject to formal disciplinary sanctions if they breach the Funeral Director Code in a way that would not have constituted a breach of the previous NAFD Code of Practice. The NAFD Executive Committee will review the Funeral Director Code during this period, and may make changes to the Code. This code sets out mandatory principles and outcomes which NAFD members must comply with, including requirements about funeral director’s operational facilities and the way in which they care for the deceased.<sup>1035</sup>
- 7.98 SAIF carried out 2,801 inspections between January 2015 and July 2019.<sup>1036</sup>
- 7.99 As noted above in Section 5, the trade associations do not currently publish information on how quality varies across the funeral directors they inspect.
- 7.100 In a consultation document, the FSCSR noted that, ‘Even for those funeral businesses that are subject to voluntary regulation, the limits to the trade associations’ powers constrain their ability to effectively enforce minimum standards. For example, the most serious sanction that can be handed out to an offending firm is expulsion from their trade association’.<sup>1037</sup>
- 7.101 Overall, we are not persuaded that current trade association inspection regimes provide an assurance of acceptable levels of back of house quality among all their members.

#### *Customer experience of viewing the deceased*

- 7.102 By its nature, back of house quality is difficult for customers to observe. One indirect means may be through the customer’s experience of viewing the deceased. We have therefore considered the limited evidence available on customers’ views of this experience. We recognise that even a body that has been cared for ‘properly’ can change in appearance, and note that, given their

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<sup>1034</sup> See Annex 1 of Appendix P for details on NAFD inspections and monitoring.

<sup>1035</sup> [NAFD Funeral Director Code](#).

<sup>1036</sup> See Annex 1 of Appendix P for details.

<sup>1037</sup> [FSCSR Consultation document: standards and regulation](#), January 2020, page 4.

limited relevant experience, consumers may not be able to make well-informed assessments of all aspects of the presentation of the deceased. We note that, for some funeral directors, it is possible that quality of care for the deceased may differ where the funeral director is aware that the bereaved will wish to view the deceased compared with cases where a viewing is not requested.

- 7.103 It is not possible for us to assess confidently whether individual complaints arise because of systematic poor back of house quality (as opposed to unavoidable problems or isolated mistakes), but it is clear from customer complaint documents we have seen that some consumers experience poor outcomes (relative to their expectations) in relation to the appearance of the deceased, or processes relating to ashes, or to the clothing or belongings of the deceased.<sup>1038</sup> Evidence from customer complaints data indicated that around 10% of complaints relate to care of the deceased.<sup>1039</sup>

#### *Conclusion on back of house quality outcomes*

- 7.104 In relation to back of house quality factors, there is an element of subjectivity, and room for disagreement, over what constitutes poor quality in the absence of universally-recognised minimum standards. We have noted the general views of embalmers that many funeral directors meet good standards, but also that many others fall below the quality levels they think appropriate. We have received evidence from a broad range of organisations and individuals indicating that at least some funeral directors are perceived as providing unacceptable levels of quality in relation to their back of house facilities and processes. While we are not in a position to establish how widespread genuine problems might be, the importance of proper care of the deceased to the bereaved;<sup>1040</sup> the lack of transparency of back of house behaviour by funeral directors; the widespread recognition across the sector that there are incidents of failure to meet appropriate standards; and the absence of a regulatory regime outside of Scotland (contrary to the expectation of most consumers) mean that customers cannot be assured that the quality levels they would expect will always be met.

#### *Variation in the quality/price combination offered by different providers*

- 7.105 One argument that has been made to us in relation to evidence that some funeral directors charge much higher prices than others, is that this price

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<sup>1038</sup> See Appendix P, paragraph 39.

<sup>1039</sup> See Appendix P, paragraph 39.

<sup>1040</sup> See paragraph 5.166.

variation is consistent with competition in quality and price, with higher priced operators being those that provide higher quality.<sup>1041,1042</sup> For example, Dignity submitted:

Dignity has received feedback from customers that have switched from Dignity to new lower cost providers and then come back to Dignity to the effect that the service provided by the low cost provider did not match Dignity levels of service. Dignity has also received feedback that they are not the 'cheapest' provider in the market but give the best value for money because of the higher levels of care, professionalism and trust provided.

7.106 As noted above, in a well-functioning market where customers have different preferences in relation to the price and quality offered, and where quality can be observed by customers (at least after the purchase), we would expect suppliers to provide different price/quality combinations and, if quality is costly to provide, higher quality being associated with higher prices. However, as also noted above, in a well-functioning market, we would also expect that competition (and entry) in different quality/price segments would help ensure profits are not excessive.

7.107 We have gathered some qualitative evidence which suggests that there are quality variations between providers, but also that good standards can be achieved without necessarily entailing high costs and prices.

- (a) Competitor monitoring data shows some evidence that tangible aspects of service quality, eg presentation of the premises and staff, and quality of the vehicle fleet, vary across funeral directors.<sup>1043</sup>
- (b) When we spoke to branch managers in a small number of local areas, they were able to point to some specific factors where the lower priced operators provided lower quality (primarily vehicle age), but in general

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<sup>1041</sup> Funeral Partners stated that we have not satisfactorily recognised that quality differentials between providers can, and do, explain price differentials between providers. ([Funeral Partners Limited: Response to provisional findings](#), Part A). As described in paragraph 7.108, we consider that the question of whether specific high prices are justified by (costly) high quality, as would be the case in a well-functioning market, cannot be answered by considering quality in isolation, and we instead consider profitability to be a relevant measure.

<sup>1042</sup> A number of NAFD members responded that prices reflect the quality provided, with significant costs involved in investing in their business and the time to provide the services required: for example, see the response to question 4 by C McGough & Sons and V Morton & Sons within [NAFD Supplementary submission](#). A small funeral director ([§]) stated that 'We price to be competitive in our area, but there are cheaper options and these are cheaper for a reason. The staffing, equipment, vehicles and service cannot be compared, and there is a cost to our business to offer this higher level of service.'

<sup>1043</sup> Based on competitor monitoring carried out by a funeral director ([§]) and representations by several funeral directors that price variation can reflect quality variation.



considered that these operators were likely to provide good quality, respectful funerals.<sup>1044</sup>

- (c) We have been told about a range of quality factors that are costly to provide (for example, because of the costs of training staff, and of investments in and maintenance of vehicles and facilities).
- (d) We undertook site visits with 12 small funeral directors located in various parts of the UK. The companies had in common a strong belief that they provide a high quality service, and all the back of house facilities we saw appeared to us to meet at least acceptable levels, and in some cases were of extremely high quality. For nearly all those visited, prices were significantly lower than those of the Large funeral directors. Based on our judgment, we did not form the view that the low prices charged by the firms we saw were explained by poor back of house standards. Where prices were higher, there was nothing about the relevant funeral director's services that suggested to us they were providing a higher quality of service than some of the other cheaper funeral directors. This is not to suggest that all lower priced funeral directors offer acceptable quality, but rather that there is no necessary correlation between lower prices and lower quality.
- (e) We visited facilities of Fosters (a lower cost provider) in Edinburgh, which appeared to us to be of a very high standard and were invited by Fosters to visit their other facilities if we wished to do so. Fosters told us that it had engaged very openly with the Scottish Inspector of Funerals and had responded to her specific suggestions and recommendations about back of house processes. It considered that in terms of quality its 'facilities would be in the top 10% of the market ... [b]ecause they are all new sites with relatively recent investment'.
- (f) [X] started and expanded its modern mortuary facilities over the past few years, [X]. [X] explained that its daily rates were low and that compared with funeral directors its operation is very efficient, because the assets are used more intensively.
- (g) We heard comments to the effect that the high prices charged by some funeral directors are not fully justified by their higher quality. For example, one funeral director who had previously worked for [X] said, in relation to the larger chain, that 'the quality is high, but I think it is a two-edged sword, though, because I know perfectly well that you can provide equally

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<sup>1044</sup> CMA calls held with local branch managers.

high quality for half the price. So, I always find it difficult to completely commend the quality, because it does not justify what they do to their clients in terms of costs'. This same respondent also described his experience that in one local area [§] had insufficient refrigeration available.

- (h) The Market Study consumer research found mixed views from consumers on whether the largest funeral directors provide higher or lower quality in respects that are important to the consumer.<sup>1045</sup> Internal documents from two of the Largest funeral directors suggested that some consumers perceive the Largest funeral directors as being less caring and personal than 'independent' funeral directors (though this may not influence provider choice),<sup>1046</sup> though we do also note the evidence on customer feedback referred to above. Evidence from another internal document suggests that: 'Overall consumer and media perception is that all funeral directors are the same'.

7.108 The evidence we have seen appears to reflect that there are quality variations between the services provided by funeral directors, but that good standards can be achieved without necessarily entailing high costs and prices. The question of whether specific high prices are justified by (costly) high quality, as would be the case in a well-functioning market, cannot be answered by considering quality in isolation. It can potentially be answered through the wider assessment of relevant prices, costs and profitability measures, since in a well-functioning market competition would restrict profits to reasonable levels. Our findings on funeral director profitability set out below are generally indicative that costs incurred to deliver claimed high quality are not sufficient to explain the levels of prices observed.

## ***Profitability***

### *Our approach to the profitability assessment*

7.109 We have carried out financial analysis on:

- (a) The Large providers of funeral director services in the UK, covering a combined 42% of the market; and

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<sup>1045</sup> [Market Study consumer research](#), page 40. Some respondents preferred to use an 'independent' funeral director because they assumed that their service would be more personalised and less profit-driven, but a few liked the idea of using a large, well-established, national brand they trusted.

<sup>1046</sup> For instance, an internal document from one funeral director stated that 'independent providers perceived as more personal and caring'. [§].

- (b) a sample of 'independent' funeral directors which comprise small funeral director businesses and sole traders which operate from one or a small number of branches, typically within the same region. For the purposes of profitability analysis, these firms are referred to as the 'Smaller' funeral directors.

7.110 In terms of the time period for the analysis, we considered the 2014 to 2018 period for all firms. Our data gathering activities were significantly hampered by the COVID-19 pandemic, and as a result we obtained financial data for 2019 from [X] and [X] only, which is set out in more detail in Appendix S.

### *Large funeral directors*

#### *Approach*

7.111 As set out in the CMA's guidelines, in a market investigation we are interested in understanding how the market functions. Outcomes such as the economic (rather than accounting) profitability of firms provide evidence about its functioning.<sup>1047</sup>

7.112 We use return on capital employed (ROCE) analysis as our key measure of profitability. The details of our ROCE analysis are discussed in Appendices Q, S and U. In performing this analysis, we start with accounting profits and balance sheets and then make adjustments to arrive at an economically meaningful measure of profitability. We applied two main adjustments in our analysis of the profitability of funeral director firms, being: (i) the revaluation of properties; and (ii) the valuation of trade names / reputation. Details on how we have applied these adjustments are described in Appendix S. The parties made a number of representations on this methodology. We explain in Appendix S how we have taken their comments into account.

7.113 Applying these adjustments allows us to calculate an economically meaningful value for capital employed (ie the assets employed by the business in undertaking their operations) and earnings (we use the earnings before interest and tax, also known as 'EBIT'). Using these figures, we consider a number of profitability metrics as part of our analysis: ROCE; economic profits per funeral; and economic profits as a percentage of cost-plus. Each of these is explained in turn.

7.114 ROCE is calculated as EBIT as a percentage of the capital employed. We compare ROCE to the weighted average cost of capital ('WACC') as our

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<sup>1047</sup> CC3 (Revised), paragraph 10.

primary means of measuring profitability. This tells us how much firms are earning in excess of the amount required to finance the capital of their business. More detail on our calculations of WACC, including the relevant firms' views on our approach and responses are set out in Appendix R.

7.115 We also considered economic profit per funeral. Economic profit per funeral is the profit earned on each funeral after the providers of capital have been paid a market-based return on their investment, equal to WACC. This tells us in pound terms how much more a funeral costs a customer, compared with the total cost-base (including a reasonable level of return, or profit) of the firm.

7.116 We considered economic profits as a percentage of cost plus. This metric indicates in percentage terms how much above the 'normal' or 'competitive' price actual prices have been, assuming that the firms' costs have been efficiently incurred. We note that some firms may be operating with an inefficiently high level of costs (considered further at paragraphs 7.143 to 7.147 below). Using these percentages provides another means of understanding the scale of any economic profits and of making comparisons across the larger funeral director firms.

7.117 In addition to considering profitability metrics, we considered the cost-base of each firm as well as the average revenues earned on a per funeral basis. Detailed analysis of the cost of providing a funeral and our consideration of average revenues from a profitability perspective can be found in Appendix S. We discuss our considerations of the potential drivers of the cost-base of firms at paragraphs 7.44 to 7.53.

## Results

7.118 Table 34 shows the ROCE of each of the Large funeral directors, for each year from 2014 to 2018, together with the weighted average ROCE for each party over that period.

**Table 34: The Large firms' ROCE results (%)**

	2014	2015	2016	2017	2018	2019	Weighted average
[Firm A]	[X]	[X]	[X]	[X]	[X]	[X]	[20-30]
[Firm B]	[X]	[X]	[X]	[X]	[X]	[X]	[30-40]
[Firm C]	[X]	[X]	[X]	[X]	[X]	[X]	[50-60]
[Firm D]	[X]	[X]	[X]	[X]	[X]	[X]	[30-40]
[Firm E]	[X]	[X]	[X]	[X]	[X]	[X]	[40-50]
[Firm F]	[X]	[X]	[X]	[X]	[X]	[X]	[10-20]
[Firm G]	[X]	[X]	[X]	[X]	[X]	[X]	[20-30]
[Firm H]	[X]	[X]	[X]	[X]	[X]	[X]	[0-5]
[Firm I]	[X]	[X]	[X]	[X]	[X]	[X]	[20-30]
[Firm J]	[X]	[X]	[X]	[X]	[X]	[X]	[5-10]
[Firm K]	[X]	[X]	[X]	[X]	[X]	[X]	[30-40]
[Firm L]	[X]	[X]	[X]	[X]	[X]	[X]	[10-20]
[Firm M]	[X]	[X]	[X]	[X]	[X]	[X]	[20-30]

Source: CMA analysis

7.119 Table 34 above shows that the significant majority of the Large firms (which together account for 42% of all funeral director branches) have earned returns substantially in excess of the cost of capital (of 8%) across every year in the 2014 to 2018 period. Ten of the firms display ROCEs above WACC in all years from 2014 to 2018. Two of the 13 firms have earned returns which are in line with their cost of capital, ie have made a normal level of profits, in most years. Only one of the 13 firms has earned returns that are below its cost of capital in all years.

7.120 There is some evidence that returns have declined in more recent years, with the decline appearing most pronounced for [Firm A] and [Firm B], although some firms have seen increases over this period. All 10 firms who consistently earned returns in excess of the cost of capital continued to do so in 2018. For the two firms for which we have data in 2019, we note that returns continue to fall, with the results demonstrating that [Firm A] earns returns lower than the cost of capital for the first time, at [0-(5)%], while [Firm B's] results remain significantly above the cost of capital at [20-30%].

**Table 35: The Large firms' economic profit per funeral results (£)**

	2014	2015	2016	2017	2018	2019	Weighted average
[Firm A]	[£]	[£]	[£]	[£]	[£]	[£]	[200-250]
[Firm B]	[£]	[£]	[£]	[£]	[£]	[£]	[600-650]
[Firm C]	[£]	[£]	[£]	[£]	[£]	[£]	[400-450]
[Firm D]	[£]	[£]	[£]	[£]	[£]	[£]	[450-500]
[Firm E]	[£]	[£]	[£]	[£]	[£]	[£]	[200-250]
[Firm F]	[£]	[£]	[£]	[£]	[£]	[£]	[250-300]
[Firm G]	[£]	[£]	[£]	[£]	[£]	[£]	[250-300]
[Firm H]	[£]	[£]	[£]	[£]	[£]	[£]	[(150)-(200)]
[Firm I]	[£]	[£]	[£]	[£]	[£]	[£]	[350-400]
[Firm J]	[£]	[£]	[£]	[£]	[£]	[£]	[0-50]
[Firm K]	[£]	[£]	[£]	[£]	[£]	[£]	[450-500]
[Firm L]	[£]	[£]	[£]	[£]	[£]	[£]	[0-50]
[Firm M]	[£]	[£]	[£]	[£]	[£]	[£]	[300-350]

Source: CMA analysis

7.121 Turning to economic profits, Table 35 above shows the level of economic profits or losses earned by each firm in each year over the period. Those firms making profits show an average of between £[200-250] and £[600-650] per funeral over the period.

7.122 As with ROCE, [Firm A] and [Firm B] see a fall in their economic profit per funeral results in more recent years, but as of 2018 the results are still between £[100-150] and £[450-500] per funeral, whilst other firms (including [Firm D] and [Firm K]) have seen increases over this period. Thus, even in instances of decline, significant profits continued to be earned in 2018. For the firms for which we have 2019 data, we note that [Firm A] turns to an economic

loss-making position in 2019, with economic losses of £[(200)-(250)] per funeral, whereas [Firm B] continues to earn economic profits of £[350-400] per funeral.

**Table 36: The Large firms' economic profit as a percentage of cost-plus results (%)**

	2014	2015	2016	2017	2018	2019	Weighted average
[Firm A]	[-]	[-]	[-]	[-]	[-]	[-]	[-]
[Firm B]	[-]	[-]	[-]	[-]	[-]	[-]	[-]
[Firm C]	[-]	[-]	[-]	[-]	[-]	[-]	[-]
[Firm D]	[-]	[-]	[-]	[-]	[-]	[-]	[-]
[Firm E]	[-]	[-]	[-]	[-]	[-]	[-]	[-]
[Firm F]	[-]	[-]	[-]	[-]	[-]	[-]	[-]
[Firm G]	[-]	[-]	[-]	[-]	[-]	[-]	[-]
[Firm H]	[-]	[-]	[-]	[-]	[-]	[-]	[-]
[Firm I]	[-]	[-]	[-]	[-]	[-]	[-]	[-]
[Firm J]	[-]	[-]	[-]	[-]	[-]	[-]	[-]
[Firm K]	[-]	[-]	[-]	[-]	[-]	[-]	[-]
[Firm L]	[-]	[-]	[-]	[-]	[-]	[-]	[-]
[Firm M]	[-]	[-]	[-]	[-]	[-]	[-]	[-]

Source: CMA analysis

7.123 Table 36 demonstrates that, for 10 out of the 13 firms, prices have, on average, exceeded reasonable costs (including an allowance for a normal level of profits) by between 6% and 17% over the 2014 to 2018 period. For two of the firms, prices have been in line with costs (plus a normal rate of profit) and one firm has charged prices that have not resulted in a normal rate of profit, ie they have made economic losses. In 2019, [Firm A]'s results demonstrate that they have charged prices that no longer exceed costs, while [Firm B]'s results demonstrate that they have continued to do so.

### *Smaller firms*

7.124 As set out in greater detail in Appendix S, we faced significant challenges in obtaining reliable information from smaller funeral directors. We initially attempted to obtain detailed information from a representative sample of 100 branches, in order to assess their profitability in a way that was consistent with what we have done for the Large firms. We subsequently had to revise our approach, taking into account feedback from smaller funeral directors on the challenges they had faced trying to provide us with the data we had requested. As a result, we could not use the measures of profitability described in paragraph 7.113 for the Smaller firms and we cannot be sure that the sample of Smaller firms from which we received reliable information is representative of the universe of smaller funeral director firms. We nevertheless consider that our analysis provides some insight into the profitability of smaller funeral directors.

7.125 Through our initial information gathering activities, we found that smaller funeral directors were largely unable to provide robust balance sheet

information.<sup>1048</sup> We therefore focused our analysis on the profit and loss information provided in order to understand their financial performance both on a stand-alone basis and in-comparison with the Large funeral directors.

7.126 Our analysis for the Smaller firms is therefore focused on average revenues and a measure of operating profit which seeks to control for differences in both capital structure across firms (both Large and Smaller funeral directors) and differences in approaches to recording salaries: 'EBITDARS', earnings before interest, tax, depreciation, amortisation, rent and salaries.

7.127 Due to limited data availability, we were unable to collect revenue data exclusive of disbursements for the smaller firms. Therefore, our consideration of the revenue results for these firms is based on average total revenue (ATR), ie the total revenue earned by the firm, inclusive of disbursements, divided by the number of funerals performed.

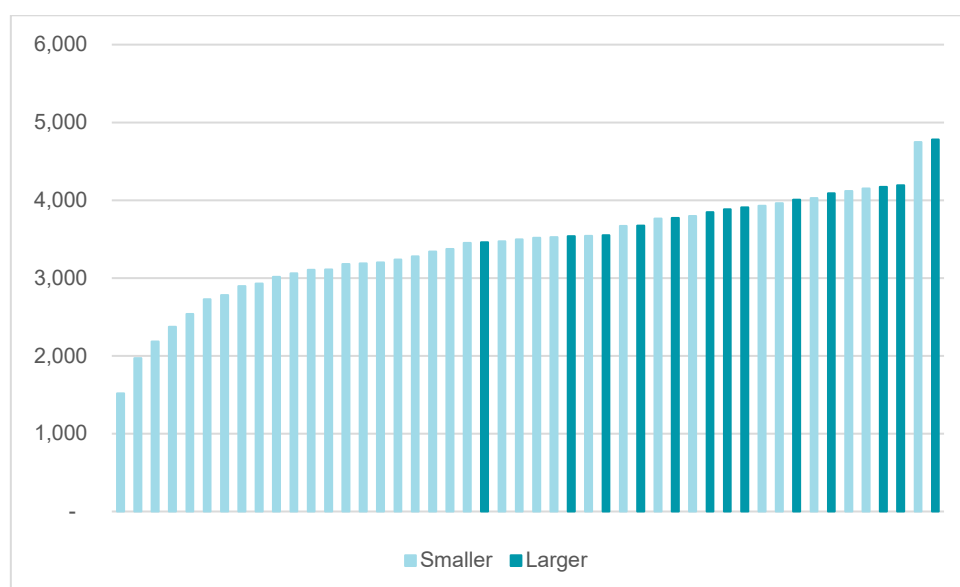
7.128 Detailed tables of the results for the Smaller funeral director firms can be found in Appendix S.

7.129 Figure 23 below shows the ATR of the Smaller funeral director firms in comparison to the Large firms.

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<sup>1048</sup> A number of reasons contributed to this, but one of the most significant issues was the identification of properties. For example, oftentimes properties may be owned for personal reasons (eg as the principal home of the funeral director) or owned by another family member and used by the funeral director to operate the business. Thus, smaller funeral directors were often unable to provide comprehensive information on their properties to allow us to perform robust ROCE analysis.

**Figure 23: Weighted average ATR from 2014 to 2018 split between the Smaller and the Large firms**<sup>1049</sup>



Source: CMA analysis

Notes:

- This chart is a bar chart. Some of the bars are lighter in colour, representing The Smaller funeral director firms. The bars which are darker in colour represent the Large funeral director firms.
- The firms can be identified only as 'Smaller' or 'Larger' and not by party name for confidentiality reasons.
- The chart is structured with bars representing the lowest ATR on the left, and the highest on the right.
- The Smaller firms (lighter in colour) dominate the lower end of the chart but are otherwise largely mixed with the larger firms.
- The lowest bar represents ATR of just over £1,500 per funeral, and the highest between £4,500 and £5,000 per funeral.

7.130 The Large firms are spread with some of the Smaller firms across the top 50% of average revenues. [Firm B] and [Firm C] charge average prices at the higher end of the spectrum, with average total revenues of £[X] and £[X] respectively. The bottom half of businesses in terms of average revenues is made up exclusively of Smaller firms.<sup>1050</sup>

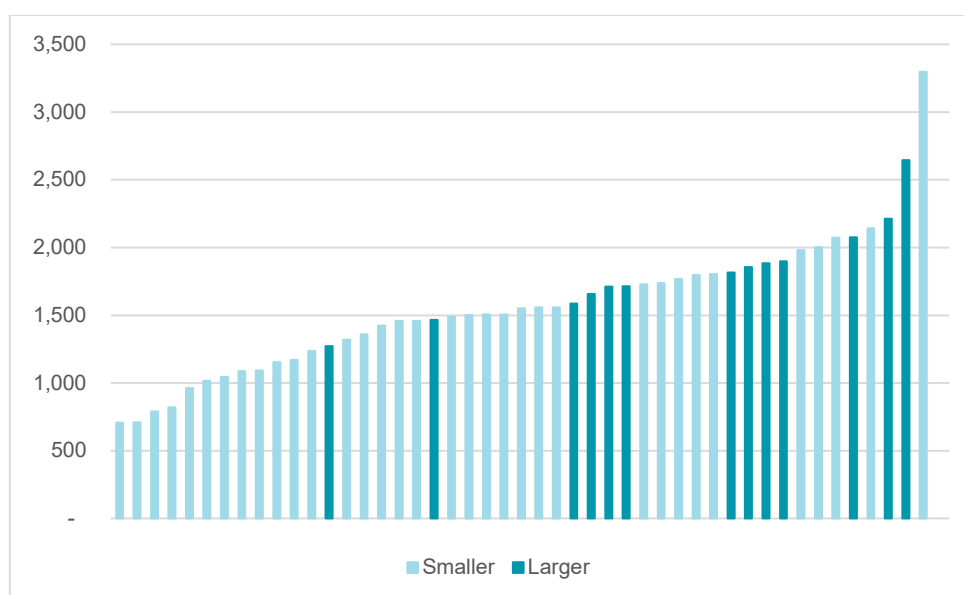
7.131 Figure 24 below shows the EBITDARS per funeral, also for both the Smaller and the Large firms.

<sup>1049</sup> Some of the Smaller firms for which we performed financial analysis have been excluded from this chart. The results of these firms do not appear accurate, so we have not included them in this comparison. Their results can be found in Appendix S, where the rationale for any firms whose results are considered not to be accurate is noted.

<sup>1050</sup> Compared with Figure 19, there is a similar trend of the Smaller firms dominating the bottom half before mixing with the Larger firms in the upper half. While the Larger firms appear to dominate the top half of Figure 19: Funeral director professional fees (2018), this is a result of the information being presented on a branch basis. If these firms are considered on a company level (ie if there was only one bar to represent them), then the trend would match that as per Figure 23.



**Figure 24: Weighted average EBITDARS per funeral from 2014 to 2018 split between the Smaller and the Large firms<sup>1051</sup>**



Source: CMA analysis

Notes:

- This chart is a bar chart. Some of the bars are lighter in colour, representing the Smaller funeral director firms. The bars which are darker in colour represent the Large funeral director firms.
- The firms can be identified only as 'Smaller' and 'Larger' and not by party name for confidentiality reasons.
- The chart is structured with bars representing the lowest average EBITDARS per funeral on the left, and the highest on the right.
- The Smaller firms (lighter in colour) dominate the lower end of the chart but are otherwise largely mixed with the larger firms.
- The lowest bar is less than £500 per funeral, and the highest over £3,500 per funeral.

7.132 Smaller firms appear at both the lower and higher ends of the EBITDARS per funeral results, but overall they are mixed with the larger firms. However, as for revenues, the lower half of firms by EBITDARS per funeral is dominated by smaller firms.

7.133 This analysis indicates that many Smaller firms are likely to be earning levels of profit that are similar to or, in some cases, higher than the larger firms (ie profits substantially in excess of their cost of capital), while others (those with lower EBITDARS per funeral) may be earning lower returns.

### *Interpretation of our analysis*

#### *Party views and our responses*

7.134 We received a number of representations from parties with regards to our interpretation of the above analysis. Detailed discussion of the points raised

<sup>1051</sup> Ten of the Smaller firms for which we performed financial analysis demonstrated results which we consider may be inaccurate; the results of these firms have been excluded from this chart. Their results can be found in Appendix S, where the rationale for any firms whose results are considered not to be accurate is noted.

by the parties and our response is provided in Appendix S. Here, we summarise the key concerns raised by parties. They relate to:

- (a) Market coverage;
- (b) survivorship bias;
- (c) metrics used in our analysis of smaller firms; and
- (d) trends over time.

7.135 Parties raised concerns that we have not covered a substantial enough proportion of the market, particularly with regards to our sampling of the Smaller firms in order to be able to draw conclusions regarding the overall level of profits being earned in the market.

7.136 In selecting the firms to include in our analysis, we have had to balance market coverage with the practicality of seeking to collect detailed financial information from very small firms. The Large firms comprise approximately 42% of the industry by branch numbers and include both large chains with a broad geographic coverage and regional businesses with a substantially lower number of branches, including some that are family-owned and run. We consider that this gives us an understanding of a substantial proportion of the market.

7.137 While our analysis is more limited for the Smaller firms and may not be representative, we note that the pattern of ATR is broadly consistent with the pricing data collected on the industry (see Figure 19), ie we have no reason to believe that our sample is particularly biased towards either higher or lower priced firms. In addition, our sample covers a range of locations from across the UK so should reflect relevant geographic differences that affect funeral directors. Therefore, we believe this data allows us to make meaningful comparisons between these firms and the Large funeral directors and to gain an insight into the trends and patterns in the industry.

7.138 Parties expressed concerns regarding survivorship bias in our sample of the Smaller firms, suggesting that this may mean that we have obtained information only from more profitable funeral directors. We do not agree that issues of survivorship bias are likely to be material in interpreting the results of our financial analysis in this particular industry. First, we are not aware of any large-scale exit, where a firm or firms with significant market share(s) have made losses and ceased operating.<sup>1052</sup> In the context of the very significant

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<sup>1052</sup> In such a case, it may be relevant to include the returns of such firms in our average profitability results.

profits that we have observed among the Largest funeral director firms, large-scale exit would be required to alter the overall picture. Second, while we recognise that there is likely to be a certain amount of churn among independent firms, this may happen for a range of reasons, not only financial failure. For example, family firms may close due to a lack of succession planning or may be acquired by a competitor (for the same or other reasons). Finally, we note that many of the Smaller firms told us that they operated with a relatively capital-light model, renting premises and vehicles, at least until they were established in their local area, reducing the costs of failure.<sup>1053</sup> In this context, even the failure of a small proportion of small firms each year, would not have a material impact on ROCE at the industry level.

7.139 Dignity raised concerns with regards to the EBITDARS per funeral and average revenue metrics in our analysis of the Smaller firms, particularly the fact that they do not consider capital employed, which Dignity told us makes them volatile measures.<sup>1054</sup> Although we have more limited financial information on the Smaller firms, in analysing our results, we have looked to make comparisons across the Large and the Smaller firms in order to understand relative profitability. Our use of EBITDARS per funeral comparisons to infer approximate levels of profitability among the smaller firms sampled does make some assumptions, including:

- (a) The Large firms have efficient cost bases, such that the actual ROCE they earn from a given level of EBITDARS per funeral reflects more or less the maximum level of economic profits a firm could earn from that absolute margin;
- (b) the Smaller firms are equally efficient and will, therefore, earn a similar level of ROCE for a similar level of EBITDARS per funeral as the Large firms.

7.140 To the extent that either of these assumptions is incorrect, we note that this would not change our conclusions regarding the interpretation of our findings. For example, if the Large firms were inefficient (see paragraphs 7.143 to 7.147), then by themselves our profitability estimates would understate the detriment to customers. Similarly, if the Smaller firms were less efficient such that with the same level of EBITDARS per funeral as the Large firms, they were making lower profits, this does not reduce the detriment to customers (who would still be harmed by the higher costs arising from inefficiency).

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<sup>1053</sup> See our analysis that concludes that barriers to entry and expansion into the provision of funeral director services are generally low in Section 4.

<sup>1054</sup> [Dignity response to funeral director profitability working paper](#), para 2.2.

7.141 We note that the product offerings of a small funeral director and a large funeral director are generally similar. There is no inherent scale advantage/complex service that requires a larger scale of operations and there is no reason to believe that larger firms will be earning higher returns for any given level of prices. This is demonstrated by the evidence on (in)efficiencies set out from paragraph 7.143 onwards.

#### *Consideration of returns*

7.142 In interpreting the results of our analysis, we note that returns are high for the majority of firms, and also that there has been a decline in profitability for some firms in recent years. In assessing this, we considered two main points:

- (a) Whether high returns among the Large funeral directors are the result of superior efficiency; and
- (b) The argument made to us by parties that the market is changing, and profitability is decreasing as a result of increased competition and costs.

- *Efficiencies*

7.143 First, we considered whether the high returns displayed by the majority of The Large firms, with particular consideration of those of Co-op and Dignity, may be the result of superior operating efficiencies or scale economies. We had regard to internal documents as well as representations that parties have made to us on these matters.

7.144 Generally, we would expect large companies to be able to derive a competitive advantage over other firms from procurement efficiencies, the pooling of resources (thus achieving lower costs) and/or a superior ability to serve large-scale contracts. The internal documents quoted below indicate that neither Co-op nor Dignity considers that they have been able to achieve significant cost efficiencies:

- (a) Co-op told us that, 'whether you look at a very large funeral director or a very small funeral director, because of that nature of it being a legacy business and people having a very traditional way of doing things, it is just a scaled-up version of a small funeral director.' They went on to explain that as a result of the acquisition model of scale through purchase, 'a funeral business in its current guise is actually quite inefficient at scale' and it is an industry 'where being bigger means you are less efficient'.
- (b) Co-op told us that effectively the funeral business in the Co-op looked like an amalgam of lots of small funeral directors. It also told us that it planned

to take about £[REDACTED] of costs out of the business and bring the workforce and operating model to the level expected in a fast-moving-consumer-goods business which, as it told us, it had not been in the past.

(c) A similar point was made in a document presented for discussion to the Dignity Board: “[REDACTED].”

(d) [REDACTED]:

(i) [REDACTED],

(ii) [REDACTED].

(iii) [REDACTED].

(e) The work carried out [REDACTED] for Dignity identified a number of [REDACTED]. Most notably, this work included evidence of smaller funeral director firms being able to provide a funeral at a cheaper cost compared with a larger firm as a result of the larger firms incurring: (i) Higher staff costs per funeral; (ii) higher property costs per funeral; and (iii) central costs such as HR and finance. The net impact was an increase in costs of almost £[REDACTED] per funeral when the funeral was provided by Dignity as opposed to a smaller firm. This suggests that Dignity’s staff costs are higher than those of the smaller funeral directors they acquire as a result of layers of management and central costs.

7.145 In addition, the Large funeral directors do not generally serve contracts that smaller firms could not serve. Coroners’ contracts are typically operated at a local or regional level and have been won by both large and small firms (see Appendix D). We are aware of only one truly large-scale national contract, to serve Network Rail.<sup>1055</sup>

7.146 Funeral Partners told us that the nature of the industry means that all providers in the market will almost always by definition be inefficient as a result of the impact of death rate fluctuations and natural peaks and troughs in demand. It suggested that where firms close branches to improve efficiency, the result may be reduced competition.<sup>1056</sup>

7.147 We recognise that funeral directors need to maintain a certain level of spare capacity in order to manage fluctuations in demand. However, the evidence we have gathered from some of the Large funeral directors (as set out above)

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<sup>1055</sup> This is currently served by [REDACTED].

<sup>1056</sup> [Funeral Partners Limited: Response to PDR](#), pages 2-3.

suggests the existence of inefficiencies which are not related to the maintenance of such spare capacity.

- *Changing market conditions*

7.148 We also considered representations made to us that the market has been changing, with competitive pressure increasing, and that there has been a consequential squeezing of profitability in recent years.

7.149 In its response to our funeral director profitability working paper, Co-op told us that there is increased competition in the market. It said that many large providers (including Co-op) may have committed investments in the hope of retaining their existing market shares in the increasingly competitive market.<sup>1057</sup>

7.150 Co-op told us that its 'competition-induced growth is not an anomaly' and referred to our analysis, noting that 'larger providers saw slower growth in ATR relative to the growth in cost-plus between 2014 and 2018'. Co-op suggested that 'this implies that the larger providers absorbed some of the cost increases, which resulted in the decline of their profitability'. Co-op argued that 'as such, the worsening market conditions and increased competition should, at least partly, account for the generalised market trend of declining volumes and increasing costs'.<sup>1058</sup>

7.151 Co-op told us that it has been experiencing increased competition which has led to a decrease in market share and reduced revenues. It referred to Dignity's publicly available financial information and noted that Dignity also appears to be experiencing competitive pressures, demonstrated by a fall in market share and average income. Co-op argued that if we explore more recent information, for 2019 and 2020, for other firms then we may find similar trends as those for Co-op and Dignity.<sup>1059</sup>

7.152 Co-op expressed concern with our interpretation of trends in financial information suggesting that there is evidence of declining profitability in the market, noting that a number of the larger firms have seen an overall decline in ROCE in the period.<sup>1060</sup>

7.153 While some firms have seen a fall in ROCE in recent years, profits remain well above the normal level and the evidence does not, in our view, support

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<sup>1057</sup> [Co-op response to funeral director profitability working paper](#), para 5.14.

<sup>1058</sup> [Co-op response to funeral director profitability working paper](#), para 5.15.

<sup>1059</sup> [Co-op response to funeral director profitability working paper](#), paras 5.3 to 5.6, and [Co-op: Response to PDR](#), para 8.26 (f).

<sup>1060</sup> [Co-op response to funeral director profitability working paper](#), para 5.7.

the argument that the market is changing such that profits and prices could be expected to return to or close to normal levels in the foreseeable future.

7.154 A significant decline in profitability in the most recent two years is mainly apparent for [X] and [X], although [X]'s profits still remain amongst the highest of the firms we have analysed.<sup>1061</sup> The other funeral directors show a more mixed picture, with some experiencing increases in profitability in 2018 as compared with 2017 ([X]), some showing broadly stable returns ([X], [X], [X], [X], [X] and [X]) and others showing declines in profitability in 2018 ([X] and [X]) although not always in 2017 as well.

7.155 We considered the decline in profitability observed for some firms.

**Figure 25: Weighted average revenue and cost-plus of the Large firms from 2014 to 2018 (£)<sup>1062</sup>**



Source: CMA analysis

Notes:

- The chart above is a line chart with two lines, spanning from 2014 to 2018 inclusive. The darker coloured line represents the weighted average total revenue of The Large funeral directors, and the lighter line demonstrates the weighted average cost-plus of The Large funeral directors.
- The difference between the two lines represents the economic profit figure.
- The chart demonstrates that weighted average revenue increased in every year up until 2017, where it reached almost £4,200. In 2018 the weighted average revenue figure began to drop, with the line falling to just over £4,100.
- Similarly, the chart demonstrates that weighted average cost-plus has been increasing in every year from 2014 to 2018.
- The gap between the two lines (ie the average economic profits of the Large funeral directors) is greatest in 2015 and begins to reduce from then on. However, it is evident that the gap reduces not only due to a reduction in weighted average revenue, but also as a result of increasing weighted average cost-plus.

<sup>1061</sup> Both [X] and [X] also saw a material decline in profitability between 2017 and 2018. However, in the case of [X], its profitability increased substantially between 2016 and 2017, which suggests volatility in its results rather than a clear trend. Similarly, we note that [X] has expanded rapidly over the period resulting in volatility in its profitability figures.

<sup>1062</sup> Note that this chart demonstrates the weighted average total revenue per funeral inclusive of disbursements and the weighted average cost-plus per funeral inclusive of disbursements. In calculating economic profits, we use revenues and costs inclusive of disbursements as firms have the potential to earn margins on disbursements.

- 7.156 Economic profits are represented by the gap between the two lines in Figure 25. The chart demonstrates that while weighted average profitability declines in recent years, this is the result of both a reduction in pricing as well as increasing costs.
- 7.157 We observe that both Co-op and Dignity have reduced prices in the most recent years, reducing revenues with a corresponding downward impact on profits. In particular, Dignity told us that it had been undertaking price trials. It told us that as part of one of the price trials there was [X]. We note that such price trials may or may not be continued in the future, depending on their success.
- 7.158 Average revenues per funeral declined by [X]. However, we observe that the change in the pricing strategy of these two firms took place during a period of enhanced public scrutiny of the price of funerals, including our investigation into the sector. As a result, we find that it is not clear to what extent these reductions in prices have been driven by increased competitive pressure on the firms and therefore whether such reductions may be expected to persist. In addition, all the other Large funeral directors have continued to increase their ARFs in 2018, which suggests that there is not generalised pressure on prices across the industry.<sup>1063</sup>
- 7.159 We also observe substantial year-on-year increases in costs, which it appears are only now being addressed by the large firms. Dignity has forecast cost declines in future years as a result of its ongoing Transformation Plan, and we note that Co-op has also begun a reorganisation of its business through its turnaround strategy.<sup>1064</sup> It is clear from Figure 25 that the significant fall in average economic profits in 2018 was the result of a relatively small decline in average revenues and a continued increase in average costs.
- 7.160 We considered the evidence we have collected on the firms' cost bases. Co-op has undertaken significant expansion in the period which has resulted in increased fixed costs, thus squeezing profit margins. It told us that this is the result of increased competition in the market and a subsequent need to expand and invest. Based on their statistics, out of an additional 560 branches opened between 2013 and 2018, 197 (or 35%) were by Co-op; 87 (or 16%) by Dignity, Funeral Partners and regional co-ops and 276 (or 49%) by others, and therefore Co-op was a key driver behind the expansion of branches over the period. It told us that this resulted in fewer funerals per home and that on

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<sup>1063</sup> See results in Appendix S – Funeral Directors Profitability.

<sup>1064</sup> See [Dignity plc 2019 Annual Report and Accounts](#), and [Co-op 2020 Interim Report](#).



average new homes conducted [X] funerals per year, whereas existing funeral homes conducted [X] funerals per year. In 2018, Co-op also told us that this type of strategy (ie opening many new homes) can result in an erosion of funerals per home and the cannibalisation of business. In its hearing with us in 2019, its new management [X] emphasised that erosion of volumes was also linked to new competition and that new homes generated incremental revenue. Nevertheless, we note that Co-op has started a process of closing down a significant proportion of its branches, which implies that its portfolio of branches is not well configured. We also note that the fact that new branches generate incremental revenue does not necessarily mean that Co-op's expansion strategy is efficient.

- 7.161 Co-op suggested that these branch closures are reflective only of the fact that management expectations were different from the materialised market conditions and that changes in these business practices was a direct result of competition. It told us that the aim of the strategy was to better utilise existing facilities and to capture incremental volumes but that they were unable to capture them as a result of competition.<sup>1065</sup>
- 7.162 While we recognise that Co-op and Dignity have seen material reductions in profitability in recent years, it is not clear to us that their significant expansion can be regarded as evidence of a general improvement in the functioning of the market, ie growth in effective competition between funeral directors in local areas. In the case of Co-op, the expansion strategy it has pursued does not appear to have been driven by an attempt to meet customer demand (better than its competitors) at the local level. Rather, it appears based on other strategic considerations (including in response to the growth strategies pursued by the Largest funeral directors – see paragraphs 5.81 to 5.83). Furthermore, we consider that an increase in the number of funeral director branches in local areas, particularly branches conducting very low volumes of funerals, does not equate to better competition in a market characterised by significant demand-side issues.
- 7.163 The two Largest firms have provided us with detailed evidence that they are seeking to improve their efficiency via turn-around / transformation strategies. In particular, Co-op is currently undertaking a significant reorganisation of its business involving the closing of around 20% of its funeral home network, accelerating its digital transformation and improving its workforce scheduling. We consider it likely that the inefficiencies that Co-op has identified in its operations have depressed its profits in recent years (by increasing its costs). We observe that Co-op is currently forecasting that it will increase its profits

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<sup>1065</sup> Co-op: [Response to PDR](#), para 6.31.

significantly by 2024 as a result of the cost savings forecast under this plan. Similarly, Dignity started undertaking a transformation plan in 2018 which it considers will result in material savings from 2021. Dignity predicts that the plan will generate annualised savings of £8m in the shorter term, increasing to £13m per annum in the longer term, which suggests that it will consequently earn increased profits in future years as a result.<sup>1066</sup>

- 7.164 Therefore, our view is that the evidence does not support the contention that an improvement in the functioning of the market is exerting downward pressure on profits in the last couple of years.
- 7.165 Significantly, while there is evidence of declining profitability for some firms, ROCE remains above the cost of capital for the majority of firms, and substantial economic profits continue to be earned on average.
- 7.166 Considering these points in the round, there is evidence that at least some of the Large firms are not operating as efficiently as they could. Internal documents from Co-op and Dignity demonstrate the firms' awareness of their own inefficiencies, which is reflected in our analysis of costs. There is no reason to believe that these firms are earning high returns as a result of being more efficient. This means that economic profit figures, as presented in Table 35 are likely to understate the level of detriment to customers.
- 7.167 Further, some firms have indicated that the COVID-19 pandemic will negatively impact profits going forward<sup>1067</sup>, but we consider it too early to determine what the long-lasting impact of the pandemic will be on the financial results of funeral director firms.

### *Conclusions on profitability of funeral directors*

- 7.168 Firms representing a substantial part of the industry have been persistently earning returns in excess of the cost of capital.<sup>1068</sup>
- 7.169 Average returns have declined in recent years. However, the results show that this trend has been driven largely by [X] and returns continue to exceed the cost of capital the large majority of Large firms in 2018.

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<sup>1066</sup> [Dignity plc Annual Report & Accounts 2019](#), page 13.

<sup>1067</sup> Firms have told us that deaths have been brought forward as a result of the COVID-19 pandemic and suggested that the pandemic may lead to a shift towards simpler funeral packages, meaning that there would be a resulting decrease in profits. See in particular: [Freeman Brothers final submission before the PDR](#); [Dignity plc final submission before the PDR](#); [Impacts of COVID-19 on the Funeral Director Market – implications for the CMA investigation prepared by Europe Economics for NAFD \(June 2020\)](#); [Co-op response to working paper on profitability analysis](#).

<sup>1068</sup> Based on 2018 branch share, the Large funeral director firms comprise 42% of the market, with those who are consistently earning profits across the 2014 to 2018 period comprising 40% of the market.

7.170 The Smaller firms exhibit a broad range of average revenues and EBITDARS per funeral. As demonstrated in Figure 24 many of these firms are earning levels of EBITDARS per funeral which are similar to the Large firms. As a result, we may expect these firms to also be earning high profits. A significant proportion of the Smaller firms have, however, persistently earned lower EBITDARS per funeral than the Large firms. The fact that these firms continue in the industry suggests that lower EBITDARS per funeral is compatible with making a return that is sufficient to keep these Smaller firms in the industry. Profits substantially in excess of the cost of capital, and significantly greater than the cost of providing the service (including a consideration of the cost of capital) are being earned by the large majority of funeral directors for whom we have data in all five years of our analysis.

### ***Conclusions on funeral director outcomes***

7.171 In order to reach a view on outcomes from competition in the supply of funeral director services, we have considered a range of sources of evidence on price, quality and profitability. In an extremely fragmented market characterised by both limited comparable pricing information and a multitude of very small firms, including many sole traders, there are significant challenges to obtaining systematic and complete datasets on price and profitability. To address these issues, we have obtained data from a range of sources of quantitative information complemented by a wide range of qualitative evidence, including through interviews with funeral directors of various sizes located in a diversity of areas.

7.172 Parties have challenged the strength of our evidence base, but, in the few instances where they have made suggestions about alternative datasets, these held significant limitations. We have considered carefully the strengths and weaknesses of each of our pieces of analysis and the additional evidence and arguments put forward to us, and consider that the evidence we have gathered on price, quality and profitability overall paints a clear picture of a competitive process that is not delivering the outcomes expected in a well-functioning market. Our assessment has been based on market data spanning a number of years, and has enabled us to reach conclusions on the market as a whole by considering a range of funeral directors which represent a significant share of the market. It has not focused on the circumstances of particular funeral directors. While much of our analysis (of prices and profitability) relates to the period up to 2018, we do not consider that additional evidence from more recent periods would fundamentally change our analysis taking the evidence we have in the round, as a number of factors could influence particular outcomes in any given year while the underlying

fundamentals of customer vulnerability on the demand side (as discussed in Section 3) are unlikely to be materially different.

- 7.173 It is clear that on average, funeral director professional fees for standard funerals have increased at a rate well above inflation for at least 10 years. The evidence we have obtained, shows that standard funeral price increases above inflation have been implemented across a range of suppliers, although prices have increased more slowly in recent years. A change in behaviour is particularly noticeable with regard to Co-op and Dignity: whereas before 2016, they appear to have applied price increases which were, on average, higher than many smaller funeral directors, more recently their prices and average revenues have been reducing in real terms (albeit at a slower rate than their initial increases). The datasets we have on the pricing behaviours of other funeral directors show less clear trends: data from SunLife indicates other funeral directors have on average continued to increase standard funeral prices but at a slower rate since 2016, and Beyond data indicates standard funeral prices from some other funeral directors have overall increased less than inflation since 2016.<sup>1069</sup> Average revenues<sup>1070</sup> from funeral directors from whom we have collected data show no particular change in trend more recently. Overall, there does not appear to be a consistent downward trend in standard funeral prices in the same way as observed for the two largest providers. For simple funerals, prices have decreased in recent years, particularly for the two largest funeral directors since 2016 or more recently, but they currently account for a minority of funerals.
- 7.174 We have analysed price differentials within smaller geographic areas, which may face similar demand or cost conditions. We consider that the pervasive, very large price differentials that we have found, for similar products between funeral directors in the same local area cannot be fully explained by quality differentials.
- 7.175 We were unpersuaded that the various cost drivers that were put forward by parties (increase in time in care, increased personalisation, bad debt and increase in the rate of obesity) were sufficiently significant to justify the persistent price rises that we have seen.
- 7.176 We have considered whether there were quality issues in the sector, both in 'front of house' (facilities, cars, customer care) and 'back of house' (mortuaries and care of the deceased). While quality levels are difficult to

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<sup>1069</sup> The Beyond data indicates some lower priced providers have reduced prices since 2017, although we do not have information as to what had happened to these providers' prices previously and so how far this represents a change in trend.

<sup>1070</sup> This relates to all funeral types but is predominantly made up of standard funerals.

measure, we consider that funeral directors are likely to be delivering acceptable levels of quality in their customer-facing activities (ie vehicles, shop fronts, customer service). However, quality in back of house facilities and activities (ie those focused on the care of the deceased) is largely not observable by customers and customers cannot be assured that quality levels they would expect will always be met. We received compelling evidence from a range of industry participants and observers that there are issues in the way certain funeral directors care for the deceased. Such issues may not be widespread, but where they exist, they are deeply detrimental to customers, who expect their loved ones to be treated with respect and dignity.

- 7.177 Ten out of the 13 Large firms<sup>1071</sup>, have returned profits that were persistently and substantially higher than their cost of capital over the past five years. Although the profits of some firms have declined recently, they generally remain well above the cost of capital. We estimate that before accounting for any inefficiency, these 10 firms charged from £[200-250] to £[650-700] more than the competitive level for their professional fees over the 2014 to 2018 period.<sup>1072</sup> We have reason to believe that the level of detriment arising from these high profits is compounded by inefficiencies: of their own admission, Co-op and Dignity's businesses have not achieved the economies of scale that one might expect and may incur additional company-level overheads associated with maintaining oversight of their large portfolios of branches, which are not required for smaller funeral directors; Co-op also appears to have suffered from over-expansion in recent years.
- 7.178 The 13 Large firms charge significantly higher fees than many of the small ones, and the two Largest have argued that the premium they charge is justifiable by the superior quality of their offering. This is not supported by our analysis of profitability. In addition, in the course of the investigation, we visited several small firms that appeared to us to offer high levels of quality at prices that were significantly lower than the Large firms, which further supports our view that there is not a clear link between price and quality in the market.
- 7.179 While it has been difficult to establish the magnitude of any poor outcomes among small firms, we have good reasons to believe that many of them have been pricing above the competitive level: our analysis of profits earned per funeral, albeit based on a limited sample of companies, shows that a significant proportion of the Smaller firms have earned profits that were comparable to those of the Large firms that have been making profits above

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<sup>1071</sup> Together these 13 firms account for 42% of funeral director branches in the UK.

<sup>1072</sup> These figures are the highest and lowest economic profit per funeral figures for the Large funeral directors in 2018.

the cost of capital. In addition, average increases in the professional fees charged have been significantly higher than inflation, to an extent that cannot have been solely caused by the price increases of large firms, given the proportion of funerals that they account for.

- 7.180 Taking this evidence and analysis together, we therefore conclude that high prices in the supply of funeral director services are likely to reflect the exercise of market power arising from limited competitive constraints, notwithstanding any quality differentials between suppliers. This is consistent with the presence of persistent excess profits achieved by a variety of suppliers.

## **Crematoria**

### ***Price outcomes***

- 7.181 In this section we describe fees for different types of service: standard services; reduced fee services; and unattended services. Standard services are those services charged at the full fee, normally during peak hours. Reduced fee services are attended services held in off-peak hours (ie services typically held at 9am or 9.30am). Unattended services are cremations without a service (also referred to as direct cremations).

- 7.182 We note that to the extent that crematoria are differentiated (for example, on quality) our analysis of pricing does not take these differences into account.

### ***Analysis of standard fees***

#### ***Description of standard fee data***

- 7.183 Our analysis of standard service fees is based on data from the Cremation Society. In 2018 the Cremation Society gathered standard fee data for 295 crematoria.
- 7.184 The Cremation Society told us that the standard fee they report includes medical referee fees, environmental surcharges and a chapel slot. The Cremation Society also stated that the standard fees that they report are resident fees in cases where a local authority crematorium offers a different fee depending on whether the deceased was a resident or non-resident of that local authority. In some circumstances, particular crematorium operators charge extra for certain services (for example, an organist, webcasting the service or a weekend surcharge), and this additional cost is not reflected in the standard cremation fee.

- *Dignity's comments on the use of Cremation Society fee data*

7.185 Dignity has stated that it: 'recommends the CMA does not rely on this data [the Cremation Society standard fee data] to assess whether providers offer good value for money to consumers'. Dignity has provided the CMA with analysis from its own market research (the 'Trajectory market research') showing that the fees charged by crematoria are generally higher than the fees reported by the Cremation Society. Dignity has noted that the Trajectory market research 'compared the basic cremation fees reported by the Directory of Crematoria [the Cremation Society standard fee data] against those collected by Trajectory in its research and ... found the following instances of errors:

- (a) Examples of cremation fees being reported with omitted essential charges (ie use of chapel, doctor fees and environmental surcharges);
- (b) examples of off-peak cremation fees (eg early morning fees) being reported as peak fees; and,
- (c) examples of resident fees being reported as standard fees'.<sup>1073</sup>

- *Our assessment of the appropriateness of using Cremation Society data to analyse standard fee cremation services*

7.186 We have compared the cremation fees in the Trajectory market research with the Cremation Society standard fee data. We have assessed the extent to which the two datasets report different fees and the reasons for any differences. A full description of our assessment is outlined in Appendix T. Our assessment found:

- (a) Across private crematorium operators the difference in average fees between the two datasets is 3% or less. For local authority operators, the difference is larger. On average, local authority crematoria are 7% more expensive under the Trajectory market research;
- (b) the larger differences between the two datasets for local authority crematoria can be explained, to some extent, by differences in the way the two datasets are compiled (in particular, the times at which the datasets were compiled, and differences between resident and non-resident fees, in the event that the local authority charges a different fee for residents and non-residents); and,

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<sup>1073</sup> [Dignity plc response to the CMA's working papers on cremation services of 30 January 2020](#), page 6.

(c) the Cremation Society stated that it attempts to correct for misreporting if it considers that certain aspects of the fee do not appear to be included. Furthermore, the Cremation Society stated that if it identifies large year-on-year changes in the fees being reported by crematoria it will investigate why this is the case and establish whether the figures reported are accurate. We found that a low proportion of annual fee increases appear to be subject to misreporting.

7.187 Given the above, we consider that the Cremation Society data is sufficiently reliable for our analysis of standard fee cremation services. The differences between the Cremation Society standard fee data and the Trajectory market research data are small in general, and the relatively larger differences in local authority fees can be explained in part by the timing of the data collection, and in part by differences between resident and non-resident fees. To the extent that there is misreporting (a potential issue in both datasets) we do not consider it to be material, although we note that our analysis of price levels based on the Cremation Society data will likely underestimate fees relative to the Trajectory market research data.

#### *Standard fees over time*

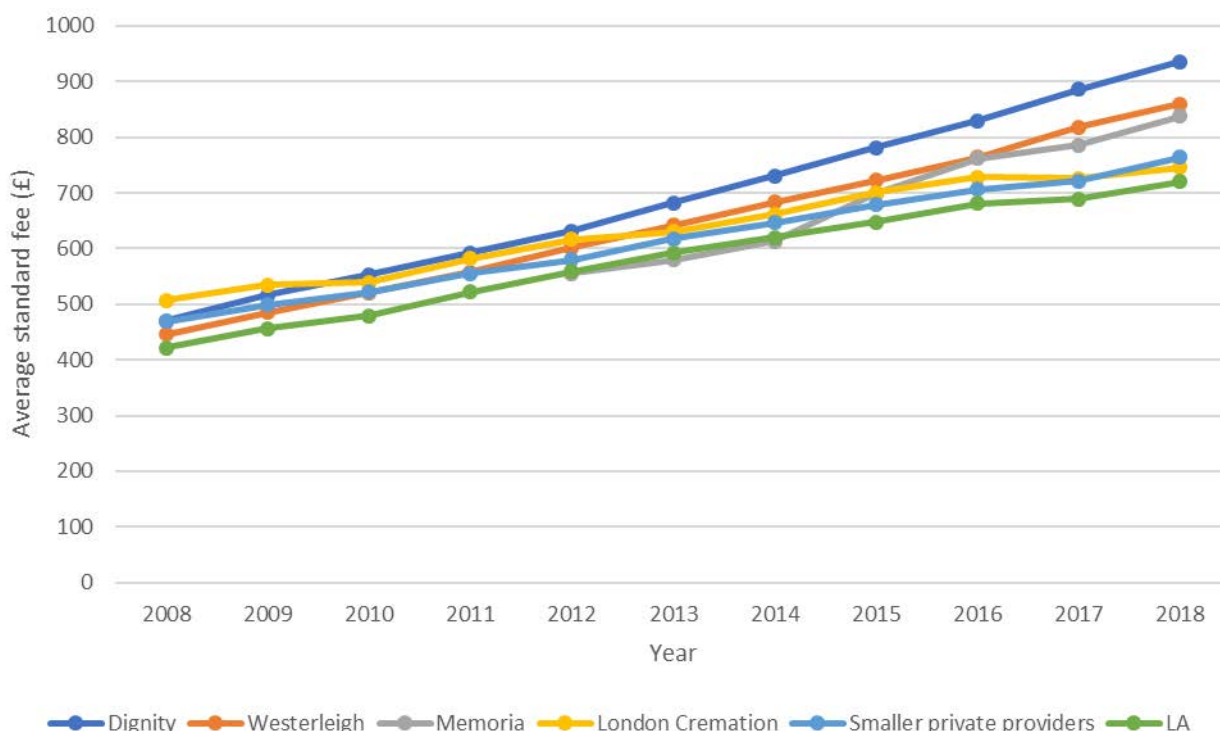
7.188 Figure 26 shows the trend in the average standard fee,<sup>1074</sup> by type of crematorium operator, between 2008 and 2018.

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<sup>1074</sup> The average standard fee is calculated, for a given operator, across all crematoria open in that year and for which we have data.



**Figure 26: Average standard fee, by operator type, £, 2008-2018**



Source: CMA analysis of Cremation Society data.

Notes: Local authority fee data is based on resident's fees (in the event that the local authority charges a different fee for residents and non-residents).

7.189 This graph shows that average standard fees have steadily increased across all types of crematorium operators between 2008 and 2018. In particular:

- (a) Dignity had an average standard fee of £470 in 2008, increasing to £936 in 2018;
- (b) Westerleigh had an average standard fee in 2008 of £445, increasing to £860 in 2018;
- (c) Memoria had an average standard fee of £555 in 2012, increasing to £838 in 2018;
- (d) LCC had an average standard fee of £507 in 2008, increasing to £746 in 2018;
- (e) smaller private operators had an average standard fee of £469 in 2008, increasing to £765 in 2018; and,
- (f) local authority crematoria had an average standard fee of £422 in 2008, increasing to £720 in 2018.

7.190 We have also looked at the average annual fee increase (compound annual growth rate- CAGR), and both the nominal and inflation adjusted (real)

increases in average fee, between 2008 and 2018, across all types of crematorium operator.<sup>1075</sup>

7.191 Table 37 shows that both Dignity and Westerleigh have made large nominal (and inflation adjusted) increases in their average standard fee over the period, showing increases of 99% (59% after adjusting for inflation) and 93% (54% after adjusting for inflation) respectively. Local authority operators have made an increase of 71% in their average standard fees in nominal terms (37% after adjusting for inflation).<sup>1076</sup> Other operators, such as Memoria, LCC and smaller private operators have seen lower increases in their average standard fees both on a nominal basis and after adjusting for inflation.

**Table 37: Average standard fee, CAGR, nominal and real increase in fees, by operator type, 2008-2018**

Crematorium operator	Average standard fee in 2008, £	Average standard fee in 2018, £	Average annual fee increase, CAGR %	Nominal increase in average fee %	Increase in average fee adjusting for inflation %
All	434	775	6	79	43
Dignity	470	936	7	99	59
Westerleigh	445	860	7	93	54
Memoria	555	838	7	51	37
LCC	507	746	4	47	18
Smaller private operators	469	765	5	63	30
Local authority	422	720	5	71	37
All private	467	866	6	85	48

Source: CMA analysis of Cremation Society data.

Notes: Local authority fee data is based on residents' fees (in the event that the local authority charges a different fee for residents and non-residents). Memoria fee reported in the first column is the average standard fee in 2012, as they entered the market in 2012 onwards.

7.192 In nominal terms, between 2008 and 2018, average local authority and average private cremation fees have increased by 71% and 85% respectively. Adjusting for inflation, average local authority and average private cremation fees have increased by 37% and 48% respectively, over the same period.

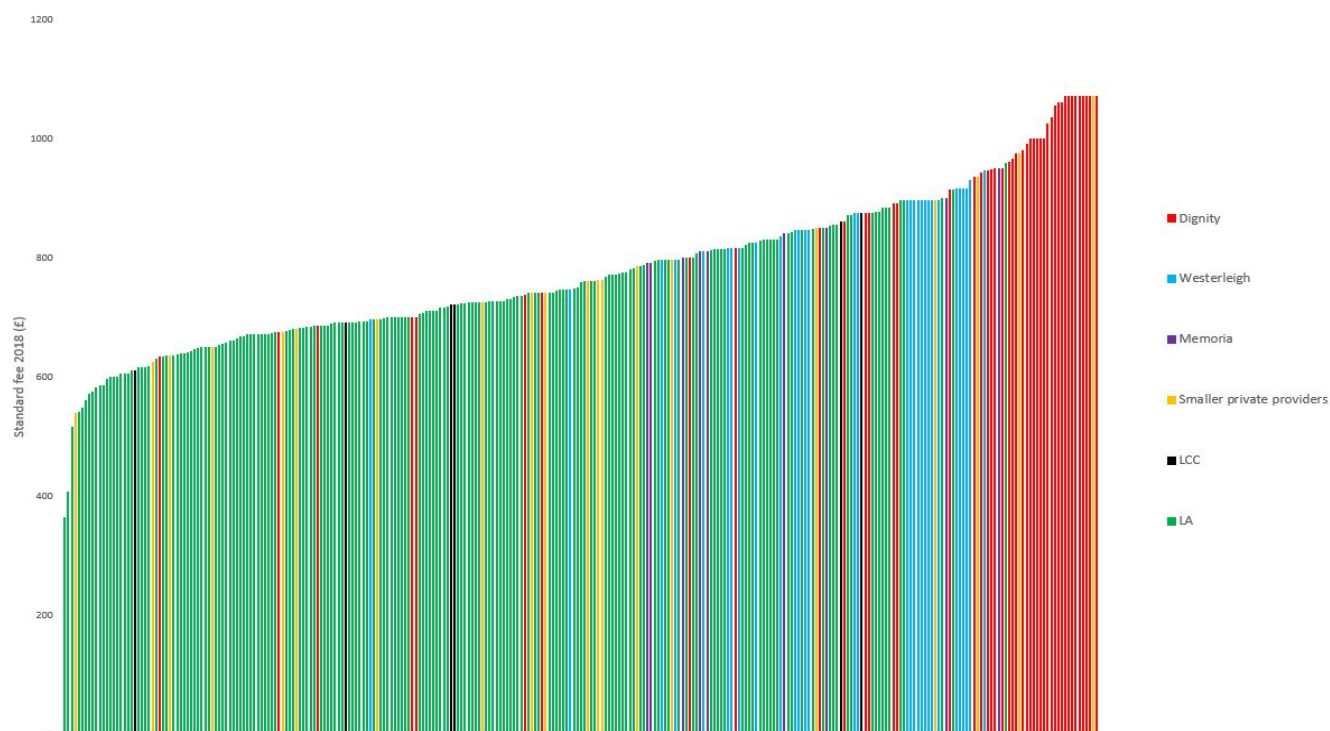
### *Distribution of standard fees in 2018*

7.193 Figure 27 shows the distribution of standard cremation fees in 2018. The bars on the figure show the standard cremation fee for each crematorium, ranked in order from the lowest to the highest fee (from left to right).

<sup>1075</sup> Adjustments for inflation in the analysis of crematoria fees is based on CPI.

<sup>1076</sup> We note that averaging the standard fee increase for local authority crematoria does not show the large fee increases made by certain local authorities. Among the most expensive local authority crematoria in 2018 we note the majority of these crematoria have at least doubled their standard fees over the time period 2008-2018.

**Figure 27: Distribution of standard cremation fees in 2018, by operator type**



Source: CMA analysis of Cremation Society data.

Notes: Local authority fee data is based on resident's fees (in the event that the local authority charges a different fee for residents and non-residents).

7.194 As Figure 27 shows, there is considerable variation in the standard fees across all crematoria as well as across different types of operator. In light of this, we have considered the proportion of crematoria of each operator type that charge fees above the 25<sup>th</sup> percentile fee (£685), median fee (£758), mean fee (£775) and 75<sup>th</sup> percentile fee (£858).

**Table 38: Percentage of crematoria charging a standard fee above the 25<sup>th</sup> percentile, median, mean and 75<sup>th</sup> percentile fee, across different types of operator, 2018**

Crematorium operator	Proportion of crematoria with fees above 25 <sup>th</sup> percentile (£685) %	Proportion of crematoria with fees above median (£758) %	Proportion of crematoria with fees above mean (£775) %	Proportion of crematoria with fees above 75 <sup>th</sup> percentile (£858) %
Dignity	93	85	85	78
Westerleigh	100	94	94	55
Memoria	100	100	100	22
LCC	83	33	33	33
Small private operators	70	50	35	20
Local authority	64	32	26	7

Source: CMA analysis of Cremation Society data.

Notes: Local authority fee data is based on residents' fees (in the event that the local authority charges a different fee for residents and non-residents).

7.195 The table shows that the vast majority of Dignity, Westerleigh and Memoria crematoria charge more than the median fee. One third of London Cremation

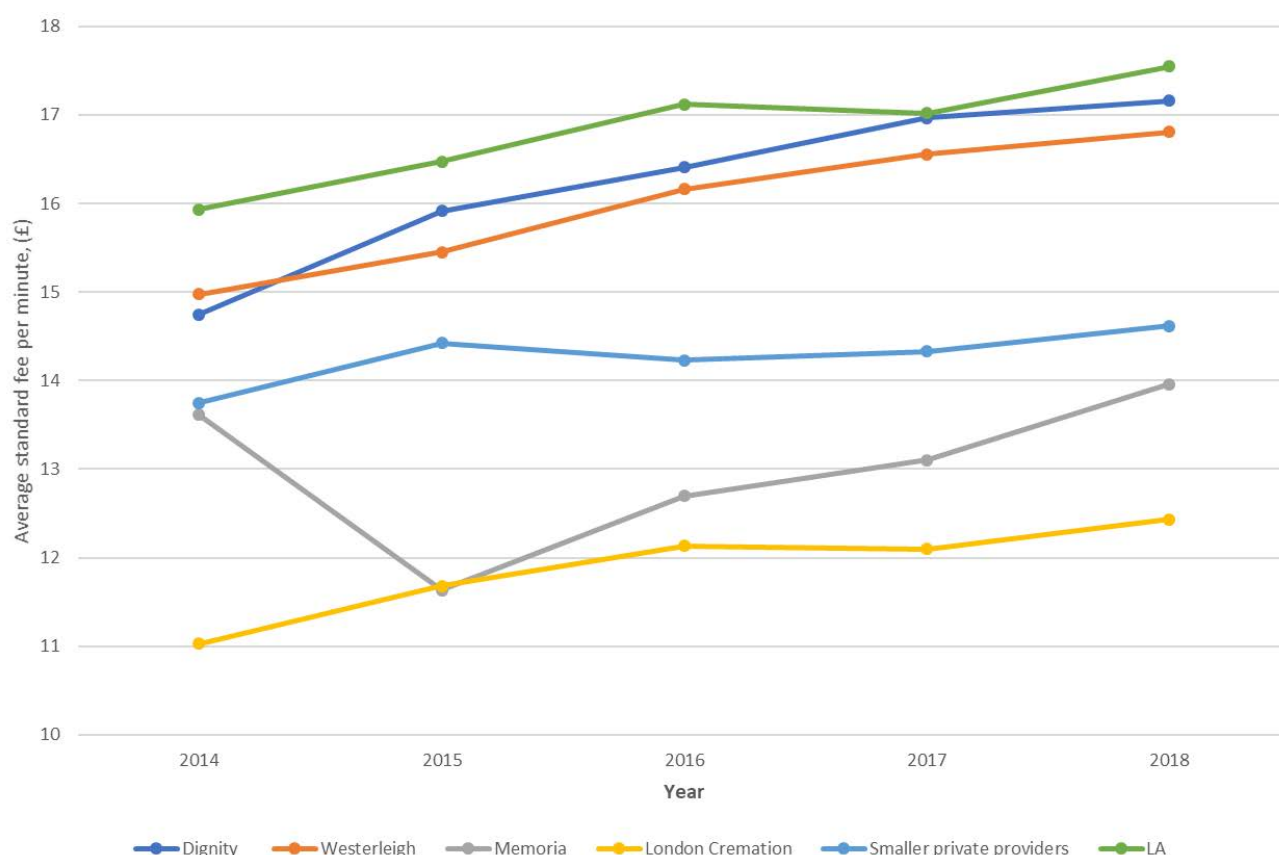
Company crematoria and one third of local authority crematoria have fees in the top half of the distribution of cremation fees.

- 7.196 The majority of Dignity and Westerleigh crematoria charge fees in the top quarter of the fee distribution (78% of Dignity crematoria and 55% of Westerleigh crematoria charge more than £858 for a standard service). Seven per cent of local authority crematoria charge fees in the top quarter of the fee distribution. Smaller private crematoria are distributed throughout. Over two-thirds of the crematoria charging fees in the top quarter of the distribution are Dignity or Westerleigh crematoria. In total, 74 crematoria charge more than £858 for a standard fee cremation, 36 of these are Dignity crematoria (out of 46 Dignity crematoria in total) and 17 of these are Westerleigh crematoria (out of 31 Westerleigh crematoria in total).

#### *Standard fees per minute*

- 7.197 We next assess how the average standard fee per minute charged by different operators has changed over time. This price measure is a way to control for potential increases in slot lengths over time that may have affected the cremation fees charged by certain operators, and it allows us to understand better whether the relative price position of the various operators on a “per minute” basis has changed over time. However, we do not consider the price per minute metric to be particularly informative as customers do not pay for a standard fee cremation by the minute. Rather, customers pay for a standard cremation service, and, if the customer wants a longer service than is provided as part of a standard service, the customer has to pay for either a double slot or an additional time increment (typically offered as an additional 15, 20 or 30 minutes).

**Figure 28: Average standard fee per minute (£), across operators, 2014-2018**



Source: CMA analysis of Cremation Society data and RFI responses. We do not have complete fee and slot length for all operators but have data for at least 80% of each operator's crematoria that allows us to calculate average fee per minute. Notes: Local authority fee data is based on residents' fees (in the event that the local authority charges a different fee for residents and non-residents).

7.198 Figure 28 shows that local authority crematoria have a slightly higher average standard fee per minute compared with the average fee per minute of Dignity and Westerleigh. On average, Memoria, the LCC and smaller private operators priced lower on a per minute basis than local authorities, Dignity and Westerleigh. Table 39 shows the average fee per minute increase, both in nominal terms and after adjusting for inflation, for each type of crematorium operator. It shows that all operators, with the exception of Memoria and smaller private operators, have increased their average fees after adjusting for inflation, with the largest increases made by Dignity, Westerleigh and LCC.

**Table 39: Average fee per minute nominal and real increases, 2014-2018**

Crematorium operator	Nominal average fee per minute increase, 2014-2018 %	Fee per minute increase after adjusting for inflation, 2014-2018 %
Dignity	16	10
Westerleigh	12	6
Memoria	3	-3
LCC	13	6
Smaller private operators	6	0
Local authorities	11	4

Source: CMA analysis of Cremation Society data and responses to requests for information.

- 7.199 To address the issue that fees per minute do not reflect a price actually paid by customers, we have considered a price measure which reflects what customers would actually pay, on average, if they were to purchase a slot of at least 45 minutes from each crematorium.
- 7.200 We consider that a 45-minute slot is an appropriate basis on which to make comparisons given the following representations which have been made to us:
- (a) Dignity stated that 45 minutes should be the minimum length for a cremation booking slot.<sup>1077</sup> Dignity told us that: '45 minutes is a good time. Any more than that and it is a more of a bonus, if you like. 45 minutes is ample and what people expect to have time in a chapel'. Dignity further commented that: 'in Dignity's view a slot length of 45 minutes or more is necessary for most customers ... the majority of [our] portfolio [offer] 60 minutes.'
  - (b) Many local authority crematoria have extended their slots, considering 45 minutes an appropriate slot length and they have often done so after consultation with families and funeral directors. For example, Sandwell Valley crematorium stated that, 'service slots... were increased from 30 minutes to 45 minutes ... following feedback from families and funeral directors alike.' Guildford crematorium stated that, 'as a result of feedback ... service times were changed from 30-minute to 45-minute time slots.' Plymouth City Council told us that a 45-minute slot provides 'customers/bereaved families the opportunity to personalise the service making use of the facilities available. This allows substantially more time within the chapel for visual tributes and eulogies to be delivered.' Crematoria in Maidstone, Eastbourne, Wolverhampton, Dewsbury Moor, Huddersfield, Weymouth, Gateshead, Portchester, Cardiff, Clydebank, Worcester, South Shields, Manchester, Halifax, Eltham, Sheffield, Newcastle-Upon-Tyne, Great Yarmouth, Falkirk, and Tunbridge Wells made similar comments relating to the benefits and appropriateness of a 45-minute booking slot.
  - (c) Some funeral directors that we spoke to also commented that 45 minutes is appropriate for a cremation service. In particular, Co-op noted that the slot length needs to be set with regard to both the level of available capacity and the appropriateness of the service length. Co-op noted that, 'in London, a recent change in crematoria time slots (from 45 to 60

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<sup>1077</sup> Cost, Quality, Seclusion and Time.

minutes) has reduced capacity... in our view, 45-minute slots are appropriate for the majority of cases.'

(d) The ICCM's Charter for the Bereaved<sup>1078</sup> sets members a target of a minimum slot length of 40 or 45 minutes.

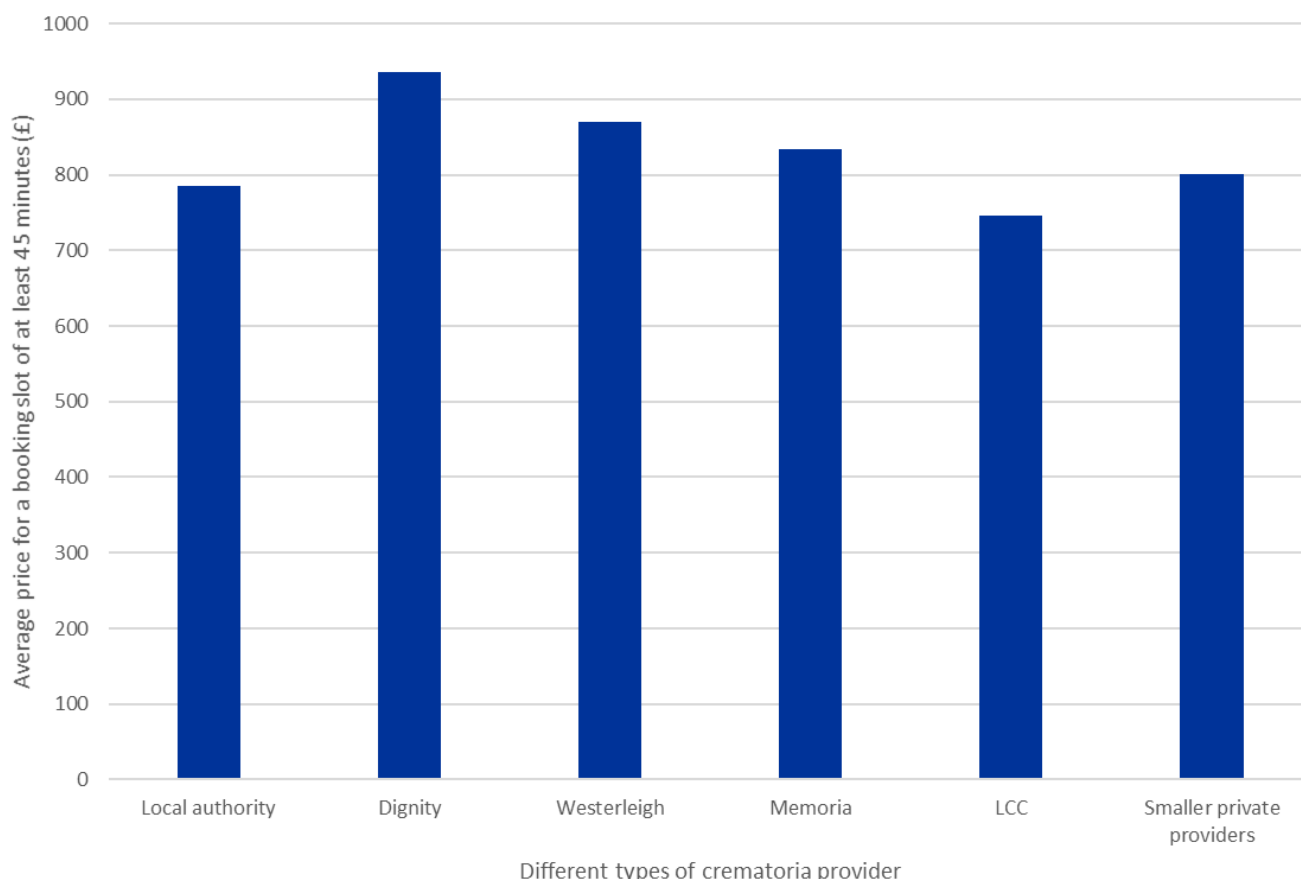
7.201 We have calculated the price of a slot of at least 45 minutes by using the fee charged for a 45-minute slot or a longer slot (when available), or, where slots of less than 45 minutes are offered, the price of the slot plus the additional incremental charge to achieve a slot length of at least 45 minutes.

7.202 Figure 29 shows the results of our analysis. LCC is the cheapest operator on this measure. Local authorities are cheaper, on average, than the three larger private operators for a slot of at least 45 minutes. Dignity is the most expensive private operator for a slot of at least 45 minutes, followed by Westerleigh, then Memoria. This is because where local authorities offer shorter, 30-minute slots, they tend to offer increments of additional time/double slots at a relatively low additional price.

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<sup>1078</sup> [Charter for the Bereaved, p47.](#)

**Figure 29: Average price (£) for a booking slot of at least 45 minutes, across operators, 2018**



Source: CMA analysis of Cremation Society data and RFI responses from local authorities, Dignity, Westerleigh, Memoria, LCC, and smaller private operators.

Notes:

1. Local authority fee data is based on residents' fees (in the event that the local authority charges a different fee for residents and non-residents).

2. Based on data from 174 local authority crematoria, 46 Dignity crematoria, 32 Westerleigh crematoria, 10 Memoria crematoria, six LCC crematoria and 16 smaller private crematorium operators.

7.203 The analysis above is not necessarily comparing like-for-like as it includes crematoria offering 60-minute slots. Furthermore, certain crematorium operators stated that 60-minute slots are an appropriate basis on which to make comparisons:

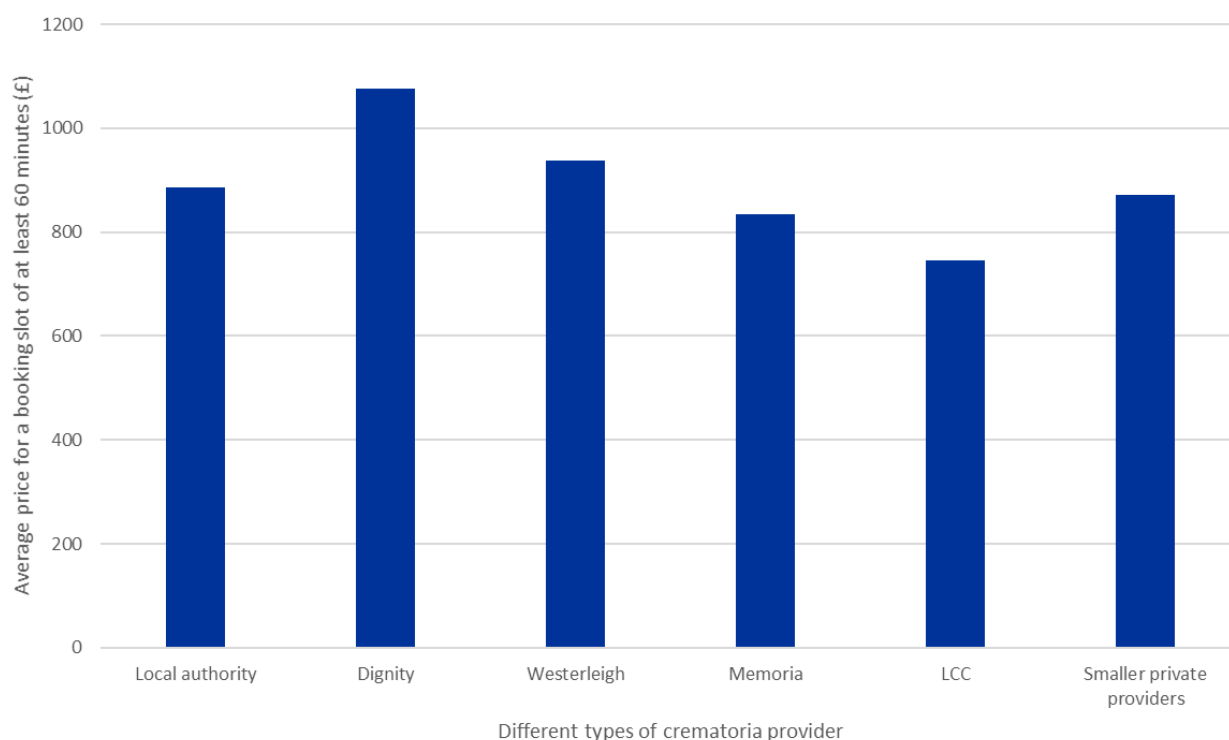
- (a) Memoria stated: 'At Memoria, we offer one-hour slots at all of our crematoria. We have done so since January 2015. Before that, we offered 45-minute service times for all services. We made the change to one-hour slots after extensive feedback from funeral directors and bereaved families at our Kirkleatham Memorial Park site. Our decision to switch to one-hour services at all sites was driven by our desire to try and ensure that every bereaved family using our crematoria experienced the facility to themselves and were not given an impression of being part of a 'tragic conveyor belt'. The extra time between services can make this aim possible. We offer one-hour services for both committal only and full services;' and



(b) many local authority crematoria have stated that they consider 60 minutes an appropriate slot length and they have often set this slot length after consultation with families and funeral directors.<sup>1079</sup>

7.204 To address this point, we have compared average fees for a slot of at least 60 minutes, calculated on the same basis as above. Figure 30 shows that LCC crematoria are, on average, the cheapest on this measure, with an average fee of £746, whilst local authorities have an average fee of £885. We also note Memoria to be cheaper than local authority crematoria under this measure with an average fee of £833. On average, Dignity and Westerleigh charge £1,076 and £937 respectively.

**Figure 30: Average price (£) for a booking slot of at least 60-minutes, across operators, 2018**



Source: CMA analysis of Cremation Society data and RFI responses from local authorities, Dignity, Westerleigh, Memoria, LCC and smaller private operators.

Notes:

1. Local authority fee data is based on residents' fees (in the event that the local authority charges a different fee for residents and non-residents).

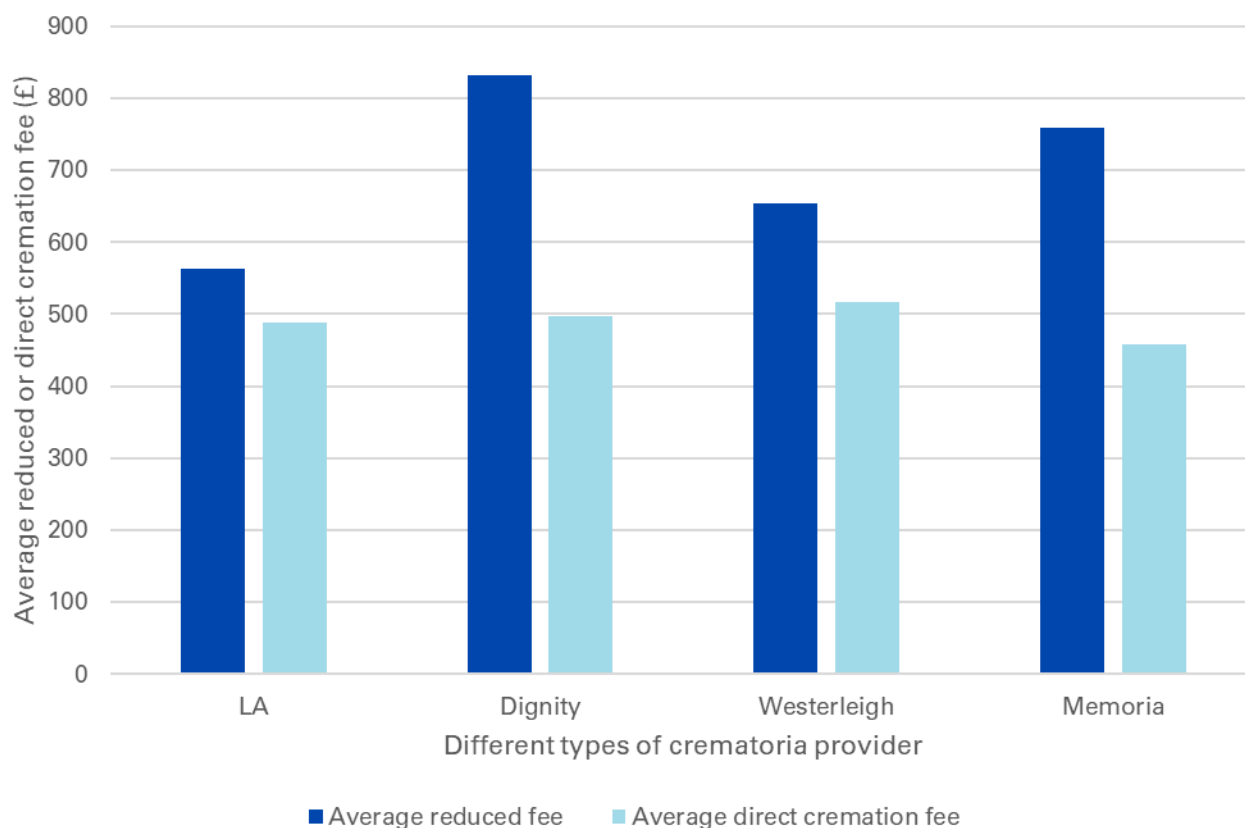
2. Based on data from 173 local authority crematoria, 46 Dignity crematoria, 30 Westerleigh crematoria, 10 Memoria crematoria, six LCC crematoria and 15 smaller private operator crematoria

<sup>1079</sup> Kettering, Bracknell, Birtton, Glasgow, Luton, Edinburgh, Truro, Hull, Leicester, Leamington Spa, Cambridge, Chelmsford, Boston, Birkenhead, Medway, Mansfield and Brighton.

## Reduced and unattended service fees

7.205 We have gathered data from Dignity, Westerleigh, Memoria and local authority crematoria on their reduced and unattended service fees. Figure 31 shows the average reduced and unattended service fees in 2019, split by different operators.<sup>1080</sup>

**Figure 31: Average reduced and unattended service fees (£) in 2019, split across different types of crematoria operator**



Source: CMA analysis of responses from local authorities (LA), Dignity, Westerleigh and Memoria.

Notes:

1. LCC and smaller private operators are not included here due to lack of available data.
2. For reduced fee services, this is based on data from 73 local authority crematoria, 37 Dignity crematoria, 30 Westerleigh crematoria and 10 Memoria crematoria.
3. For unattended cremation services, this is based on 86 local authority crematoria, 46 Dignity crematoria, 27 Westerleigh crematoria and 10 Memoria crematoria.
4. Analysis of Westerleigh's unattended service fees includes the fee for a committal only service at one of its crematoria. Excluding this fee from the above table reduces the average Westerleigh unattended service fee to £474.

7.206 Figure 31 shows that:

<sup>1080</sup> Comparisons between the reduced service fees charged by different operators may be less accurate than the comparisons of standard fees as we have been unable to gather data that allows us to understand whether medical referee and environmental levies are included in the reduced fee data supplied by different operators (whereas in standard fee data from the Cremation Society these charges are included across operators).

- (a) For local authority crematoria, the average reduced and unattended cremation fees are £563 and £489 respectively;
- (b) for Dignity crematoria,<sup>1081</sup> the average reduced and unattended cremation fees are £832 and £498 respectively;
- (c) for Westerleigh crematoria,<sup>1082</sup> the average reduced and unattended cremation fees are £653 and £516 respectively; and
- (d) for Memoria crematoria,<sup>1083</sup> the average reduced and unattended cremation fees are £759 and £458 respectively.

7.207 We note that average unattended cremation fees are relatively uniform across operators, in contrast with the significant variation observed in average reduced fees and average standard fees. This greater uniformity could reflect the fact that unattended cremations are a less differentiated service across operators. We describe the variation in reduced and unattended cremation fees in Appendix T.

### *Overrun fees*

7.208 Dignity has noted that, “the CMA should also collect evidence from local authorities on how often they impose penalties on customers who overrun their allotted slot times, even if by only a small increment”.<sup>1084</sup> Overrun charges are typically made in order to prevent services from over-running.

7.209 We have not collected data on how often local authority crematoria impose overrun charges. However, we have gathered data on the proportion of crematorium operators who impose these charges.<sup>1085</sup>

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<sup>1081</sup> We have based this analysis on data for reduced fees at 37 Dignity crematoria (out of 46) and unattended service fees at 46 Dignity crematoria, from Dignity price lists for 1 May 2019. The price lists provided by Dignity did not list a reduced fee for the remaining nine Dignity crematoria (East London, Sheffield Grenoside, Lichfield, Shrewsbury, Stockport, Trent Valley, Glasgow Craigton, Houndwood, and Brighton Downs). Dignity has noted that, in fact, reduced fees are offered across all its crematoria and the average reduced fee across all crematoria is £798 ([Dignity plc response to the CMA's working papers on cremation services of 30 January 2020](#)).

<sup>1082</sup> We have based this analysis on reduced fees at 30 Westerleigh crematoria (out of 33) and unattended service fees at 27 Westerleigh crematoria, from Westerleigh price lists. We did not have data for the remaining Westerleigh crematoria.

<sup>1083</sup> We have used data from Memoria price lists. The Memoria ‘category 2’ cremation fee described as: “funeral director, no attendance ... delivery by prior arrangement ... no service” was used by the CMA for its analysis of unattended cremation fees. The CMA has used the Memoria ‘category 5’ cremation fee described as: “18 years or over ... 8am, 9am, 10am ... full or committal” for its analysis of reduced fee services. We have based these averages on direct and reduced fees from price lists for all 10 Memoria crematoria.

<sup>1084</sup> [Dignity plc response to the CMA's working papers on cremation services of 30 January 2020](#), paragraph 4v.

<sup>1085</sup> Where the majority of data in this dataset has been supplied in 2020 (78%), whilst the remaining 22% relate to 2019 data.

**Table 40: Average overrun fee charged by crematoria, 2020**

	<i>Local authority</i>	<i>Private</i>
Percentage of crematoria with overrun fee, %	39	19
Average overrun fee, £	181	318

Source: CMA analysis of Cremation Society data.

Notes: percentage of crematoria with overrun fee based on 296 crematoria, 181 local authority and 115 private crematoria.

Average overrun fee based on 70 local authority and 21 private crematoria.

7.210 Thirty-nine per cent of local authority crematoria and 19% of private crematoria charge overrun fees. Where crematoria do charge overrun fees, local authority crematoria tend to charge less, with an average overrun fee of £181, compared with £318 for private operators.

### *Summary on pricing outcomes*

7.211 Our analysis of fee increases should be read alongside our profitability analysis. Average standard cremation fees have increased in nominal terms and when adjusted for inflation across all operators in the period 2008-2018. The average standard cremation fee increased by 85% over this period at private crematoria and by 71% at local authority crematoria. Adjusting for inflation, average standard cremation fees increased by 48% at private crematoria and by 37% at local authority crematoria over the period. We note that over the same time period, certain local authorities at least doubled their fees. Average standard cremation fees have increased between four and seven per cent per year on average over the same period. In 2018 Dignity was the most expensive crematorium operator, with an average standard fee of £936, compared with an average fee of £860 at Westerleigh crematoria, £838 at Memoria crematoria, and £720 at local authority crematoria (based on the fees charged to residents; to the extent that local authorities charge higher fees for non-residents this will be an underestimate).

7.212 The majority of Dignity and Westerleigh crematoria charge standard cremation fees in the top quarter of the fee distribution (ie fees in excess of £858, which corresponds to the 75<sup>th</sup> percentile of the fee distribution): 78% of Dignity crematoria and 55% of Westerleigh crematoria. Seven percent of local authority crematoria charge standard cremation fees in the top quarter of the fee distribution. Over two-thirds of the crematoria charging fees over £858 are Dignity or Westerleigh crematoria.

7.213 When considering standard cremation fees for a particular minimum slot length, Dignity is the most expensive crematorium operator for an average slot of at least 45 minutes, followed by Westerleigh and then Memoria (we note that Memoria only offers 60-minute slots so this measure will make Memoria appear more expensive). Dignity is also the most expensive crematorium operator for an average slot of at least 60 minutes, followed by

Westerleigh and then local authority crematoria. LCC is the cheapest operator for a slot of at least 45 minutes or at least 60 minutes.

- 7.214 The average reduced cremation fee ranges between around £560 to £830 (depending on the operator) and the average unattended cremation fee is around £500. Whilst reduced fee and unattended services are cheaper, on average, than standard services, we note the low uptake of these services (given customers have a preference for attended services in the middle of the day).

### ***Quality outcomes***

- 7.215 When assessing front of house quality outcomes across crematorium operators we note the multi-dimensional nature of quality in the provision of crematoria services. There are many aspects of quality, not all of which are measurable or quantifiable. As such, a comprehensive assessment of quality outcomes that includes all aspects of quality is difficult.
- 7.216 We set out the following evidence and analysis in relation to quality outcomes:
- (a) 'Front of house' quality;
  - (b) 'back of house' quality; and
  - (c) whether higher cremation fees are associated with higher quality cremation services (in terms of the facilities provided and booking slot lengths).

### ***Front of house quality***

- 7.217 Our assessment of front of house quality (defined as those aspects of the service that the consumer observes, such as the crematorium age and style and the condition of the chapel) describes:
- (a) Whether and to what extent local authority crematoria and private crematoria provide different levels of front of house quality (based on a comparison of certain measurable aspects of quality and on qualitative evidence). Full details of the evidence gathered is included in Appendix L;
  - (b) qualitative evidence in relation to front of house quality levels; and
  - (c) evidence from customer satisfaction surveys.

*The extent to which local authority crematoria and private crematoria provide similar levels of quality*

7.218 Westerleigh and Memoria have argued that new, private crematoria tend to offer a higher quality service compared with local authority crematoria.<sup>1086</sup>

7.219 We have considered the scope for quality differentials between crematorium operators in relation to the provision of services front of house. Broadly, the provision of front of house crematoria services involves:

(a) The provision of a chapel and grounds. Chapels can vary, in terms of size, upkeep, condition, style and facilities, but the scope for differentiation is limited. Likewise, grounds can vary in terms of size, upkeep and style; and

(b) the provision of a booking slot, which can vary in length.

7.220 We have gathered data that has allowed us to compare some measurable aspects of front of house quality at local authority and private crematoria (most notably, slot length and availability of certain facilities: music systems, web streaming and visual tributes).<sup>1087</sup> On certain measurable aspects of quality, private crematoria are, on average, higher quality compared with local authority crematoria (full details are included in Appendix L):

(a) The average booking slot at a private crematorium is 56 minutes compared with 43 minutes at a local authority crematorium; and

(b) private crematoria are more likely to offer visual tributes and web streaming compared with local authority crematoria. Similar proportions of private and local authority crematoria offer music systems.

7.221 Based on the same metrics, newer crematoria (which are mainly private crematoria), on average, have longer slot lengths and are more likely to offer visual tributes, web streaming, and music systems compared with older crematoria (full details are included in Appendix L).

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<sup>1086</sup> [Summary of the hearing with Westerleigh](#), p1: "Westerleigh said that the market was still dominated by local authorities and there was an increasing differential in the quality of crematoria with older sites, often delivering a poor service, and the better quality offered at newly opened crematoria." [Summary of the hearing with Memoria](#), p1: "The second point was that rivals, including local authority crematoria, imposed price constraints on Memoria although they operated at different price and quality levels."

<sup>1087</sup> By visual tributes we mean electronic screens that display photos and/or videos. We note that crematoria not offering visual tributes may allow hard copies of photos to be displayed on a board or wall.

7.222 Qualitative measures of quality do not provide clear-cut evidence that there are front of house quality differentials between local authority and private crematoria. In particular:

- (a) The Inspector of Crematoria for Scotland made similar comments in relation to both local authority and private crematoria in Scotland in terms of the quality of service offered, the quality of staff, and overall upkeep of sites;<sup>1088</sup>
- (b) both local authority and private crematoria are able to achieve a high score on the ICCM Charter for the Bereaved;<sup>1089</sup>
- (c) customer satisfaction scores at both local authority and private crematoria are high (a discussion on customer satisfaction follows); and
- (d) on site visits conducted by the CMA during the course of the investigation we observed that both local authority and private crematoria have well-kept chapels and gardens.

7.223 We also note consistent submissions from both local authority and private operators that their staff offer a high-quality service (see Appendix L).

*Qualitative evidence in relation to front of house quality levels*

7.224 We have received some anecdotal evidence which suggests that front of house quality may not be uniformly high, at both local authority and private crematoria. The evidence that we have received in relation to poor front of house quality at local authority crematoria is as follows:

- (a) Westerleigh in particular told us of around 100 local authority crematoria (ie roughly half of all local authority crematoria) where it considers quality to be 'poor' or 'very poor';<sup>1090</sup>
- (b) a smaller funeral director, [X], stated in relation to [X] crematorium: 'I went ... as a mourner, a couple of weeks ago, "God this looks a mess". They had got labels, leaflets stuck here, posters there, this that and the other. And I thought, "Not nice";' and
- (c) a smaller funeral director noted the quality at local authority crematoria: 'Some are truly terrible ... The toilets have to be clean and well

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<sup>1088</sup> Fourteen local authority crematoria and 16 private crematoria.

<sup>1089</sup> Eighty-one local authority crematoria and five private crematoria.

<sup>1090</sup> [Summary of the hearing with Westerleigh](#)

maintained ... no stained carpets; no dusty flowers. Some of the crematoria were in terrible, terrible conditions.'

7.225 In relation to private crematoria, we have received the following evidence:

- (a) A smaller funeral director noted in relation to their local private crematorium: 'They [the crematorium] took ages to install the downloading music system whereas other crematoriums all over the country had them, the non-Dignity ones, because they are expensive to install ... I think they have just been so complacent and that is why they have just let it go and go and taken the money';
- (b) smaller funeral directors noted in relation to one private crematorium: 'Then you have the private-run Dignity crematorium at [redacted] which is over £[redacted]. In my opinion, and many people's opinion, when you compare the two, the Dignity crematorium is pretty awful, to be quite honest with you, in terms of its look and its presentation'. Another funeral director noted that [redacted] was 'drab';
- (c) a smaller funeral director noted that: '[a small private crematorium] was really bad as well'; and
- (d) a document from a private crematorium operator notes that: 'Dignity's approach to these sites [redacted] has been not to invest heavily ... but rather to run them as utilities, charging as much as they can get away with, given they are mostly the incumbent in the area they serve'. The document also acknowledges that, 'there is little doubt that their [Dignity's] customer experience ... would benefit from a refurbishment of ... half of their estate'. Dignity has told us that the document does not in any way reflect the true investment and commercial operations of Dignity sites.

### *Customer satisfaction surveys*

7.226 Private crematorium operators have noted that high customer satisfaction scores indicate that customers are satisfied that cremation services are of high quality.<sup>1091</sup>

7.227 We have previously noted in paragraph 7.68 that we consider that customer satisfaction scores can have limitations, which may cause reported

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<sup>1091</sup> Memoria notes that "one striking feature of the [Market Investigation consumer] Survey is the level of customer satisfaction with the quality of service that crematoria currently provide," Memoria Ltd, Response to the CMA's working papers published on 30 January 2020, 20 February 2020, page 8. Westerleigh states: "the high customer satisfaction scores routinely received by Westerleigh's crematoria provides a strong indication that customers believe they are receiving value for money," Westerleigh Group, Westerleigh Group's response to the CMA's working papers, 2 March 2020, paragraph 160.



satisfaction rates to be particularly high. Nevertheless, we note that despite these limitations, local authority crematoria score as highly as private crematoria in customer satisfaction surveys (see Appendix L).

### *Back of house quality levels*

7.228 We have not conducted a detailed assessment in relation to back of house quality given the following:

- (a) We have not been told about any significant variations in back of house quality between crematoria, nor have we heard of any significant concerns about poor back of house quality;
- (b) certain aspects of back of house quality are regulated and licensed, such as those aspects relating to the conditions under which cremations can take place, the documentation that must be provided before a cremation may be authorised, the cremation of the deceased, the disposition or interment of ashes, the registration of cremations carried out and the preservation of documents relating to the cremation (for further details see Appendix B); and
- (c) the body is not generally directly handled at the crematorium and the ICCM Guiding Principles state that the container and the body shall be placed in a cremator and cremation commenced no later than 72 hours after the service of committal.<sup>1092</sup>

### *Evidence on whether higher fees are associated with higher quality*

7.229 Dignity, Westerleigh and Memoria argued that, when making comparisons between cremation fees, we need to consider the role of quality. In particular, they have submitted that quality differentials may account for differences in fees.<sup>1093</sup> We have noted above that quality is multi-dimensional and many quality aspects are not measurable. This means that a comprehensive analysis of the relationship between price and quality is not possible, and that the evidence on price and quality needs to be interpreted alongside the evidence on profitability.

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<sup>1092</sup> [ICCM Guiding Principles](#) for Burial and Cremation, p2.

<sup>1093</sup> [Westerleigh response to Issues Statement, paragraph 6.2.4c](#). [Dignity response to Issues Statement, paragraph 3.12](#): “In considering ... price differentials between suppliers, the CMA will understand the need for like-for-like comparisons. Differences between suppliers in quality and cost obligations must be taken into account to make a fair and consistent comparison between them”. [Memoria response to Issues Statement, p5](#): “there is typically a significant quality differential between new entrants and incumbents, which is reflected in prices offered”.

7.230 Nevertheless, we have considered whether crematoria that offer similar slot lengths and facilities (for example, web streaming) charge similar fees. We have carried out this analysis across all crematoria, and also focused on differences between Dignity crematoria and Westerleigh crematoria. A full description of our analysis is included in Appendix T. We find that:

- (a) Higher fees are not consistently associated with longer slot lengths within the same type of operator: on average, Dignity, Westerleigh and local authority crematoria that offer 40- or 45-minute booking slots are more expensive than crematoria that offer 60-minute booking slots. Thus, on this measure of quality, customers using some of the most expensive crematoria are receiving shorter slot lengths;
- (b) average fees do not vary depending on whether or not crematoria offer particular facilities. For example, the average local authority standard cremation fee does not vary between those local authority crematoria offering certain facilities and those that do not (a similar pattern holds for private crematoria); and
- (c) an analysis of Dignity standard cremation fees<sup>1094</sup> does not show a correlation between slot lengths/the availability of certain facilities and fees.

### *Summary on quality outcomes*

7.231 We note the multi-dimensional nature of quality in the provision of crematoria services. There are many aspects of quality, not all of which are measurable or quantifiable. As such, a comprehensive assessment of quality outcomes that includes all aspects of quality is difficult.

7.232 We have received some anecdotal evidence from crematorium operators and independent funeral directors that there are some quality issues in the provision of front of house crematoria services by both local authority and private crematorium operators. However, overall, we consider that crematoria are likely to be delivering acceptable levels of front-of-house quality.

7.233 We did not prioritise analysis of quality issues in relation to the provision of back of house crematoria services given a lack of evidence or representations in relation to back of house quality.

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<sup>1094</sup> We have considered Dignity crematoria given the wide variation in fees among its crematoria and the larger number of crematoria operated by Dignity in which to make comparisons across.

- 7.234 We have found that on some measurable aspects of quality (for example, slot lengths and availability of certain facilities such as visual tributes), private crematoria, are, on average, higher quality compared with local authority crematoria. We also note that, based on the same metrics, newer crematoria (which are mainly private crematoria), are, on average, higher quality compared with older crematoria. However, in relation to qualitative measures there does not appear to be a clear-cut quality differential between local authority and private crematoria.
- 7.235 Our analysis of some measurable aspects of quality (for example, slot lengths and availability of certain facilities such as visual tributes) and fees does not find evidence that more expensive crematoria consistently offer a higher quality service compared with cheaper crematoria.

### ***Concentration and price/quality outcomes***

- 7.236 In this section we assess whether crematoria located in less concentrated areas offer lower standard cremation fees and/or higher quality. All else equal, we would expect to see crematoria with more, or geographically closer, rivals to charge lower cremation fees than crematoria with fewer, or more distant, rivals. We have considered the extent to which private and local authority crematoria fees vary depending on the following measures of local concentration:
- (a) Whether or not the crematorium has a rival crematorium within a 30-minute cortege drive time;
  - (b) the drive time to the closest rival crematorium;
  - (c) the total number of rivals within a 30-minute cortege drive time from the crematorium; and
  - (d) whether crematoria located in the least concentrated local areas are consistently offer lower fees and higher quality compared with crematoria with fewer rivals.

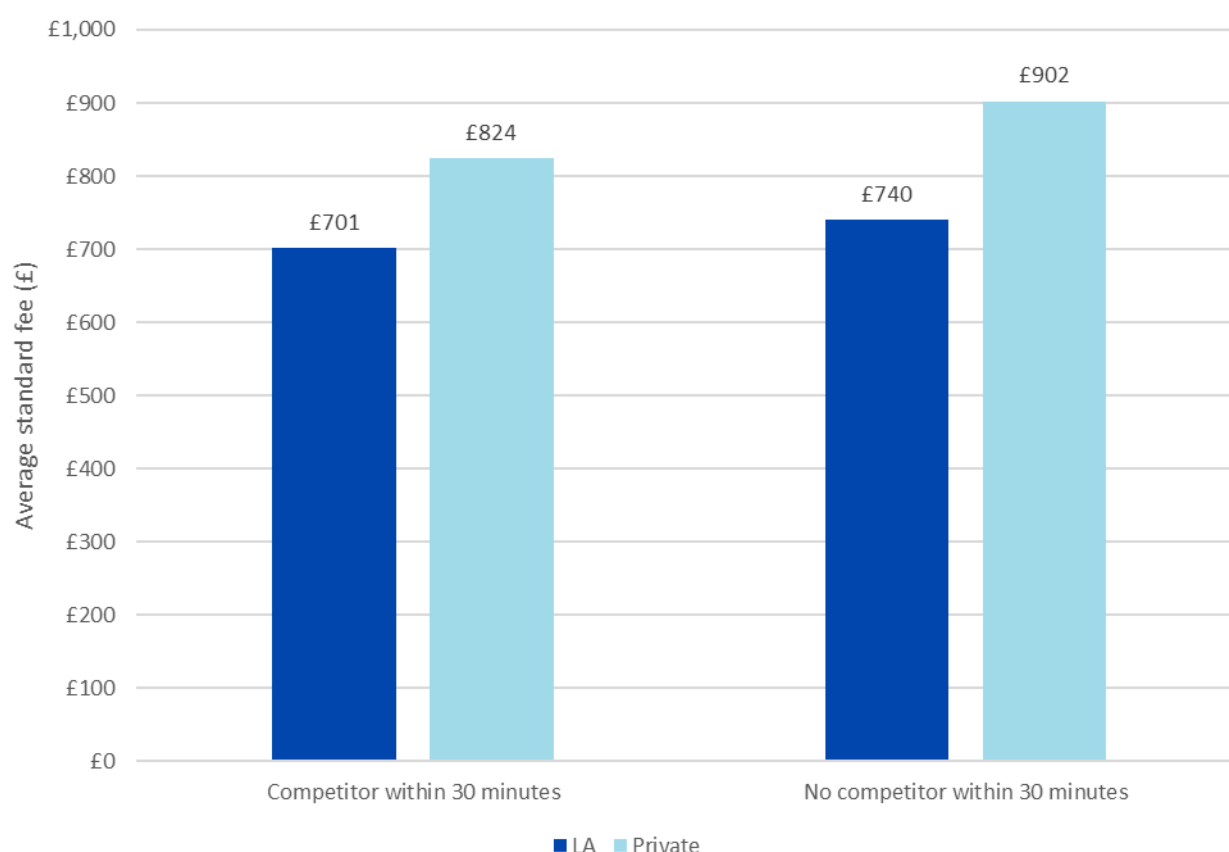
### ***Pricing outcomes***

#### ***Fees and presence of a rival within a 30-minute cortege drive time***

- 7.237 We have considered whether average standard cremation fees are lower in areas where there is a rival crematorium within a 30-minute cortege drive time relative to areas where there is not.

7.238 Figure 32, below, illustrates how the average standard cremation fee varies between these two groups of crematoria, split by private and local authority operator. On average, fees are higher (6% higher at local authority crematoria and 9% higher at private crematoria) at those crematoria with no rivals within 30 minutes compared with those that have at least one rival within 30 minutes.

**Figure 32: Average standard cremation fees and presence of a rival within a 30-minute cortege drive time, £, 2018**

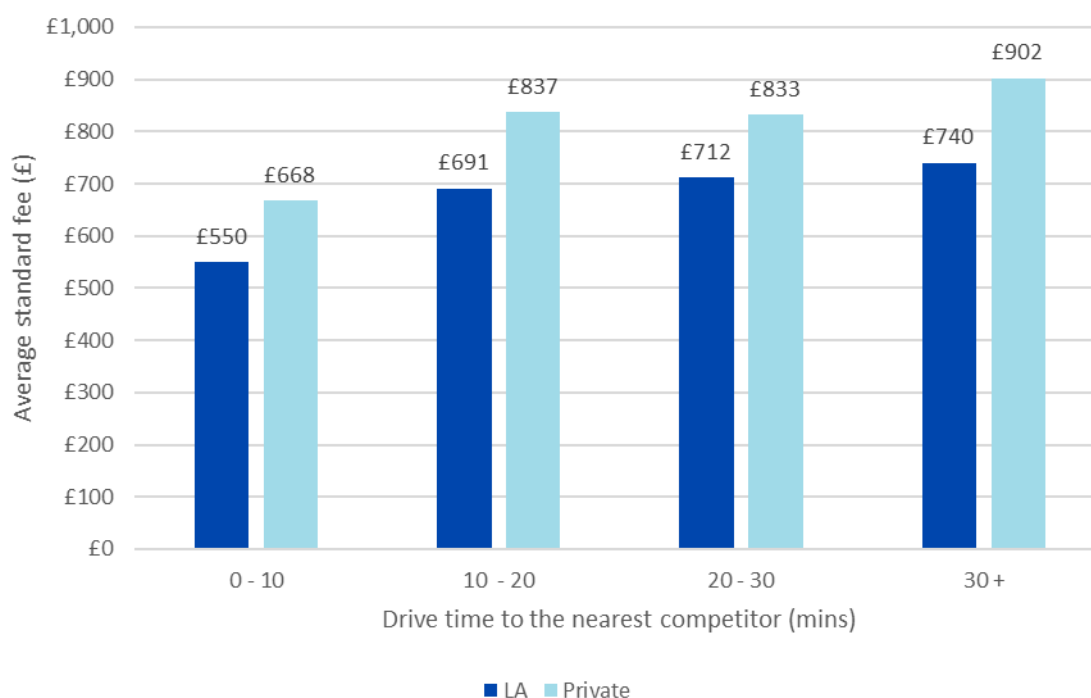


Source: CMA analysis of Cremation Society data. Number of local authorities (LA) with rival in 30 minutes (95), number of private crematoria with rival in 30 minutes (52), number of local authorities with no rival in 30 minutes (88) and number of private crematoria with no rival within 30 minutes (60).

### *Fees and cortege drive time to the nearest rival*

7.239 We have calculated the average standard cremation fee by cortege drive time to the closest rival crematorium, using four drive-time bands (ie 0-10, 10-20, 20-30, and more than 30 minutes).

**Figure 33: Average standard cremation fees and cortege drive time to the nearest rival, £, 2018**



Source: CMA analysis of Cremation Society data. There are a limited number of observations in the 0-10 minutes time band for both local authority (LA) and private crematoria. In the 0-10 minutes time band, there are three local authority and three private crematoria. In the 10-20 minutes time band, there are 27 local authority and 12 private crematoria. In the 20-30 minutes time band, there are 65 local authority and 37 private crematoria. In the 30+ minutes time band there are 88 local authority and 60 private crematoria.

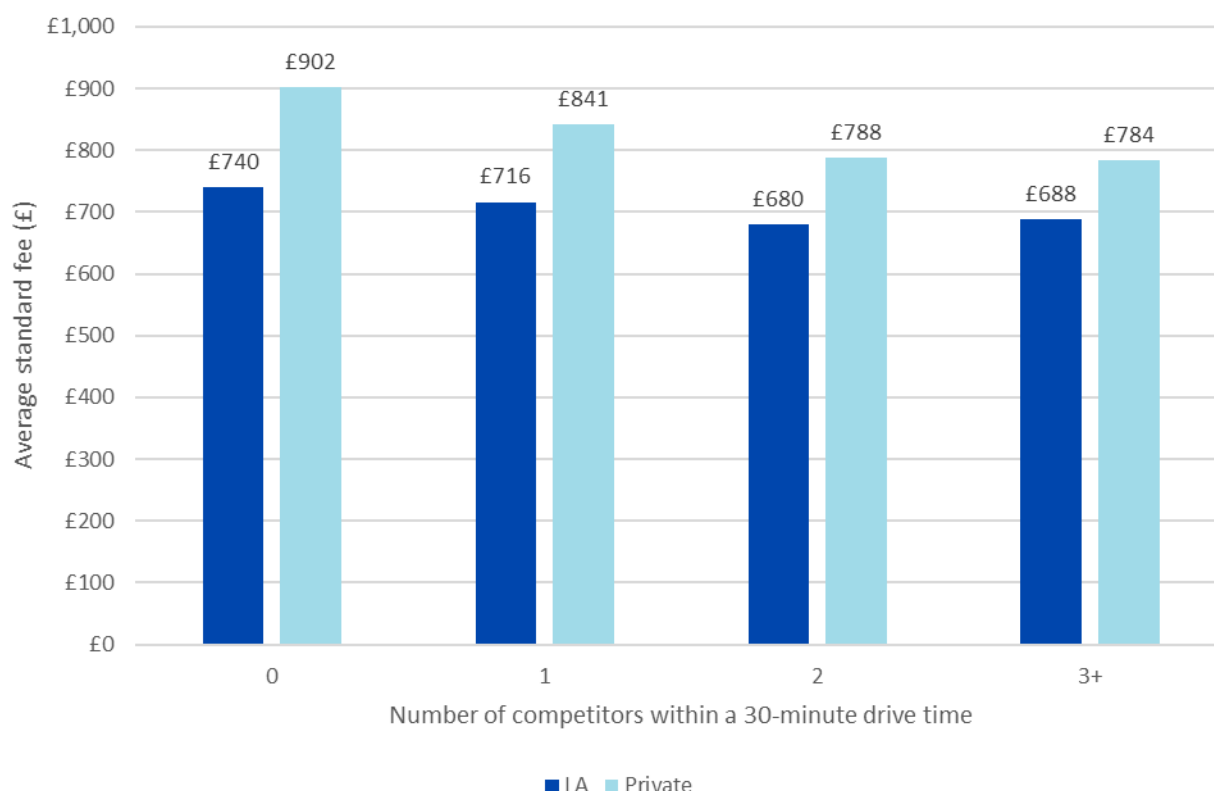
7.240 Figure 33 shows that, for private and local authority crematoria with a rival within 30 minutes, average fees are materially lower when their closest rival is less than 10 minutes away compared with when the closest rival is within 10-20 minutes away (average fees of £668 and £550 compared with average fees of over £837 and £691, a 25% and 26% increase respectively). For drive time bands beyond 10 minutes, average fees do not appear to vary significantly the further away the closest rival is.

7.241 This suggests that private and local authority crematoria which have a rival within 30 minutes and face a close rival (ie within 10 minutes) charge lower fees on average. We note that there are a very small number of private and local authority crematoria that have an alternative within a 10-minute cortege drive time (we have data for six of the eight crematoria with a rival within 10-minutes).

#### *Fees and number of rivals within a 30-minute cortege drive time*

7.242 Finally, we consider the number of rivals that a crematorium faces within a 30-minute cortege drive time, to test whether standard cremation fees are, on average, lower when there are more rivals.

**Figure 34: Standard cremation fees and number of rivals within a 30-minute cortege drive time, £, 2018**



Source: CMA analysis of Cremation Society data. Number of local authority (LA) and private crematoria that have no rival within 30 minutes is 88 and 60 respectively. Number of local authority and private crematoria that have one rival within 30 minutes is 52 and 36 respectively. Number of local authority and private crematoria that have two rivals within 30 minutes is 25 and 11 respectively. Number of local authority and private crematoria that have three or more rivals within 30 minutes is 18 and 5 respectively.

7.243 Figure 34 shows that, for those crematoria with at least one rival, fees do not vary significantly with the number of competitors. Average standard cremation fees are only slightly lower when the number of rivals increases. Average standard cremation fees for local authority crematoria with one rival are £716; this falls to £688 when there are three or more rivals (a 4% decrease). Average standard cremation fees for private crematoria with one rival are £841; this falls to £784 with three or more rivals (a 7% decrease).<sup>1095</sup>

<sup>1095</sup> We have considered whether the results presented here, which show that as private crematoria face more rivals their average fees are slightly lower, and the results presented in Section 6 which show that private crematoria experiencing entry (and thus seeing an increase in the number of rivals that they face) increase their fees, are consistent. The analysis described in this section is static, whilst the analysis described in Section 6 is dynamic (it assesses changes over time). Most private incumbent crematoria who experienced entry as described in Section 6 went from having no rivals to one rival after entry. We note the variation in standard fees charged by private crematoria facing one rival (from £538 to £1,035), and we estimate that private crematoria facing one rival who experienced entry are 9% more expensive than private crematoria facing one rival who did not experience entry (over the period 2008-2018). We thus consider the two findings not to be inconsistent: private crematoria who experience entry increase fees and tend to be more expensive than those who do not experience entry. This is not captured in the static analysis described in this section, but we consider that as more crematoria who face no rivals experience entry and increase their fees, the difference between average fees at those crematoria with no rivals and those crematoria with one rival could decrease.

### *Parties' comments on concentration and pricing outcomes*

- 7.244 Westerleigh stated that the analysis set out above: 'demonstrates a very weak link between the number of rivals in a crematorium's catchment area and the fees charged by that crematorium'.<sup>1096</sup> Memoria noted that the analysis is: 'unsupported by any statistical analysis of whether such price differences are statistically significant'.<sup>1097</sup>
- 7.245 We agree with Westerleigh that generally these results do not show significant differences between prices and the number of rivals and we have highlighted where we consider there to be more material differences. We note that testing whether these differences are statistically significant is unlikely to be meaningful due to the small number of crematoria in certain groups (in particular, very few crematoria have close rivals or a high number of rivals). We set out an analysis of the variation in standard cremation fees (on which the averages reported above are based on) in Appendix T.

### *Evidence on local areas where crematoria face more rivals*

- 7.246 In this part we present evidence on outcomes in areas where crematoria have three or more rivals. In a well-functioning market, we would expect crematoria with more rivals to offer lower prices and/or higher quality.
- 7.247 We have focused on the 23 crematoria who have three or more rivals within a 30-minute cortege drive time (see paragraph 4.87). These crematoria are located in seven local urban areas (South East London, North London, South West London, Manchester, Liverpool, Newcastle/Sunderland and North East Birmingham). Eighteen of these 23 crematoria are local authority crematoria, two are operated by Dignity, two are operated by the London Cremation Company and one is operated by Westerleigh. We note that our analysis focuses on more local authority crematoria compared with private crematoria, and that private crematoria are less likely to be located in areas with three or more rivals relative to their overall share in the market.<sup>1098</sup>
- 7.248 Of the 23 crematoria that have three or more rivals within a 30-minute drive time, we have compared their fees and slot lengths to the average fees and average slot lengths of crematoria operated by the same type of operator.<sup>1099</sup>

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<sup>1096</sup> Westerleigh, [Westerleigh Group's response to the CMA's working papers](#), paragraph 183. Westerleigh goes on to argue that this provides a strong indication that the CMA's local competitive assessment is flawed, and competition occurs over a much wider area.

<sup>1097</sup> Memoria Ltd, [Response to the CMA's working papers published on 30 January 2020](#), page 12.

<sup>1098</sup> See paragraph 4.88.

<sup>1099</sup> We have compared fees and slot lengths at local authority crematoria in areas with three or more rivals with the average fee and slot length for local authority crematoria more generally. We have compared fees and slot

We have carried out these comparisons in order to understand whether crematoria with three or more rivals have lower fees and longer slot lengths relative to other crematoria operated by the same operator.

7.249 We found that:

- (a) Nine crematoria out of 23 with three or more rivals have a standard fee above the average for their operator type and 14 have a standard fee below the average for their operator type. These crematoria are not therefore consistently cheaper;<sup>1100</sup>
- (b) ten crematoria out of 23 with three or more rivals have a slot length below the average for their operator type and 13 offer a slot length on or above the average for their operator type. As such, these crematoria do not consistently offer longer slot lengths;
- (c) fifteen of the 23 crematoria with three or more rivals do not offer visual tributes and 14 do not offer web streaming. As such, these crematoria are not consistently offering certain facilities; and,
- (d) Westerleigh has rated all crematoria in the UK by their general condition and Dignity/Trajectory have allocated scores based on fees, slot lengths, facilities and capacity.<sup>1101</sup> Based on this evidence, we note that crematoria with three or more rivals are not consistently rated as ‘good’ by Westerleigh, nor are they consistently scored highly by Dignity/Trajectory.

### *Summary on concentration and price/quality outcomes*

7.250 On average, fees are 6% higher at local authority crematoria and 9% higher at private crematoria for those crematoria with no rivals within 30 minutes compared with fees at crematoria that do have at least one rival within 30 minutes. For those crematoria with at least one rival, fees do not vary significantly with the number of rivals.

7.251 Average private and local authority cremation fees are materially lower when the closest rival is less than 10 minutes away. For drive time bands beyond 10 minutes, average fees do not appear to vary significantly the further away the

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lengths at Dignity crematoria in areas with three or more rivals with the average fee and slot length for Dignity crematoria more generally and so on.

<sup>1100</sup> When comparing the fees at these crematoria to the average fee across all crematoria, 18 of the 23 crematoria are cheaper and 5 are more expensive. It remains the case that these crematoria are not consistently cheaper.

<sup>1101</sup> Westerleigh has ranked crematoria on the general condition of the building, whilst Dignity commissioned Trajectory to generate a “Cost, Quality, Seclusion and Time” report, which has ranked crematoria in the UK on the basis of fee, price per minute, slot length, offering of weekend services, facilities and capacity. Trajectory (2018). [Cost, Quality, Seclusion and Time](#), page 30.



closest rival is. There are a very small number of crematoria that have an alternative within a 10-minute cortege drive time (we have data for six out of eight).

7.252 When focusing on crematoria with three or more rivals, our analysis indicates that these crematoria do not offer consistently lower prices or higher quality.

## ***Profitability***

### *Our approach to the profitability analysis*

7.253 We have carried out financial analysis on:

- (a) The four largest providers of crematoria services in the UK, namely Dignity, Westerleigh, Memoria and LCC ('large private crematoria'). In the UK, these firms have an estimated combined share of supply of approximately 26%, based on volume of cremations.<sup>1102</sup> Based on value,<sup>1103</sup> these firms have a combined share of supply of approximately 31%.
- (b) A random sample of 22 local authority-operated crematoria ('local authority crematoria') in the remaining portion of the sector. The crematoria in our sample account for approximately 11% of local authority cremations by volume, or 8% of UK cremations by volume.<sup>1104</sup>

7.254 In terms of the time period for the analysis, we considered the 2014 to 2018 period, for all firms.<sup>1105</sup>

7.255 As noted at paragraph 7.112, we use return on capital employed (ROCE) analysis as our key measure of profitability. In the analysis of crematoria profitability, the two main adjustments applied were: (i) the revaluation of crematoria buildings; and (ii) the revaluation of crematoria land. Details on the adjustments are described in Appendix U. The parties made a number of representations on this methodology. We explain in Appendix U how we have taken their comments into account.

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<sup>1102</sup> CMA analysis of the Cremation Society data.

<sup>1103</sup> We have assumed all cremations are standard fee cremations. This therefore does not take into account the level of reduced fee services, which may be different between providers.

<sup>1104</sup> CMA analysis of the Cremation Society data.

<sup>1105</sup> Our data-gathering activities were significantly hampered by the COVID-19 outbreak, and as a result we obtained data for 2019 only from Dignity.

7.256 In carrying out the valuation of land at crematoria sites, we have considered two cases:

- (a) Case One: in Case One we used the average price per acre of crematoria land (£103k) observed in recent transactions and applied this to all of the sites acquired prior to 2010 for which we are undertaking profitability analysis. We capped the value of each individual site at the cost of purchasing a “modern equivalent” plot of land of up to 20 acres<sup>1106</sup> and have included all revenues earned from crematorium operators’ sites (cremation fees, memorials and burial revenues) in earnings. In addition, we capitalised average planning costs of a further £428,000 per site. Sites acquired since 2010 were valued at their historic purchase cost;
- (b) Case Two: in Case Two we drew exclusively on the valuations in the Cushman & Wakefield report to calculate an average price per acre of [£100-300k]. We applied this price to all sites across the country, capping their size at 20 acres. In coming to this per acre estimate, we excluded the Cushman & Wakefield valuations for sites in greater London (which averaged ([£1.75-£2 million]) per acre on the basis that, at such valuations, these sites would be uneconomic to replace in their current locations.<sup>1107</sup> All other assumptions are the same as in Case One.

7.257 More detail on our approach to valuing land can be found at Appendix U.

7.258 We revalued all crematoria buildings based on their replacement costs, as estimated for insurance purposes, and depreciated them according to their age, applying a uniform 100-year useful economic life. More detail on our approach to valuing buildings can be in found in Appendix U.

7.259 As noted at paragraph 7.113, we consider a number of profitability metrics as part of our analysis: ROCE; economic profits per cremation; and economic profits as a percentage of cost-plus. We also considered the average revenues earned on a per cremation basis.

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<sup>1106</sup> This site size cap recognises that some operators have purchased larger sites, including in recent years, and/or have acquired further land on sites in excess of 10 acres, which we used as our site size cap in our profitability working paper.

<sup>1107</sup> In such cases, the replacement cost of the assets exceeds their value in use and while a business may continue to operate such an asset – where it cannot be disposed of for a higher value – it would not choose to replace it if deprived of the asset. This finding is consistent with the fact that we have not seen new crematoria open in London over the relevant period.

## Profitability analysis

7.260 The results presented below are those estimated under our Case One assumptions (for land).

### Large private crematoria

7.261 Table 41 shows the ROCE of each of the four largest private crematoria.

**Table 41: Large crematoria ROCE (%) – Case One**

	2014	2015	2016	2017	2018	Average
[Firm A]	[X]	[X]	[X]	[X]	[X]	[20-30]
[Firm B]	[X]	[X]	[X]	[X]	[X]	[10-20]
[Firm C]	[X]	[X]	[X]	[X]	[X]	[5-10]
[Firm D]	[X]	[X]	[X]	[X]	[X]	[0-5]

Source: CMA analysis

7.262 Table 41 above shows that two of the large private crematoria have earned returns in excess of the cost of capital (of 8%) across every year in the period. [Firm A's] returns have significantly exceeded the cost of capital, while those for [Firm B] have been lower but still materially above the cost of capital.

7.263 The remaining two firms earned returns below the cost of capital on average throughout the period. However, [Firm C] showed a pattern of increasing returns over the period, from a level which was significantly below the cost of capital in 2014 to earning equal to its cost of capital as of 2018. We note that this pattern appears to be the result of [Firm C] having opened a number of crematoria over the period and these sites building up their volumes. As sites opened towards the end of the period ramp up, we would expect [Firm C's] returns to increase further, such that it will earn [higher] returns [X].

7.264 Similarly, [Firm B] has expanded significantly over the period and, as a result, we expect their profitability to be depressed by the fact that they have a large number of sites which are still building their volumes to capacity. [X] sites opened between 2013 and 2018 and therefore, as in the case of [Firm C], we would expect that as sites opened towards the end of the period ramp up, [Firm B's] returns would increase further.

7.265 Table 42 shows the economic profits per cremation of each of the large crematoria.

**Table 42: Large private crematoria economic profits per cremation (£) – Case One**

	2014	2015	2016	2017	2018	Average
[Firm A]	[£]	[£]	[£]	[£]	[£]	[300-350]
[Firm B]	[£]	[£]	[£]	[£]	[£]	[100-150]
[Firm C]	[£]	[£]	[£]	[£]	[£]	[(100)-(150)]
[Firm D]	[£]	[£]	[£]	[£]	[£]	[(100)-(150)]

Source: CMA analysis

7.266 Table 42 above shows that [Firm A] has earned economic profits of £[300-350] per cremation, on average across the period, while [Firm B] has earned economic profits of £[100-150] per cremation on average. [Firm C] made economic losses each year until 2018, where it made a small economic profit of £[0-50]. The remaining firm, [Firm D] made economic losses each year.

7.267 The results presented below are based on Case Two, as set out above. Table 43 shows the ROCE of each of the large crematoria.

**Table 43: Large private crematoria ROCE (%) – Case Two**

	2014	2015	2016	2017	2018	Average
[Firm A]	[%]	[%]	[%]	[%]	[%]	[10-20]
[Firm B]	[%]	[%]	[%]	[%]	[%]	[10-20]
[Firm C]	[%]	[%]	[%]	[%]	[%]	[%]
[Firm D]	[%]	[%]	[%]	[%]	[%]	[0-5]

Source: CMA analysis

Note: There is no difference in the results for [Firm C] [%].

7.268 Table 43 above shows that under Case Two, two of the large private crematorium operators have earned returns in excess of the cost of capital (of 8%), one by a significant margin.

### *Local authority crematoria*

7.269 The results presented below are based on our Case One land valuation as set out above.

7.270 Table 44 shows the ROCE of each of the local authority crematoria, together with the weighted average ROCE of all local authorial crematoria combined.<sup>1108</sup>

<sup>1108</sup> Results for LA11 and LA17 were not included in the weighted average calculation as we were not confident of the reliability of these results.

**Table 44: Local authority crematoria ROCE (%) – Case One**

	2014	2015	2016	2017	2018	Average
LA 1	13	13	17	13	15	14
LA 2	10	14	16	15	14	14
LA 3	21	20	30	26	22	24
LA 4	8	5	7	7	6	7
LA 5	24	20	31	38	33	29
LA 6	20	22	26	30	32	26
LA 7	7	10	11	14	10	10
LA 8	16	18	27	18	14	18
LA 9	22	25	24	33	31	27
LA 10	17	20	5	9	17	14
LA 12	32	35	41	42	46	39
LA 13	n/a	n/a	-1	0	2	0
LA 14	11	9	11	12	12	11
LA 15	-1	1	12	15	-5	5
LA 16	5	10	9	11	9	9
LA 18	22	24	37	26	20	26
LA 19	15	10	10	13	13	12
LA 20	14	16	16	6	12	12
LA 21	24	21	26	23	28	24
LA 22	12	7	n/a	6	9	8
Weighted average	15	15	18	17	16	

Source: CMA analysis

Notes:

There are no results for LA13 in 2014 and 2015 as [§], or for LA22 in 2016 due to [§].

7.271 Table 44 shows that 17 of the 20 sampled local authority crematoria earned returns in excess of the cost of capital (of 8%) on average across the historic period. Further, the weighted average ROCE of all local authorities<sup>1109</sup> was higher than the cost of capital in every year of the historic period. We have excluded from our results two of our sampled local authority crematoria as we consider that they provided unreliable data.<sup>1110</sup> Of the three local authority crematoria which have made returns below the cost of capital, one (LA15) provided data which we believe may understate its profitability due to the inclusion of disbursements in overhead costs.

7.272 Table 45 below shows the economic profits per cremation of each of the local authority crematoria.

<sup>1109</sup> Weighted average ROCE is calculated as the sum of all EBIT earned by sampled local authority crematoria in any given year divided by the sum of all capital employed by local authority crematoria in the given year.

<sup>1110</sup> These were LA11 and LA17.

**Table 45: Local authority crematoria economic profits (£) –Case One**

	2014	2015	2016	2017	2018	Average
LA 1	147	146	263	158	197	182
LA 2	71	180	221	198	170	168
LA 3	194	197	292	291	223	240
LA 4	5	-101	-30	-26	-70	-44
LA 5	277	212	386	465	422	352
LA 6	233	270	360	418	441	344
LA 7	-26	68	101	190	82	83
LA 8	160	191	324	203	138	203
LA 9	290	345	288	480	428	366
LA 10	169	216	-62	22	183	106
LA 12	317	344	387	377	427	370
LA 13	n/a	n/a	-1,129	-484	-215	-609
LA 14	53	23	58	66	77	55
LA 15	-107	-74	37	79	-139	-41
LA 16	-92	45	40	67	31	18
LA 18	177	199	328	271	207	236
LA 19	131	49	53	103	107	89
LA 20	181	225	224	-111	137	131
LA 21	366	303	371	305	408	351
LA 22	83	-26	n/a	-39	12	8
Weighted average	138	144	202	184	176	

Source: CMA analysis

Notes:

There are no results for LA13 in 2014 and 2015 as this site [REDACTED], or for LA22 in 2016 due to [REDACTED].

7.273 Table 45 shows that 17 of 20 sampled local authority crematoria made economic profits on a per cremation basis on average over the period. The average economic profit across the historic period ranged from £8 to £370. Three local authority crematoria made economic losses per cremation on average over the historic period.

7.274 In Table 46 below we present the local authority ROCE results based on Case Two, as set out above.

**Table 46: Local authority crematoria ROCE (%) – Case Two**

	2014	2015	2016	2017	2018	Average
LA1	10	10	14	11	12	11
LA2	7	10	12	11	10	10
LA3	12	11	15	14	12	13
LA4	5	3	4	4	3	4
LA 5	15	12	19	23	20	18
LA 6	15	17	20	23	24	20
LA 7	4	5	6	7	5	6
LA 8	9	10	15	10	8	10
LA 9	11	12	11	16	15	13
LA 10	10	12	3	6	11	8
LA 12	22	24	28	29	31	27
LA 13	n/a	n/a	-1	0	2	0
LA 14	7	6	7	8	8	7
LA 15	-1	1	9	12	-4	4
LA 16	4	9	8	9	8	8
LA 18	10	11	18	14	11	13
LA 19	14	9	9	12	12	11
LA 20	10	11	11	4	9	9
LA 21	11	10	12	11	13	12
LA 22	9	5	n/a	5	7	6
Weighted average	10	10	12	11	11	

Source: CMA analysis

Notes:

There are no results for LA13 in 2014 and 2015 as this site [REDACTED], or for LA22 in 2016 due to [REDACTED].

7.275 Table 46 shows that under Case Two 13 local authority crematoria earned returns above the cost of capital (of 8%) on average across the historic period; two earned returns equal to the cost capital; and seven earned returns below the cost of capital. Further, the weighted average ROCE of all local authority crematoria<sup>1111</sup> was higher than the cost of capital in every year of the historic period.

#### *Interpretation of our analysis*

7.276 We received a number of representations from parties with regards to the interpretation from our analysis. Detailed discussion of the points raised by the parties and our response is provided in Appendix U. An overview of the points raised is presented below. The key areas of focus, each of which we consider in turn, are:

- (a) Valuation of land and buildings;
- (b) market coverage; and
- (c) the time period covered.

7.277 Parties raised concerns regarding the basis used for valuing crematoria land and buildings. In particular, parties told us that our approach to valuing land in terms of using average values from recent transactions and the decision to cap site sizes<sup>1112</sup> was inappropriate. Dignity highlighted that our sample of transactions from the last decade was more “rural” than the portfolio of existing crematoria in the UK, a significant proportion of which were located in urban areas.

7.278 We sought to identify an expert valuer to provide site-by-site valuations, running two separate tender processes and inviting suitably qualified surveyors to take part. As set out in further detail in Appendix U, no suppliers submitted bids. Consequently, we have had to adopt alternative approaches. We recognise that the approaches we have used produce an average, rather than site-specific land valuations. As a result, we have taken care to draw our conclusions at the aggregate rather than site-specific level, eg at the level of private crematoria companies and the local authority sample as a whole, rather than focusing on the results for individual sites. For Case One, we consider that estimating the replacement cost of crematoria sites based on 18 transactions drawn from across the country over the last 10 years is likely to

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<sup>1111</sup> Weighted average ROCE is calculated as the sum of all EBIT earned by sampled local authority crematoria in any given year divided by the sum of all capital employed by local authority crematoria in the given year.

<sup>1112</sup> Party responses regarding our decision to cap site sizes at 10 acres is reflective of the methodology presented at the working paper stage. We have since revised our approach to cap site sizes at 20 acres.

produce reasonably reliable valuations. These transactions reflect the actual sites that firms have chosen in terms of size and location and the costs they have incurred to secure those in the open market.

7.279 However, while we consider that estimating the replacement cost of crematoria sites based on recent transactions is the best available approach, we recognise that our dataset is limited to 18 sites. As a result, it may not fully reflect the average replacement cost of the whole UK portfolio of crematoria to the extent that the sites built in recent years may serve (somewhat) different geographic locations from existing sites and to the extent that, if operators wished to replace existing sites, they might choose locations that were more urban, on average, than the sites associated with these transactions. This may be a particular issue in the Greater London area, where the distances between central areas and greenfield sites are significantly greater than for other cities in the UK, and where we do not have much evidence regarding the types of sites that operators might choose and the associated costs they would incur.

7.280 As set out in Appendix U, we have considered the range of evidence available to us, including that from recent transactions and the Cushman & Wakefield report submitted by Dignity, which valued 41 of Dignity's crematorium sites. We observed that:

- (a) once outliers were excluded<sup>1113</sup>, the Cushman & Wakefield report suggested an average national valuation of around £[£100,000-£150,000] per acre of land was appropriate;
- (b) certain sites, both within the M25 and elsewhere, would be significantly more expensive than this to replace, in theory, but at such valuations it would not be economic to replace these sites; and
- (c) it is possible to acquire sites just within or outside the M25 for [£100,000 to £450,000] per acre, with the upper end of this range providing an upper bound on valuations and being drawn from a transaction in which a smaller than average site (7 acres) was purchased.<sup>1114</sup>

7.281 Together this evidence does not suggest that our average transaction figure in Case One is likely to be significantly wrong, when applied as an average across the country. However, recognising the uncertainties around land

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<sup>1113</sup>These outliers were three sites located in [§], with valuations of £[§] million, £[§] million and £[§] million, respectively. It is quite clear that no crematorium operator would find it economic to replace sites at such valuations.

<sup>1114</sup> This suggests that operators may trade off site size, location and price in looking to serve more expensive parts of the country.



valuation, the limited data that we have available and the observation that the recent transactions may be more rural than average (in the context of the thought experiment of all existing crematoria being replaced), we have also placed some weight on our “Case Two” when interpreting the results of our analysis, which reflects very significantly higher land values in certain urban areas. This case is based on a land valuation of £[200-300k] per acre, which we consider is highly favourable to the parties as a national average figure.

7.282 With respect to capping the size of sites, we note that the evidence that we have received on the size of site required to operate a crematorium, and the evidence of recent transactions, suggests that 10 acres is sufficient for the operation of a crematorium. However, we also recognise that some parties have purchased larger sites in recent years and/or acquired more land (beyond 10 acres) at existing sites. As a result, we have taken the conservative approach of adjusting our analysis to allow for sites up to 20 acres when estimating replacement costs. However, we note that this site size cap allows significant scope for the provision of burial services, which are often provided alongside cremation services. Therefore, we have included burial revenues and costs in our analysis (see Appendix U for further details).

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7.283 Parties also submitted that we should capitalise land held on long leaseholds and include this in their asset bases as the choice between leasehold and freehold reflected a financing rather than operational decision. We recognise that crematorium operators may choose between leasehold and freehold for financing reasons, but we do not think that there is a compelling reason to capitalise leasehold assets in this case. In particular:

- (a) We would not expect such an adjustment to have a significant impact on our measure of economic profits since the increase in asset values would be offset by the removal of lease payments from the P&L;<sup>1116</sup>

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<sup>1115</sup> While burials are a separate activity from providing cremation services (and are not the focus of this market investigation), they are generally provided using much of the same cost base (for example, land, grounds maintenance etc). The fact that an operator incurs negligible incremental overhead costs from providing burial services suggests a significant efficiency from providing cremation and burial services jointly. For this reason, and in light of our decision to cap site sizes at 20 acres, we consider it appropriate to include burial revenues and costs in our analysis.

<sup>1116</sup> Furthermore, we note that many of the leased plots of land have been agreed with variable rent payments, ie a proportion of the rent charge depends on the level of revenues or volumes of cremations undertaken on the site. This both raises questions about the extent to which the risks and rewards of ownership have been transferred and introduces significant complexity in terms of valuing such sites for capitalisation. While ROCE percentages can be affected by these decisions, this would not have an impact on our interpretation of the firms’ profitability, which takes into account a number of metrics.

- (b) we note that the two largest private crematorium operators both have a mix of leasehold and freehold sites, hence comparisons between them are not distorted by our approach;
- (c) our estimate of the weighted average cost of capital of a crematorium operator includes a relatively low level of gearing, which is consistent with a business model that holds a reduced level of freehold assets (eg a mix of owned and leased land). Memoria, which owns all of its sites, told us that it supported a significantly higher level of gearing than the 30% to 40% range we have used in estimating the WACC for crematoria; and
- (d) finally, we note that lease payments are a matter of fact, reflecting the actual costs that parties are incurring for the land on which crematoria are sited. Replacing these costs with the CMA's assessment of land values introduces a further judgement, and we do not believe that there is a compelling reason to make such an adjustment.

7.284 However, in light of parties' submissions we performed a sensitivity whereby sites identified by the parties as held under long-term leases were included in the capital employed, and corresponding rental income was removed from the Profit and Loss account. Under the sensitivity, both Firms A and B achieved ROCE in line with, or in excess of, our estimate of their cost of capital. Detailed results of this sensitivity can be found in Appendix U.

7.285 Regarding the valuation of buildings, parties raised concerns about applying a useful economic life (UEL) of 100 years to crematoria and the appropriateness of treating any buildings as fully depreciated. We note that some parties argued for a shorter UEL (of 50 years), while others, in effect, argued for a longer UEL. We consider that our assumption of a 100-year UEL represents a reasonable compromise based on the evidence available to us. It is clear that a large proportion of crematoria are used for more than 50 years: 41% of the crematoria we performed profitability assessment on were more than 50 years old. While a small number are in fact over 100 years old, parties have told us that others are likely to stop being used prior to this point. Furthermore, to the extent that our 100-year UEL assumption is incorrect, the higher/lower asset value is partly offset by lower/higher annual depreciation charges, with an ambiguous impact on profitability over the relevant period. Therefore, we consider it reasonable to use a 100-year useful economic life across the industry.

7.286 Parties raised concerns that our analysis does not cover a sufficiently large proportion of the market and, therefore, does not provide a robust basis for drawing conclusions about profitability outcomes across the crematoria market as a whole. In selecting the firms to include in our analysis, we have

been required to balance market coverage with the practicality of seeking to collect detailed financial information. We note that our current approach means that our analysis covers 117 out of approximately 300 crematoria in the UK and consider that our random sample of 22 local authority crematoria (which account for 11% of local authority cremations by volume) is likely to provide information that is statistically representative of that part of the sector as a whole.

- 7.287 In relation to the time period, we consider that 5 years is a sufficient period over which to understand the profitability of crematoria. Our analysis suggests that profits in this industry have been relatively stable over time at the industry level with a slight upward trend. Therefore, we do not believe that an additional year of data would have had an impact on our findings, especially as we have not received representations suggesting that the profitability of crematoria changed materially in 2019.

#### *Conclusions on crematoria profitability*

- 7.288 Our profitability analysis shows that two of the largest private crematorium operators have made economic profits over the relevant period, ie they have earned returns in excess of their cost of capital under either Case One or Case Two (with one operator earning significant excess returns in both cases and two operators earning significant excess returns in Case One). Similarly, our sample of local authority crematoria has also earned significant economic profits in both Cases (when taken as a group).
- 7.289 A small number of local authority crematoria, together with [Firm D], have made economic losses, ie they have earned returns below their cost of capital, but these are a relatively small proportion of the part of the market that we have analysed. [Firm C] made returns equal to its cost of capital on the basis of the prices it actually paid for land but, as explained in Appendix U, we expect its returns to increase over time as its newly opened sites reach maturity. Similarly, we note that [Firm B] opened [X] new crematoria between 2013 and 2018. We would expect this to reduce its measured profitability over the historic period as these sites were building up their volumes.
- 7.290 On this basis, we conclude that a significant number of crematoria representing a substantial portion of the sector have earned returns that are persistently above the level that one would expect to see in a well-functioning market, some substantially so.

## ***Conclusions on crematoria outcomes***

- 7.291 In order to reach a view on outcomes from competition in the supply of crematoria services, we have considered a range of sources of evidence on price, quality and profitability. We have carefully considered the strengths and weaknesses of each of our pieces of analysis, and conclude that together the evidence that we have gathered on price, quality and profitability paints a picture of a market that is not delivering the outcomes expected from a well-functioning market.
- 7.292 The evidence shows that, on average, standard cremation fees have increased at a rate substantially above inflation for at least the past 10 years, with substantial price increases implemented across both local authority and private crematoria (average local authority and private crematoria standard fees have increased by 37% and 48% after adjusting for inflation over this period). The two largest private crematorium operators have made the largest price increases over the period 2008-2018 (making inflation adjusted price increases of 59% and 54%). We note that over the same time period, certain local authorities at least doubled their fees.
- 7.293 In 2018, the majority of Dignity and Westerleigh crematoria charged standard cremation fees in the top quarter of the fee distribution (ie fees in excess of £858). When comparing average standard fees for a slot of at least 60-minutes, Dignity and Westerleigh were the most expensive operators, followed by local authority crematoria. The London Cremation Company was the cheapest operator on this basis. While average reduced cremation fees and unattended service fees were lower than standard cremation fees for all operators (around £560-£830 and around £500 respectively), we note the low uptake of these services (given customers have a preference for attended services in the middle of the day).
- 7.294 We have considered whether average standard cremation fees vary with the number of competitors across local areas. Overall, the evidence does not show significant differences between prices and the number of rivals, although we have noted the higher average fees charged by crematoria facing no rivals compared with crematoria facing one or more rivals, and the materially lower average fees charged in the very small number of instances where a crematorium has a rival within 10 minutes compared with when the closest rival is further than a 10-minute drive time away. Considering crematoria in areas where concentration is lower, our analysis indicates that these crematoria do not offer consistently lower prices (or higher quality). The analysis of fees and concentration has to be read alongside the qualitative and quantitative analyses of prices (including from internal documents and the entry analysis) set out in Section 6.

- 7.295 We have also considered the extent of quality differentiation between crematorium operators and whether there were quality issues in the sector, both in ‘front of house’ and ‘back of house’. While quality levels are difficult to measure and compare comprehensively, the evidence shows that there is a degree of differentiation between private crematoria (particularly newer private crematoria) and older local authority crematoria, with private crematoria/ newer crematoria offering higher quality than local authority crematoria on some measurable aspects of quality (for example, slot lengths and availability of certain facilities, eg visual tributes), but this is not clear-cut on all aspects of quality. Although we have received anecdotal evidence of some quality issues in the provision of front of house crematoria services in a few instances (at both local authority and private crematoria), overall, we consider that crematoria are likely to be delivering acceptable levels of front-of-house quality. We have not prioritised an assessment of issues in relation to back of house quality, given a lack of evidence or representations in relation to back of house quality.
- 7.296 From our profitability analysis, we conclude that [Firm A] and [Firm B] have, during the historic period, been earning returns in excess of the cost of capital under either of the Cases we have adopted, whilst [Firm C], although loss making for the majority of the period, has been improving its returns and is expected to increase them further in the future. One private firm, [Firm D], appears to be consistently earning returns below its cost of capital. Of the 20 local authorities for which we obtained reliable results, 17 earned returns in excess of their cost of capital during the period.
- 7.297 The three largest private crematorium operators have argued that the higher fees that they charge are explained by the superior quality of their offering.<sup>1117</sup> Even if this was the case to an extent, our analysis of profitability shows that profits have been persistently (and in some cases significantly) above the cost of capital for crematorium operators representing a substantial part of the market (ie including both private and local authority operators). This indicates that the competitive process is not putting pressure on profits and customers are not getting good value for money in the purchase of cremation services.
- 7.298 Taking this evidence and analysis together, we therefore conclude that high prices in the supply of crematoria services are likely to reflect the exercise of market power arising from limited competitive constraints, notwithstanding any

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<sup>1117</sup> In its response to the PDR Westerleigh set out arguments that recent investment by the private sector in the crematoria sector has greatly improved customer outcomes ([Westerleigh response to PDR](#); section 4.1). Memoria made a similar point in its response.

quality differentials between suppliers. This is consistent with the presence of persistent excess profits achieved by a variety of suppliers.

## 8. Conclusions

- 8.1 Under section 134(1) of EA02 we are required to decide whether ‘any feature, or combination of features, of each relevant market prevents, restricts or distorts competition in connection with the supply or acquisition of any goods or services in the UK or a part of the UK’. A feature for the purposes of section 134(1) of EA02 can take the form of the structure of the market and/or conduct of any of the participants in the market, including customers.<sup>1118</sup> We can consider either individual features or a combination of features of a market. ‘Conduct’ includes any failure to act (whether or not intentional) and any other unintentional conduct.<sup>1119</sup>
- 8.2 The framework for our analysis of product market definition is explained in paragraphs 4.3 to 4.7. For the supply of funeral director services at the point of need, we have defined the product market as the provision of all types of funeral director services at the point of need (referred to as the funeral directors market).<sup>1120</sup> For the supply of crematoria services, we have defined the product market as the provision of all types of crematoria services (including additional optional services). This is referred to as the crematoria market.<sup>1121</sup>
- 8.3 The framework for our analysis of geographic markets is explained in paragraphs 4.35 and 4.36 and we have found that the funeral directors and crematoria markets are local as set out in paragraphs 4.40 and 4.48 respectively.
- 8.4 We find that there are AECs in the funeral directors and the crematoria markets. We set out the features giving rise to the AECs in more detail, including our assessment of their pervasiveness across local markets, further below but first start with an overview of the way competition works in these two markets.

### Overview of the competitive assessment

- 8.5 At the root of our findings in the funeral directors and the crematoria markets is the weakness of the demand side of the competitive process. The extremely challenging circumstances in which many customers find themselves when organising a funeral lead to particularly low levels of

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<sup>1118</sup> EA02, section 131(2) and CC3 (Revised), paragraph 155.

<sup>1119</sup> EA02, section 131(3).

<sup>1120</sup> See paragraph 4.105.

<sup>1121</sup> See paragraph 4.108.

engagement with the process of choosing a funeral director and a crematorium, as well as their respective services. Customers generally do not compare alternative offerings and are particularly insensitive to price.<sup>1122</sup>

- 8.6 This weakness in the competitive process is compounded by the lack of easily comparable information on the funeral options available to customers. As a result, the competitive process is particularly muted, with funeral directors largely focusing on their own service provision (and in particular, observable aspects of quality) rather than responding to changes to the offerings of their competitors. One aspect of the offering that is important to customers, the way in which the deceased are cared for by a funeral director between the time of death and the funeral, is largely unobservable by customers and competitors alike. This asymmetry of information between the customer and the supplier means that no meaningful competition can be expected in this regard.
- 8.7 Barriers to entry in the crematoria market take the form of planning barriers (in particular, the requirement to demonstrate that any new crematorium meets a 'need' and specific locational requirements), and the high sunk and fixed costs associated with opening a new crematorium. These have contributed to high levels of local concentration in many areas. The presence of very few providers in many local areas, combined with customers' general preference for a crematorium that is either conveniently located, or that they or their family have previously used, means that competitive constraints between crematoria are generally very weak.
- 8.8 We have examined the impact of these weaknesses in the competitive process in the funeral directors and crematoria markets on outcomes and find that prices are substantially higher than they would be if the markets were functioning well, which means that customers are not getting good value for money. In relation to back of house quality, while we are not in a position to establish how widespread genuine problems might be, we find that there are likely to be some funeral directors who are not providing acceptable levels of quality in the way in which they care for the deceased. Where this occurs, it is deeply detrimental to customers, who expect their loved ones to be treated with respect and dignity.

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<sup>1122</sup> The fact that there are undoubtedly some customers who do make such comparisons and who are more sensitive to price and quality does not change this overall conclusion. There are not a sufficient number of such customers to have a material impact on the competitive process.



## Decision

### *AECs in the funeral directors markets*

#### *The features*

8.9 We have found that the following features of the funeral directors market, individually and in combination, restrict or distort competition in connection with the supply of funeral director services at the point of need in the UK. Those features are as follows:

- (a) **Low level of customer engagement caused by the intrinsically challenging circumstances surrounding the purchase of a funeral:** the short timescales involved in organising a funeral, conflicting priorities in the aftermath of the death of a loved one, social pressures, and the psychological vulnerability of the bereaved, all contribute to making a funeral a distress purchase. To cope with the difficulty of the situation, customers tend to rely on short-cuts and do not actively compare suppliers, relying instead on familiarity and personal recommendations as a way of mitigating the risks and consequences of making a poor choice. The circumstances also cause them to be price insensitive and to make their choices based on a narrow set of criteria. In addition, aspects of quality that are particularly valued by customers (eg the handling of the relationship with the customer throughout the process) can only be assessed after the purchase decision, making it difficult for customers to assess value for money at the point of purchase. Finally, once the customer has entered the premises of a funeral director, they do not generally shop around and they tend to place their trust in the funeral director they first visit, wishing to hand over control so as to avoid making decisions themselves.
- (b) **Lack of easily accessible and clearly comparable information on the products and services provided by suppliers, including their prices and levels of quality:** funeral directors often do not give price information until asked for it, and may need to be prompted further to provide detail of all costs involved (and may still not always do so ahead of the arrangement meeting). Funeral directors' sales practices also vary with regard to the extent to which they offer their services via packages of services, a menu of options which the customer can choose from, or in some other manner. This is likely to be because different funeral directors apply their own judgement and have different views as to what their customers need, in circumstances where customers themselves are often unable to articulate their preferences clearly (the first feature, discussed

above). For this reason, when information is provided, it is often not easily comparable across funeral directors and may not be what customers actually want or need in order to make good choices. Consequently, for those customers who do attempt to compare providers and/or funeral options, it is difficult to do so. The reliance on local brand names by customers as a short-cut to the evaluation of the offering of funeral directors means that customers may make assumptions about both quality and price that are incorrect. This is a particular concern following a change of business ownership, where some Large funeral directors have been promoting the local brand names they have acquired significantly more prominently than their own brand.

- (c) **Lack of visibility to customers of the level of quality of care given to the deceased by funeral directors:** care of the deceased, including operational standards and back of house facilities, is largely not observable by customers, which means customers cannot assess these quality aspects and make the usual trade-offs between price and quality.

- 8.10 The first two features make it difficult for many customers to identify and evaluate the choices open to them in a way that is commensurate with the size of the expenditure involved in organising a funeral. Recommendations by trusted third parties (such as care providers) may therefore be valuable for some customers, but also risk distortion of choices if such recommendations are steered by financial considerations (such as referral payments or other inducements). Contact by funeral directors with potential customers while carrying out duties under coroners' contracts may also distort competition if the situation is used as a marketing opportunity.
- 8.11 Even when customers are able to obtain the necessary information, their insensitivity to price (linked to the social and other pressures that are at play) can impede their ability to act upon that information. This in turn reduces the ability of customers to drive competition between funeral directors and reduces the incentives for funeral directors to compete for customers on the basis of price and/or overall quality of service. We have found that competitive responses by funeral directors to the actions of others over price and quality are infrequent and often targeted (eg price matching when challenged by a customer). Funeral directors apply their own judgement in the way they meet what they perceive to be the needs of their customers and focus their efforts on observable aspects of quality and building their reputation in the local community. We consider that these features are consistent with funeral directors exercising market power when setting their prices (see paragraphs 7.171 to 7.180).

- 8.12 The asymmetry of information between customers and suppliers relating to the quality of care of the deceased means that customers are largely unable to assess the quality of those services. This issue is compounded by the fact that funeral director services are infrequently purchased, which means that customers are inexperienced and are unlikely to have the confidence, or desire, to enquire about what happens behind the scenes. The fact that most people assume that the sector is regulated (even though there is no regulated requirement to meet set minimum standards) illustrates the importance that customers attach to the quality of funeral services (because regulation normally signals that the relevant service is of public importance or merits public protection) and also highlights the inherent asymmetry of information that exists between suppliers and customers in this respect. As a result, there is little or no competitive incentive to invest in back of house service quality, and whilst many funeral directors may nonetheless do so for ethical or other reasons, we have also received evidence from a wide range of parties that some funeral directors adopt particularly poor practices.

*Their prevalence across local markets*

- 8.13 Our analysis of potential distortions in competition is not focused on individual local markets, but rather on market structure or behaviour that potentially distorts competition between funeral directors across many, or all, local markets, as discussed below.
- 8.14 We have found that the first feature applies across the reference area (ie the United Kingdom): given the intrinsic nature of the circumstances that affect customer behaviour when choosing a funeral and the absence of any evidence or objective reason to believe that the pattern of behaviour may not apply in any particular local market, we consider that this feature applies across the entire reference area.
- 8.15 The second feature may not apply in all local markets, but the evidence we have received indicates that it is present in many local markets. As so few customers are prepared to compare funeral directors, and customers struggle to articulate their needs in the extremely challenging circumstances they face, funeral directors adopt a variety of approaches and apply their own judgement when deciding what information to provide to their customers. In the review of a random sample of funeral director websites that we commissioned it was found that around half contained no price information on at-need funerals. Where information was available, it was often incomplete or unclear. Where calls were made by the research agency to funeral directors to request pricing information, some funeral directors did not provide information, and others provided information that appeared incomplete or potentially confusing.

However, to the extent that there may be areas where this feature is not present, we consider that the first feature would be sufficient to distort or restrict competition in those areas.

- 8.16 We have found that the third feature applies in all local markets across the reference area: there is an intrinsic asymmetry of information between funeral directors and customers, as many of the activities of transport, body preparation, preservation and storage are largely carried out behind the scenes. We have heard from some funeral directors that many customers do not wish to see the storage and preparation facilities and the funeral directors to whom we spoke, including funeral directors that have operations in many local areas, did not have any knowledge of their competitors' back of house quality standards. The fact that 69% of adults in the UK presume funeral directors to be regulated further supports that the vast majority of customers take it for granted that back of house quality is assured. To the extent that there may be specific groups of customers who, for cultural or religious reasons, require access to such facilities, we consider it is unlikely that their behaviour would protect other customers from this significant information asymmetry.
- 8.17 We therefore conclude that there are features that alone or in combination lead to AECs in all relevant funeral directors markets in the UK.

### ***AECs in the crematoria markets***

#### *The features*

- 8.18 We have found that the following features of the crematoria market, individually and in combination, restrict or distort competition in connection with the supply of crematoria services in the UK. Those features are as follows:
- (a) **Low level of customer engagement caused by the intrinsically challenging circumstances surrounding the purchase of a funeral:** the short timescales involved in organising a funeral, conflicting priorities in the aftermath of the death of a loved one, social pressures and the psychological vulnerability of the bereaved, all contribute to making a funeral a distress purchase. To cope with the difficulty of the situation, customers tend to rely on short-cuts and do not actively compare suppliers. When it comes to their choice of crematorium, the overriding driver of choice for customers is geographical proximity (whether perceived or actual) or familiarity.

- (b) **High barriers to entry:** New crematoria face barriers to entry through high sunk costs, and through high fixed costs. Profitable entry will only occur in an area where a new crematorium can conduct a sufficient number of cremations. The planning regime acts as a barrier to entry in two ways: it constrains the potential location of new sites, and crematoria providers have to support their planning applications with evidence of a local 'need' for new crematorium provision.
- (c) **High levels of local concentration:** Many crematoria face no or few competitors within their local area of operation. We have estimated the level of local concentration using a variety of approaches and applying various sensitivities and, under all scenarios, the majority of local areas are concentrated, many highly so.

8.19 Because of their focus on geographic proximity or familiarity, very few customers compare the offerings of crematoria when making a choice, and many of them perceive that they have no choice, a view which is often correct, given the level of concentration in the marketplace. Under such circumstances, the incentives for crematoria to compete for customers on the basis of price and/or overall quality of service are weakened. We have found that crematoria face limited competitive constraints when setting prices. We have also found that, although quality is important to customers in general, the number of customers who compare crematoria on the basis of quality is too low for it to act as an effective competitive constraint. To the extent that there are competitive responses between operators, these are limited to certain aspects of quality and are limited in number. We consider that these features are consistent with crematorium operators exercising market power when setting their prices (see paragraphs 7.291 to 7.298).

#### *Their prevalence across local markets*

- 8.20 Our analysis of potential distortions in competition is not focused on individual local markets, but rather on market structure or behaviour that potentially distorts competition between crematorium operators across many, or all, local markets, as discussed below.
- 8.21 With regard to the first feature, as explained in paragraph 8.13, the circumstances that hamper customers' ability to engage with the process of purchasing a funeral apply across the entire UK. We have no reason to believe that the overall behaviour of customers of private crematoria is any different to the behaviour of customers of local authority crematoria: the evidence we have obtained shows that customers of private crematoria are no more likely to compare crematoria than customers of local authority crematoria and that customers of private crematoria are also highly likely to

choose the crematorium that they think is closest to them. Thus, geographic proximity is likely to be very important to them, in the same way as it is to customers in general.

- 8.22 In relation to the second feature, the planning regime appears to act as a barrier to entry across the UK (we are not aware of any material differences between England and the devolved nations). Similarly, we have gathered evidence showing that the cost of planning and building a new crematorium is high (and increasing). We have not identified any exception to this. We therefore consider that high barriers to entry exist throughout the UK.
- 8.23 Consistent with the existence of the second feature (high barriers to entry), the vast majority of local markets are concentrated (as set out in paragraph 8.18(c)), with many being highly concentrated: 80% of crematoria have at most one rival within a 30-minute drive.<sup>1123</sup> The feature of concentration is therefore present in most local markets in the UK. Our analysis of the crematorium operators' pricing behaviour indicates that price constraints are weak, including in the limited number of areas that are less concentrated, for the following reasons:
- (a) For the two largest crematorium operators, significant price increases are typically implemented across almost all areas.<sup>1124</sup> In the case of Dignity, which applies blanket revenue targets across its 46 crematoria, such increases have been moderated only to a small extent in areas where there were more competitors, with between 85 and 100% of crematoria implementing price increases consistently above 5% in the period from 2014 to 2018 and virtually none where there was no increase at all.<sup>1125</sup>
  - (b) Quantitative and qualitative evidence show that where entry occurs in an area, rather than cutting their fees, private crematoria increase them and local authority crematoria do not respond.<sup>1126</sup>
  - (c) For crematoria with at least one rival within 30 minutes, the evidence does not show a strong correlation between the number of competitors and average fees.<sup>1127</sup> We have noted the higher average fees charged by crematoria facing no rivals within 30 minutes compared with crematoria facing one or more rivals,<sup>1128</sup> but we consider this to be an extreme

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<sup>1123</sup> At cortege speed.

<sup>1124</sup> See paragraphs 6.42 and 6.45.

<sup>1125</sup> See paragraph 6.44 and Table 17.

<sup>1126</sup> See paragraphs 6.168 and 6.169.

<sup>1127</sup> See paragraph 7.243.

<sup>1128</sup> See paragraph 7.238.

comparison.<sup>1129</sup> We have also noted the materially lower average fees charged in the very small number of instances where a crematorium has a rival within 10 minutes compared with when the closest rival is further than a 10-minute drive time away; however, due to the very small sample, we consider it difficult to draw strong conclusions from this result.<sup>1130</sup> When focusing on crematoria with three or more local rivals, we have found that these do not offer consistently lower prices (or higher quality) than the overall average for their operator type.<sup>1131</sup>

- 8.24 We therefore consider that all crematoria markets in the UK are not functioning well, including those very few local markets where the third feature – high levels of local concentration – is absent. This is because the first feature, ie the low level of customer engagement with the purchasing process and reliance on familiarity or location in their choice of crematorium, is sufficient on its own to restrict or distort competition in all relevant markets.<sup>1132</sup> Whilst we may observe 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 observe little difference in competitive constraints, which are generally weak. Further, barriers to entry are high across all local markets.
- 8.25 We therefore conclude that there are features that individually or in combination lead to AECs in all relevant markets for the supply of crematoria services in the UK.

### ***Customer detriment***

- 8.26 We have considered the nature and potential scale of the customer detriment arising from the AECs we have found in all relevant funeral directors and crematoria markets.<sup>1133</sup>
- 8.27 A detrimental effect on customers is defined as one taking the form of:<sup>1134</sup>

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<sup>1129</sup> That is, comparison between a local monopoly situation and the presence of any rivals.

<sup>1130</sup> See paragraphs 7.240 to 7.241. The very small number of crematoria with an alternative within a 10-minute cortege drive time means it is difficult to draw strong conclusions, given that these are average fees and do not control for local factors.

<sup>1131</sup> See paragraphs 7.248 to 7.249.

<sup>1132</sup> In its response to the PDR, Westerleigh submitted that ‘... the CMA has not established any causal link between the allegedly high levels of local concentration it provisionally identifies and the pricing concerns it sets out in the PDR...’ ([Westerleigh response to PDR](#), paragraph 51). We consider that given we have identified features which lead to AECs on both the demand side and supply side of the market, it is not necessary to isolate the impact of local concentration. However, we note that even if the (UK-wide) demand side issues were fully resolved, there would remain widespread high concentration in local crematoria markets, likely to result in weak competitive constraints (see [CC3 \(Revised\)](#), paragraphs 186-195).

<sup>1133</sup> [EA02](#), section 134(4).

<sup>1134</sup> [EA02](#), section 134(5).

(a) higher prices, lower quality, or less choice of goods or services in any market in the UK (whether or not the market to which the feature or features concerned relate); or

(b) less innovation in relation to such goods and services.

8.28 We consider that the AECs we have found may be expected to result in material customer detriment in the funeral directors and crematoria markets.

8.29 In the funeral directors and crematoria markets, we have found that the weaknesses in the competitive process have resulted in high prices and high price inflation for a considerable number of years and mean that customers do not receive good value for money when purchasing funeral director and crematoria services.

8.30 In the case of funeral directors, the detriment may also be expected to manifest itself in terms of some customers receiving poor outcomes in terms of back of house service quality.

#### *Funeral directors*

8.31 In seeking to assess the scale of the detriment to customers in funeral directors markets we have focused on the extent to which outcomes, resulting from the AECs we have found, are worse than those we would expect in a well-functioning market.

8.32 Our estimates of detriment per funeral are based on the period from 2014 to 2018<sup>1135</sup> and on our estimates of the economic profits achieved by funeral director firms (see paragraph 7.121 and Table 35). Our calculations are set out in Appendix V. We note that our detriment figures reflect the judgements that we have made in our profitability analysis. As such, we consider these estimates to be indicative of the level of detriment suffered by customers rather than a precise quantification. We discuss various reasons why our estimates may be understated in paragraph 8.34 below.

8.33 We estimated that for the Large funeral directors, comprising 42%<sup>1136</sup> of the market, the detriment arising in the form of economic profits, ie profits in excess of the level required for a reasonable return on capital, is in excess of £400 on average per funeral over the five-year period. This means that had the profits of these firms been at the level we would expect in a well-functioning market, their customers would, on average, have paid at least

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<sup>1135</sup> Being the Historic Period of 2014 to 2018.

<sup>1136</sup> This percentage is based on the number of branches.



£400 less for a funeral. We note that this average figure reflects a broad range of detriment figures across firms. In some cases, customers have paid significantly more than £400 above the competitive price, while in others they have paid a price which is around the competitive level. Therefore, this figure is not necessarily representative of any individual firm or local area. Our profitability analysis indicates that some Smaller firms are likely to be earning economic profits similar to those of the Large firms. Thus, customers of a proportion of the remaining 58% of the market are also likely to have been overpaying for a funeral, to a similar extent, although others may not.

8.34 The £400 estimate is likely to understate the customer detriment per funeral for the period, as:

- (a) It does not take into account the potential inefficiencies that we have identified. Our calculations of economic profits largely use the actual costs of funeral director firms and do not adjust for potential inefficiencies, meaning that the actual detriment may well be higher, potentially significantly so, as a result of an inefficient cost base;<sup>1137</sup>
- (b) it does not seek to measure the detriment arising from the issues we have identified in relation to back of house quality. While we are not in a position to estimate economic detriment to customers arising from problems related to back of house quality, where such problems occur, this is deeply detrimental to customers in terms of emotional distress, as they expect their loved ones to be treated with respect and dignity. Given these aspects of quality are unobservable and in the absence of an independent inspection regime, even though these problems may not be widespread, customers in general cannot be assured that the quality levels they would expect will always be met; and
- (c) it does not seek to measure the detriment arising from the issues we have identified in relation to the distortion of choices where recommendations or referrals are influenced by financial considerations rather than representing the best choice for the customer. Nevertheless, given the potential for vulnerable people to be channelled towards a given funeral director whom they may not otherwise have chosen or towards a type of funeral which may not fully meet their needs, we consider the detriment would be material.<sup>1138</sup>

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<sup>1137</sup> We note that the 13 Large funeral directors demonstrated a very broad range of costs per funeral, with the lowest cost firm in the group managing to provide a funeral for over £1,500 less than the highest cost firm.

<sup>1138</sup> We note that this detriment is primarily qualitative, ie arises from customers not purchasing the most appropriate product for their needs. To the extent that customers are paying more as a result of this, that will be reflected in our existing detriment figure.

- 8.35 Accordingly, we estimate that the consumer detriment has been at least £400 per funeral on average across a significant proportion of the market (ie customers of both the Large and many smaller firms) over the five-year period. This is likely to be a conservative figure for the reasons set out in paragraph 8.34.
- 8.36 Our estimate of detriment for the Large funeral directors declined over the last few years of the period and we have received some evidence to suggest that it may have fallen further in 2019. However, we note that:
- (a) Detriment remained significant as of 2018;
  - (b) The decline in detriment has been driven largely by falling profits at the two largest funeral directors, hence it is unclear whether this trend will spread more broadly across the industry or is a temporary movement in profits, specific to these two firms;
  - (c) The decline in detriment has been caused by a combination of reductions in price and significant growth in the average cost of providing a funeral. This suggests that the benefit to customers is likely to have been smaller than the fall in detriment, potentially significantly so; and
  - (d) The evidence that certain Large funeral directors have both changed their pricing practices in parallel with enhanced recent scrutiny of the market, and identified material future cost savings from transforming their business operations, suggests that these firms' profitability – and consequently our estimate of the detriment to customers from their price levels – may increase in the future.
- 8.37 For these reasons, we believe that it is unclear whether and/or to what extent detriment is likely to be lower in the future.
- 8.38 We note that, in Section 7, we set out that funeral director professional fees for a standard funeral have increased at a rate above general inflation from at least 2006 until 2016, albeit this has slowed more recently. Had funeral director prices increased in line with inflation since 2006, the average price within this dataset in 2019 would have been £456 and £608 lower depending on the measure of inflation used.<sup>1139</sup> This comparison<sup>1140</sup> gives an indication of the amount that customers could have saved per funeral on average in 2019 if prices had increased in line with inflation since 2006.

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<sup>1139</sup> See paragraph 7.27.

<sup>1140</sup> This is not meant to be to a competitive benchmark, as the 2006 figure does not necessarily reflect competitive conditions in a well-functioning market.

## *Crematoria*

- 8.39 We have considered the nature and potential scale of the detriment to customers arising from the AECs we have found in the crematoria markets.
- 8.40 Our estimates of detriment are based on data for the period from 2014 to 2018<sup>1141</sup> and are based on our calculations of the economic profits achieved by crematorium operators (see section 7, Tables 42 and 45).
- 8.41 While the prices of private sector crematoria are often significantly higher than those 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 between £115 and £210 per cremation on average, while the latter are overpaying by between £80 and £170 per cremation on average over the Historic Period. Our detailed calculations are set out in Appendix V. The range of estimates reflects the various land valuation approaches we have considered in our profitability analysis, from which we derive our detriment figures, but for the reasons explained in Appendix V we consider figures towards the upper end of these detriment ranges are likely to be a better indication of actual detriment in crematoria markets.
- 8.42 Furthermore, as discussed in Appendix U, we believe that two of the large private sector crematorium operators are likely to see increases in their profitability over the next few years as newly opened crematoria in their estates reach maturity in terms of volumes. This suggests that detriment may increase further over time.
- 8.43 We note that in 2008 the average standard cremation fee was £434. If it had increased in line with inflation the average fee would have been £543 or £569 in 2018 depending on the measure of inflation used. The average standard cremation fee in 2018, at £775, was more than £200 above this level. This comparison<sup>1142</sup> gives an indication of the amount that customers could have saved per cremation, on average, in 2018 if standard cremation fees had increased in line with inflation since 2008.

## *Customers purchasing in both funeral director and crematoria markets*

- 8.44 In 2018, 78% of funerals in the UK involved a cremation. The Market Investigation consumer survey found that 92% of people organising an at-

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<sup>1141</sup> Being the Historic Period of 2014 to 2018.

<sup>1142</sup> This is not meant to be to a competitive benchmark, as the 2008 figure does not necessarily reflect competitive conditions in a well-functioning market.

need cremation used a funeral director (either a funeral director with branches or an online funeral director)<sup>1143</sup>. Therefore, a significant number of funeral customers have made purchases in both the funeral director and the crematoria markets, thus compounding the overall level of detriment they experienced. Based on our estimates, a significant proportion of these customers could have experienced detriment of £600 or more, on average, over the 2014 to 2018 period.

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<sup>1143</sup> CMA analysis of consumer survey dataset at SQ3 and SQ4. Base: all respondents involved in making the arrangements for an at-need cremation funeral since J/A/S/O 2017 (n=624)

## 9. Remedies

### Introduction

- 9.1 In this Section, we set out the actions that we have decided should be taken to address the AECs and resulting customer detriment that we have found (see Section 8). We:
- (a) explain how the COVID-19 pandemic has impacted our consideration of remedies;
  - (b) set out the framework for our consideration of remedies;
  - (c) summarise the key components of our remedies package;
  - (d) set out the key remedy design and implementation considerations for each component of our remedies package, taking into account comments from parties on those remedies as set out in the PDR, and assess the effectiveness and proportionality of each component of our package;
  - (e) assess the overall effectiveness and proportionality of the remedies package; and
  - (f) set out our final decision on remedies.

### The COVID-19 pandemic

- 9.2 As explained in Section 1, our market investigation has been significantly impacted by the onset of the COVID-19 pandemic. Specifically, for our consideration of remedies, the pandemic has had the following impact:
- (a) Since March 2020, the operation of the funerals sector has been significantly disrupted by the pandemic, and the medium to longer term effects (if any) of the pandemic on the sector are uncertain.<sup>1144</sup> This has had substantial implications for the remedies we have been able to pursue within the statutory timeframe.
  - (b) The combination of a high number of deaths from pandemic-related factors and unprecedented restrictions imposed by the UK government and the devolved administrations to combat the pandemic has severely disrupted the normal operation of the funerals market. This has meant

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<sup>1144</sup> In Section 3, we consider how the pandemic has impacted upon customer behaviour, and in Section 5, we explain how the pandemic has increased the take-up of low-cost funerals.

that such evidence as has been available cannot be relied upon to give the kind of information needed to design certain remedies, and so has limited our ability, within the statutory timeframe for this investigation, to design and consult upon a number of remedy options, including price control regulation.

(c) We have also been unable to pursue a number of more complex information and transparency remedies, as their design would have been greatly enhanced by an extensive programme of consumer research and testing, which would have been extremely challenging to undertake under the restrictions imposed by government in response to the pandemic.

9.3 We explain in greater detail in Appendix W how the pandemic has limited our ability to design, develop, and assess remedies that we would otherwise have considered pursuing.

9.4 Given the above, we have decided to pursue a targeted set of remedies capable of being developed under the current circumstances, and which we consider will be beneficial to consumers and will mitigate the AEC and resulting customer detriment that we have found.

9.5 Our remedies package includes remedies which will be introduced by Order.<sup>1145</sup> We will consult on the Order and on some of the detail of these remedies during an implementation period of up to six months from the date of publication of this report.<sup>1146</sup>

## Framework for assessment of remedies

9.6 In a market investigation, if the CMA finds an AEC, it is required to decide the following questions:

(a) Whether it should take action for the purpose of remedying, mitigating or preventing the AEC or any detrimental effect(s) on customers so far as it has resulted from, or may be expected to result from, the AEC.

(b) Whether it should recommend the taking of action by others for those purposes.

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<sup>1145</sup> EA02, section 138 provides that, in relation to each AEC, the CMA must take such remedial action as it considers to be reasonable and practicable by making an order (EA02, section 161) or accepting undertakings. An order is a legal instrument drafted by the CMA. Any person to whom an order relates is under a statutory duty to comply with it and compliance with an order is enforceable in the courts (EA02, section 167).

<sup>1146</sup> EA02, section 138A. The CMA may extend the six-month period only once and by up to a further four months if it considers that there are special reasons why a final order cannot be made within the statutory deadline.

- (c) In either case, if action should be taken, what action should be taken and what is to be remedied, mitigated or prevented.<sup>1147</sup>
- 9.7 A detrimental effect on customers includes such an effect on future customers and is defined as one taking the form of:
- (a) higher prices, lower quality or less choice of goods and services in any market in the UK (whether or not the market to which the feature or features concerned relate); or
  - (b) less innovation in relation to such goods or services.<sup>1148</sup>
- 9.8 When deciding whether any remedial action should be taken and, if so, what action should be taken, EA02 requires the CMA ‘in particular to have regard to the need to achieve as comprehensive a solution as is reasonable and practicable’ to the AEC and any detrimental effects on customers so far as resulting from the AEC.<sup>1149</sup>
- 9.9 The CMA will assess the extent to which different remedy options are likely to be effective in achieving their aims, including their practicability,<sup>1150</sup> while recognising that the effect of any remedy is always uncertain to some degree.
- 9.10 Assessing the effectiveness and practicability of any remedy may involve the consideration of several dimensions.<sup>1151</sup> First, a remedy should be capable of effective implementation, monitoring and enforcement. Second, the timescale over which a remedy is likely to have effect will be considered. Third, remedies may need to take into account existing laws and regulations. Fourth, where more than one measure could be introduced as part of a remedy package, the CMA will consider the way the measures are expected to interact with each other.
- 9.11 The CMA, in considering the reasonableness of different remedy options, will have regard to their proportionality.<sup>1152</sup> The CMA’s assessment of proportionality will depend on the particular facts and circumstances of a case. In making an assessment of proportionality, the Group is guided by the following principles. A proportionate remedy is one that:
- (a) is effective in achieving its legitimate aim;

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<sup>1147</sup> EA02, section 134(4).

<sup>1148</sup> EA02, section 134(5).

<sup>1149</sup> EA02, section 134(6).

<sup>1150</sup> More detail on how the CMA may assess effectiveness is in CC3 (Revised) from paragraph 334.

<sup>1151</sup> CC3 (Revised), paragraph 335-341.

<sup>1152</sup> More detail on how the CMA may assess proportionality is in CC3 (Revised) from paragraph 342.

- (b) is no more onerous than needed to achieve its aim;
  - (c) is the least onerous if there is a choice between several effective measures; and
  - (d) does not produce disadvantages which are disproportionate to the aim.<sup>1153</sup>
- 9.12 Decisions on individual remedies will need to consider their role within a wider remedies package and whether:
- (a) the particular remedy is effective and proportionate considering the rest of the package; and
  - (b) the package as a whole is effective and proportionate.
- 9.13 In reaching a judgement about whether to proceed with a particular remedy, the CMA will consider its potential effects – both positive and negative – on those persons most likely to be affected by it.<sup>1154</sup>
- 9.14 In deciding the question of remedies, the CMA may ‘have regard to the effect of any action or any relevant customer benefits (RCBs) of the feature or features of the market or markets concerned’.<sup>1155</sup> RCBs are defined in EA02 and are limited to benefits to relevant customers in the form of:
- (a) Lower prices, higher quality or greater choice of goods or services in any market in the UK (whether or not the market(s) to which the feature(s) concerned relate); or
  - (b) greater innovation in relation to such goods or services.<sup>1156</sup>

## **Our remedies package**

- 9.15 Our remedies package is intended to address our concerns in relation to the high prices of funeral director and crematoria services and the back of house quality of funeral services.
- 9.16 Our remedies package comprises the following key components:
- (a) ‘Sunlight’ remedies to ensure that the pricing, business and commercial activities of funeral directors and crematorium operators, as well as the

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<sup>1153</sup> CC3 (Revised), paragraphs 342 to 344.

<sup>1154</sup> CC3 (Revised), paragraph 348-353.

<sup>1155</sup> EA02, section 134(7).

<sup>1156</sup> EA02, section 134(8)(a).



quality of funeral directors' back of house standards, are exposed to greater public scrutiny, in the form of:

- (i) a requirement on all funeral directors and crematorium operators to disclose price information to customers;
- (ii) a requirement on all funeral directors to disclose particular business, financial and commercial information to customers;
- (iii) a prohibition on all funeral directors from: 1) entering into or conducting certain arrangements with a hospital, hospice, care home or other similar institution, which could reasonably be understood to encourage, incentivise or require the institution to refer customers to the funeral director or give that funeral director preference over other funeral directors; and 2) soliciting for business through coroner and police contracts;
- (iv) 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 in the establishment of a broader regulatory regime for funeral services in these nations.

(b) 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;
- (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 MIR.

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.

9.17 We note that a number of local authorities across the UK operate arrangements with funeral directors to give local residents access to funeral

services at a pre-agreed fixed rate, below the typical local price.<sup>1157</sup> Local authority tendering of this kind could mitigate the problems arising from weak customer engagement due to factors such as emotional distress, unfamiliarity with the process and time pressure. This is because local authorities, when making such arrangements for funeral services, are not subject to the emotional distress which typically impacts individual customers when purchasing an at-need funeral. We would encourage those local authorities who do not currently operate a tender process for funeral services to consider launching similar schemes and to learn from those local authorities who already have such schemes in place.

## ***Price and commercial information and transparency***

### *Description of remedy*

#### *Disclosure of price information*

- *Funeral directors*

9.18 We have decided to require all funeral directors to provide customers with price information in the form of:

- (a) 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);
- (b) 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;
- (c) 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

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<sup>1157</sup> Under such schemes, the local authority does not itself provide the funeral services. The funeral services are provided to the bereaved by a funeral director normally on terms, and at a price, agreed with the local authority through a tendering or appointment process. As a consequence, there is generally a contract for each individual funeral between the bereaved and the funeral director.

- (d) 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).
- 9.19 We have provided an illustrative example of how this price disclosure requirement could be operationalised at Appendix X. This will be the starting point for consultation on the composition of the Standardised Price List, to take place during the Order-making process following publication of the Final report.
- 9.20 As a starting point, we have based the combination of products and services comprising the Attended Funeral and the Unattended Funeral on those included in the definitions of a simple attended funeral and a simple unattended funeral proposed by the Funeral Services Consumer Services Review (FSCSR). The components of the Attended Funeral (see paragraph 9.47), therefore, represent the products and services already provided by all funeral directors. We intend to consult on the following during the Order-making process:
  - (a) The name and the precise description of the component elements of the Attended Funeral and the Unattended Funeral.
  - (b) The requirements for display of the Attended Funeral Price.
  - (c) The precise description of the component elements and requirements for display of the Standardised Price List.
- 9.21 In particular, through the consultation process, we will seek to establish, for each component element, the minimum standards that are required to ensure that the Attended Funeral is an acceptable option for most customers. This will not prevent funeral directors from providing products and services that are above these minimum standards.
- 9.22 Although we are requiring that all funeral directors must offer an Attended Funeral, this will not prevent funeral directors from offering customers alternative or additional products and services or funeral packages. Further, the requirement to provide customers with the aggregate price of the Attended Funeral, as well as the price of each of its components in the Standardised Price List, does not mean that funeral directors will have to offer each item included in the Attended Funeral as a separate product or service, but funeral directors may choose to do so to differentiate their offering from other funeral directors.

9.23 We have decided that funeral directors will be required to display clearly and prominently at their premises and on their websites (or, if available, another appropriate online channel if they do not have a website):

- (a) the Standardised Price List;
- (b) the Attended Funeral Price;
- (c) the Unattended Funeral Price; and
- (d) the Additional Options Price List.

9.24 We have decided that funeral directors must also provide customers with:

- (a) details of their terms of business, specifically:
  - (i) the size of the upfront deposit, if any is required;
  - (ii) when the deposit (if applicable) and final balance must be paid;
  - (iii) any available payment options for paying the deposit (if applicable) and balance, and any interest payable if a customer chooses one of those payment options; and
  - (iv) any charges for late payment; and
- (b) the price information of crematorium operators in the local area (see paragraphs 9.26 and 9.27).<sup>1158</sup>

9.25 We have decided that funeral directors must make their terms of business and the price information of crematorium operators in the local area available to customers at their premises, on their website (or, if available, another appropriate online channel if they do not have a website) and upon request by the customer.

- *Crematoria operators*

9.26 We have 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 from the crematorium operator's premises), as well as to any other funeral director upon request, with information on the price of:

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<sup>1158</sup> Crematoria operators in the local area refers to all crematorium operators within a 30-minute cortege drive time from the funeral director's branch, or the three closest crematorium operators to the funeral director's branch if there are not three crematorium operators within a 30-minute cortege drive time from the funeral director's branch.

- (a) a standard fee attended service;
- (b) an unattended service (if offered by the crematorium operator); and
- (c) any available reduced fee services (if offered by the crematorium operator).

9.27 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. This should include different prices for different slots, covering day, time of day and length of slot;
- (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; and
- (d) the price of any additional products and services that customers may wish to include with these services and any additional charges that may apply (eg charges for late arrival and/or departure of the cortege).

9.28 To meet this obligation, crematorium operators must:

- (a) make their price information available to customers at their premises and on their websites or, if available, another appropriate online channel if they do not have a website. The information must be made available in a clear and prominent manner;
- (b) provide their price information to customers upon request; and
- (c) their price information to funeral directors in the local area (eg all funeral directors within a 30-minute cortege drive time from the crematorium operator's premises) and to other funeral directors upon request.

## *Disclosure of business and commercial information*

9.29 We have decided to require funeral directors to disclose in a clear and prominent manner the following information about their business and commercial arrangements to customers:

- (a) The ultimate owner of the business (ie the company name at the registered company address and the ultimate owner of the business if this is different from the trading name) at their premises and on their websites (or, if available, another appropriate online channel if they do not have a website);
- (b) Where a funeral director has any business or material financial interest in a price comparison website (PCW) operating in the funerals sector, this should be disclosed at their premises and on their websites (or, if available, another appropriate online channel if they do not have a website) in a clear and prominent manner; and
- (c) Where a funeral director makes any gift or charitable donation to a third party connected to the funerals sector (such as a bereavement office in a hospital, care home or other similar institution),<sup>1159</sup> or another form of payment or payment in kind that does not relate to a cost incurred or a service provided by the third party on behalf of or to the funeral director. This disclosure is not intended to prevent charitable donations to such institutions or to fetter fund-raising activities. Instead, it is intended to promote greater transparency and enable customers to be aware of any kind of relationship, including altruistic relationships, between an intermediary and the funeral director whom they may decide to choose. A funeral director is not required to disclose individual or cumulative payments to a third party that are de minimis (eg payments below a specified threshold).<sup>1160</sup> To meet this obligation, funeral directors must maintain a register of such gifts and charitable donations and make the register available to customers at their premises and on their website (or, if available, another appropriate online channel if they do not have a website) in a clear and prominent manner.

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<sup>1159</sup> We intend to cover the third parties that will be covered by this remedy in the Order and accompanying guidance.

<sup>1160</sup> We intend to explain what we mean by de minimis in the Order and accompanying guidance. We will consult on an appropriate threshold during the Order-making process.

### *Prohibition of certain practices*

9.30 We have decided to prohibit funeral directors from engaging in the following activities:

- (a) Arrangements, including any exchange of services with, or payments, benefits or gifts to, a hospital, hospice, care home or other similar institution (whether contractual or not) which could reasonably be understood to encourage, incentivise or require the institution to refer customers to the funeral director or give that funeral director preference over other funeral directors. To illustrate, the following (non-exhaustive) scenarios would be caught by this prohibition:
  - (i) An arrangement, whereby a payment or other gift or benefit, is made by a funeral director to a hospital, hospice, care home, bereavement service or similar institution which could reasonably be understood to incentivise referrals made by that institution to the funeral director.
  - (ii) The production by a funeral director (for a hospital, hospice, care home, bereavement service or similar institution) of documents or other materials for dissemination by that institution to its patients and/or families, which exclusively or prominently promote that funeral director's services or give that funeral director preference over other funeral directors, which could lead customers to believe that the funeral services were in some way endorsed by the institution concerned.

This remedy is not intended to capture arrangements designed to ensure the proper treatment of the deceased, such as commercial arrangements between the funeral director and the institution to collect and transport the deceased to appropriate facilities for storing the deceased.

- (b) Soliciting for business through coroner and police contracts. Funeral directors must not solicit for business through coroner and police contracts irrespective of whether they are subject to a non-solicitation clause. This remedy does not preclude funeral directors from identifying themselves to the bereaved when collecting the deceased, and it does not prevent the funeral director from providing their services to the bereaved, provided that they do not leverage the existence of the contract to gain unfair access to the bereaved in order to market their services.

9.31 To comply with this remedy, funeral directors must terminate any existing arrangements or exchange of services with, and stop making payments or gifts to, institutions as prohibited in paragraph 9.30. Funeral directors will also

be prohibited from establishing any such new arrangements, engaging in any new exchange of services or making any new payments.

*How the measures address the AEC and resulting customer detriment*

- 9.32 The provision of price information by funeral directors and crematorium operators to customers in a transparent and consistent format will make it easier for customers to access the prices of funeral directors and crematorium operators and may help increase customer awareness of the total cost of the funeral services they require. To the extent that customers are able and willing to do so, it may help customers to assess the cost of different providers and may also help them to compare providers. Greater upfront price transparency will make it easier for customers to choose funeral services that meet their needs and budget and make it less likely that customers are surprised by the final cost of the funeral.
- 9.33 We have found that some customers rely on local brand names as a short-cut to making a thorough evaluation of the offering of a funeral director, meaning some customers make assumptions about both quality and price that may be incorrect. The transparency of business ownership structures will help make customers more aware of the ultimate owner of the funeral director. We consider that this is particularly important following a change of business ownership, where a large funeral director acquires, or has previously acquired, an independent funeral director and the acquired business trades under the name of the independent funeral director. The disclosure of certain other commercial relationships will also support customers in choosing their funeral services on the basis of all the relevant information about the funeral director available to them.
- 9.34 Practices that encourage, incentivise or require an institution to refer customers to a funeral director or give that funeral director preference over other funeral directors may adversely impact customers and the competitive process, particularly given the position of trust held by these institutions. This may undermine customers' willingness to shop around or to make choices appropriate for their needs. Our understanding is that most funeral directors do not engage in this type of practice. However, prohibiting these practices will seek to eliminate any potential conflicts of interest that arise from such arrangements, exchange of services and payments, which could adversely impact upon the advice these institutions offer to customers regarding funeral services and the availability of other choices.
- 9.35 The prohibition of solicitation of customers through coroner and police contracts will seek to address key barriers to shopping around and switching arising from the arrangement between the funeral director and the coroner,



whereby the bereaved may have limited incentive to switch funeral director once the contracted funeral director has collected the deceased.

### *Remedy design issues*

9.36 The key remedy design issues are:

- (a) what price information should be made available to customers by funeral directors;
- (b) what price information should be made available to customers by crematorium operators;
- (c) what business and commercial information should be made available to customers by funeral directors; and
- (d) whether the practices described in paragraph 9.30 should be disclosed or prohibited.

### *Funeral director price information*

9.37 In the PDR, we proposed to require all funeral directors to provide customers with information on the price of their:

- (a) most commonly sold funeral package;
- (b) standard funeral package (if different from (a)); and
- (c) simple funeral package (defined as the simplest funeral package that the funeral director offers) (if different from (a)).

9.38 We received representations from a number of parties that this proposal did not appropriately account for those funeral directors who do not offer funeral packages to customers. For example, SAIF told us that (this proposal) was geared towards the package formula of corporate funeral businesses and impracticable for independent funeral directors, who were motivated to care for the bereaved and family and loved ones in a bespoke fashion.<sup>1161</sup>

9.39 We also received representations that this proposal may drive customers towards a more expensive funeral service when a less expensive service may in fact meet their needs and that it may also limit the ability of customers to assess and compare packages. For example, Funeral Partners told us that

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<sup>1161</sup> SAIF response to PDR, page 8.

the product/service contents of these packages may vary dramatically between providers, as many providers would include different elements in their 'standard' and 'simple' packages (which would have implications for consumers when making comparisons between providers).<sup>1162</sup>

- 9.40 In the PDR, we also proposed that 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. We did not receive any representations on this proposal.

○ *Further consultation following PDR*

- 9.41 In order to determine a remedy that is both effective and practicable, taking account of these representations, we explored price transparency options further at hearings with the main parties and trade associations and at a roundtable with representatives from across the funerals sector, including the NAFD and SAIF, some small funeral directors and consumer bodies.
- 9.42 We considered the following principles in determining a solution that was both effective for customers and practicable to implement for funeral directors:
- (a) The type and volume of information to provide to customers to support them in making an informed decision, but without overwhelming or confusing them. We think that this balance can be achieved by providing customers with both headline price information and more detailed pricing information.
  - (b) The extent to which the standardisation of products and price information enables customers to compare providers. We think that the provision of price information to customers in a standardised format will make it easier for customers to assess and compare funeral directors. We have received broad support for the standardised presentation of pricing. For example:
    - (i) SAIF told us that that it would support a standardised price list if it was appropriately defined by the CMA to only include core disbursements.<sup>1163</sup>

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<sup>1162</sup> [Funeral Partners response to the options regarding the provision of pricing information to consumers](#), page 2.

<sup>1163</sup> [SAIF supplementary hearing comments](#), page 2.

- (ii) Quaker Social Action told us that a standardised price list, with some level of disaggregation, could help to give people a sense of where that funeral director sits on the price scale compared with others.
  - (iii) Kevin Cobbold Funeral Services told us that a standardised price list would be effective if the wording is exactly the same for all funeral directors so that customers could compare on an even basis. They added that if the CMA specified a standard package that funeral directors were required to offer to customers, this would reduce the opportunity for some funeral directors to take advantage of vulnerable customers.
- (c) The feasibility of standardising products and a standardised price list. Parties at the roundtable in November 2020 told us that it would be difficult to define a 'standard' funeral package, as there was no consensus across the sector as to what constituted standard funeral products and services, given varying customer needs and preferences. For example, SAIF told us that there was a limit to how much it would be possible to standardise funeral products and services, as a funeral was a deeply personal offering. However, parties at the roundtable were more positive about standardising simple or entry-level products. For example, SAIF told us that there was much greater parity across the profession in relation to the lower cost funeral options. We consider that the work undertaken to date by the FSCSR, which has involved both trade associations, in determining minimum criteria for a simple attended funeral and a simple unattended funeral demonstrate the feasibility of standardising product and price information. We think that it is more appropriate to determine the price of a baseline funeral product and allow customers to add products and services to that baseline, using, for example, a standardised price list, than determining a more complex 'standard' product.
- (d) The extent to which the disaggregation of price information enables customers to make better-informed decisions regarding their funeral services purchase. We consider that the provision of disaggregated pricing to customers could support them in more effectively identifying those elements of the funeral service that they require to meet their needs and budget. We also think it will be helpful for those customers with different cultural needs. Quaker Social Action told us that disaggregation is helpful for people to be able to see prices of individual services where they might want to add or remove services from a package, or where someone might want to include or exclude optional elements when making up their own funeral from a price list with funeral directors who do not offer packages. However, we acknowledge that the provision of too much information or the wrong types of information may confuse or

overwhelm customers, and have taken this into account in shaping our approach to price transparency. On disbursements, we recognise that the price of these items is out of the control of the funeral director. However, we consider that they can represent a substantial proportion of the overall cost of the funeral and, therefore, funeral directors should provide a range or an estimate of these costs.

- *Conclusion on funeral director price information*

9.43 In light of the principles outlined above and taking into account consultation responses, we have decided to require all funeral directors to provide customers with price information in the form of:

- (a) 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);
- (b) 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;
- (c) 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
- (d) 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).

9.44 Although we are requiring that all funeral directors must offer an Attended Funeral, this will not prevent funeral directors from offering customers alternative or additional products and services or funeral packages. Further, the requirement to provide customers with the aggregate price of the Attended Funeral, as well as the price of each of its components in the Standardised Price List, does not mean that funeral directors will have to offer each item included in the Attended Funeral as a separate product or service, but funeral directors may choose to do so to differentiate their offering from other funeral directors.

- 9.45 We have decided that funeral directors will be required to display clearly and prominently at their premises and on their websites (or, if available, another appropriate online channel if they do not have a website):
- (a) the Standardised Price List;
  - (b) the Attended Funeral Price;
  - (c) the Unattended Funeral Price; and
  - (d) the Additional Options Price List.
- 9.46 We intend to consult on the precise meaning of ‘clearly’ and ‘prominently’ during the Order-making process. For display on websites, we could require, for example, that prices must be no more than one click from the home page (or the relevant branch page where a funeral director’s prices vary by branch). For display within branches, we could require, for example, a minimum size of display in an area visible to customers within the premises and also a display in the shopfront window, so that prices are visible to customers before they enter the premises. We note that SAIF objected to any proposal that pricing information should be displayed in the shop windows of its members’ premises on the basis that: ‘we work in the care sector and you do not see hospitals or other healthcare providers with their prices in their window’.<sup>1164</sup> As we noted in Section 3, once a customer has entered the premises of the funeral director, they are generally already committed to using that funeral director. We therefore consider it important that prices are visible to customers before they enter the premises, so that they have the opportunity to compare the prices of other funeral directors. In this regard, we also note that not all consumers have access to the internet and email to compare prices, and not all funeral directors have an online presence.
- 9.47 In determining the specification of the products and services comprising the Attended Funeral, we intend to start with the definition of a simple attended funeral determined by the FSCSR as set out below:
- (a) Attending to the necessary arrangements, such as:
    - (i) completion of necessary certification;
    - (ii) taking instructions from the client; and
    - (iii) providing guidance on registration and legally required procedures.

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<sup>1164</sup> [Summary of SAIF hearing](#), 8 October 2020.

- (b) Provision of the necessary staff for care of the deceased.
- (c) Provision of an appropriate coffin suitable for burial or cremation.
- (d) Transportation of the deceased person from the place of death (normally within fifteen miles but taking into account local circumstances).
- (e) Appropriate arrangements for the uplift of the deceased and care of the deceased person prior to the funeral in appropriate facilities.
- (f) Viewing of the deceased person, during normal working hours, by appointment.
- (g) Provision of a hearse or other appropriate vehicle direct to the nearest crematorium or cemetery at a date and time agreed with the funeral director and clearly described to the client.
- (h) The opportunity to hold a service at the cemetery or crematorium at the time of committal.

9.48 In determining the specification of the Unattended Funeral, we intend to start with the definition of a simple unattended funeral determined by the FSCSR as set out below:

- (a) Attending the necessary arrangements, such as:
  - (i) completion of necessary certification;
  - (ii) taking instructions from the client; and
  - (iii) providing guidance on registration and legally required procedures.
- (b) Provision of the necessary staff for care of the deceased.
- (c) Provision of an appropriate coffin suitable for burial or cremation.
- (d) Transportation of the deceased person from the place of death (normally within fifteen miles but taking into account local circumstances).
- (e) Appropriate arrangements for the uplift of the deceased and care of the deceased person prior to the funeral, in appropriate facilities.
- (f) Transportation of the deceased to a crematorium or cemetery at a date and time agreed with the funeral director and clearly described to the client.

9.49 An important factor affecting how customers respond to this remedy is likely to relate to how it is presented to them, including what it is called. We have concerns that defining the Attended Funeral as 'simple' (as proposed by the FSCSR) may have implications for the take-up of such an offering, as customers may perceive it to be below generally acceptable standards by virtue of its name, rather than its actual suitability to their needs. Therefore, we intend to consult on the appropriate name and the precise description of the component elements of the Attended Funeral and the Unattended Funeral, as well as the requirements for display of the Attended Funeral Price, during the Order-making process. This may include conducting consumer research to test how people react to different options.

9.50 In determining the specification of the Standardised Price List, we intend to start with the products and services below:

(a) Attended Funeral (itemised price and total price):

- (i) Attending to the necessary arrangements, such as completion of necessary certification; taking instructions from the client; and providing guidance on registration and legally required procedures.
- (ii) Provision of the necessary staff for care of the deceased.
- (iii) Provision of an appropriate coffin suitable for burial or cremation.
- (iv) Transportation of the deceased person from the place of death (normally within fifteen miles but taking into account local circumstances).
- (v) Appropriate arrangements for the uplift of the deceased and care of the deceased person prior to the funeral, in appropriate facilities.
- (vi) Viewing of the deceased person, during normal working hours, by appointment.
- (vii) Provision of a hearse or other appropriate vehicle direct to the nearest crematorium or cemetery at a date and time agreed with the funeral director and clearly described to the client.
- (viii) The opportunity to hold a service at the cemetery or crematorium at the time of committal.

(b) Unattended Funeral (total price).

(c) Fees (itemised price and total price):

- (i) Doctor's fees.
- (ii) Crematorium fees (range or estimate).
- (iii) Burial fees (range or estimate).
- (iv) Minister's fees (not needed for Unattended Funeral)
- (v) Celebrants (range or estimate) (not needed for Unattended Funeral).
- (d) Additional products and services (itemised price):
  - (i) Transportation of the deceased (outside working hours)
  - (ii) Embalming (if offered).
  - (iii) Transport for the bereaved.
  - (iv) Disposal of ashes.
  - (v) Most commonly purchased ashes casket or urn.
  - (vi) Acknowledgement notice.
  - (vii) Tributes and memorials.
  - (viii) Stationery.

9.51 The precise description of the component elements and requirements for display of the Standardised Price List will be determined by the CMA during the Order-making process. We have provided an illustrative example of how this price disclosure requirement could be operationalised at Appendix X, which will be the starting point for consultation.

9.52 We have decided that funeral directors must also provide customers with:

- (a) details of their terms of business, specifically:
  - (i) the size of the upfront deposit, if any is required;
  - (ii) when the deposit (if applicable) and final balance must be paid;
  - (iii) any available payment options for paying the deposit (if applicable) and balance, and any interest payable if a customer chooses one of those payment options; and
  - (iv) any charges for late payment; and



(b) the price information of crematorium operators in the local area (see paragraphs 9.26 and 9.27).<sup>1165</sup>

9.53 We have decided that funeral directors must make their terms of business and the price information of crematorium operators in the local area available to customers at their premises, on their website (or, if available, another appropriate online channel if they do not have a website) and upon request by the customer.

○ *Other remedy proposals related to funeral director price transparency*

9.54 Both Dignity and Funeral Partners told us that information provided to customers should include both price and quality information.<sup>1166</sup> We consider that greater pricing transparency is of value in itself and should be pursued, whether or not accompanied by further information about quality. Having said that, we agree that the provision of information to customers on both the price and quality of funeral director services could support customers in making a purchase that satisfies both their needs and budget. We think that a future quality regulatory regime could include the generation and dissemination of quality information to customers, which could support the price information provided to customers by funeral directors under our Order.

9.55 SAIF told us that all funeral directors should be required to provide a leaflet (prepared by the CMA) to customers during their first in-person meeting and/or when customers were first provided with any written material pertaining to their services. The leaflet would contain a brief description of the CMA's market investigation and key AEC findings and encourage customers to shop around.<sup>1167</sup> We think that providing customers with this additional information at a time when they are likely to receive information on funeral services and prices may not be beneficial to them, as there is a risk that the additional information may overwhelm, confuse or upset them. Further, providing this information at the first in-person meeting, when the deceased is already in the care of the funeral director, is likely to be too late to encourage customers to shop around. We encourage funeral directors to consider whether to include information regarding the CMA's market investigation in their existing materials that they provide to customers.

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<sup>1165</sup> Crematoria operators in the local area refers to all crematorium operators within a 30-minute cortege drive time from the funeral director's branch, or the three closest crematorium operators to the funeral director's branch if there are not three crematorium operators within a 30-minute cortege drive time from the funeral director's branch.

<sup>1166</sup> See [Dignity response to PDR](#), paragraph 4.2 and [Funeral Partners response to PDR](#), page 11.

<sup>1167</sup> [SAIF supplementary response to PDR](#), page 5.

### *Crematorium operator price information*

- 9.56 In the PDR, we provisionally decided that crematorium operators must provide customers and funeral directors in the local area (eg all funeral directors within a 30-minute cortege drive time from the crematorium operator's premises), as well as to any other funeral director upon request, with information on the price of:
- (a) a standard fee attended service;
  - (b) an unattended service (if offered by the crematorium operator); and
  - (c) any available reduced fee service (if offered by the crematorium operator).
- 9.57 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. This should include different prices for different slots, covering day, time of day and length of slot;
  - (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; and
  - (d) the price of any additional products and services that customers may wish to include with these services and any additional charges that may apply (eg charges for late arrival and/or departure of the cortege).
- 9.58 To meet this obligation, crematorium operators must:
- (a) make their price information available to customers at their premises and on their websites or, if available, another appropriate online channel if they do not have a website. 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 from the

crematorium operator's premises) and to other funeral directors upon request.

- 9.59 The parties who commented on our proposals for crematoria price information were supportive of them. We intend to consult on the specific price information that crematorium operators are required to provide to customers during the Order-making process.

*Funeral director business and commercial information*

- 9.60 In the PDR, we provisionally decided to require funeral directors to disclose the ultimate owner of the business; where they have any interest in a PCW; and where they make a charitable donation, charitable contribution or a payment of a gratuity to a third party 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.
- 9.61 Parties were broadly supportive of these proposals. For example, 11 funeral directors (and a celebrant) thought the ownership of funeral homes should be transparent. Three of these funeral directors said that where a small family funeral director had been acquired, the new business ownership should be clearly displayed on its premises and in its advertising. This would ensure families knew who they were dealing with before they contacted or engaged a particular funeral director. One of these funeral directors also noted that when larger organisations made acquisitions, they often retained the name of the acquired business. It added that trade associations had not been effective at addressing this issue.<sup>1168</sup>
- 9.62 However, some parties asked for greater clarity on the scope and requirements of the proposals<sup>1169</sup> and SAIF told us that requiring the disclosure of all charitable donations would be nothing more than an administrative burden for independent funeral directors.<sup>1170</sup>
- 9.63 In response, we have:
- (a) provided greater clarity on what we mean by the ultimate owner of the business;

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<sup>1168</sup> See [summary of responses to the PDR](#).

<sup>1169</sup> See, for example, [Funeral Partners response to PDR](#), pages 13 and 14.

<sup>1170</sup> [SAIF response to PDR](#), page 12.

- (b) confirmed that a funeral director is only required to disclose where they have any business or material financial interest in a PCW operating in the funerals sector; and
- (c) explained that the disclosure of charitable donations is not intended to prevent charitable donations or fetter fund-raising activities. Instead, it is intended to promote greater transparency and enable customers to be aware of any kind of relationship, including altruistic relationships, between an intermediary and the funeral director that the customer decides to engage. To address the potential administrative burden on funeral directors, we have decided to apply a de minimis threshold on the disclosure requirement. We intend to explain what we mean by de minimis in the Order and accompanying guidance and we will consult on an appropriate threshold during the Order-making process.

*Should certain practices by funeral directors be prohibited or disclosed?*

- 9.64 In the PDR, we provisionally decided to prohibit funeral directors from engaging in certain practices which encourage or incentivise certain institutions to refer customers to the funeral director.
- 9.65 In response, with the exception of Co-op, all of the parties that commented on this proposal expressed their support, with 15 funeral directors stating that these practices should be prohibited.
- 9.66 Co-op told us that:
- (a) the remedy directly impacted existing and proposed arrangements that it had negotiated and that it believed were ultimately beneficial to customers;<sup>1171</sup> and
  - (b) clear and upfront disclosure of such arrangements would be sufficient to mitigate any AEC without losing the consumer benefits (from such arrangements).<sup>1172</sup>
- 9.67 Co-op subsequently told us that it was relatively relaxed about the proposed remedy [REDACTED].<sup>1173</sup>

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<sup>1171</sup> Co-op told us that the only institution that it had negotiated such an arrangement with was [REDACTED], but that both parties had mutually agreed to cease discussions.

<sup>1172</sup> [Co-op response to PDR](#), paragraph 8.35.

<sup>1173</sup> [Summary of Co-op hearing](#), 9 October 2020, paragraph 19.

- 9.68 We consider that the prohibition, rather than the disclosure, of certain arrangements, exchange of services and payments made by funeral directors with/to third parties is necessary, because:
- (a) people nearing the end of their lives, and their families, are in a vulnerable position or state of ‘anticipatory grief’, which affects their ability to engage effectively and exercise choice in relation to funeral services;
  - (b) staff in care homes, hospices and hospitals and other similar institutions are in a position of trust, and, therefore, are able to influence customer choice; and
  - (c) these arrangements, exchange of services, gifts and payments are likely to incentivise such institutions to direct customers to the funeral director paying the fee and not the funeral director that offers the most competitive or appropriate services, thus reducing customer choice to those funeral directors with arrangements in place, and making it less likely that customers will choose funeral services that meet their needs and budget.
- 9.69 We note that similar prohibitions already exist in the funerals sector, albeit on a selective and voluntary basis. For example, SAIF prohibits its Members from making payments or inducements to third parties.
- 9.70 Further, we note that the disclosure of information about referral fees has been rejected as an effective policy measure in a number of cases:
- (a) The CMA’s legal services market study cited Charles River Associate’s 2010 cost benefit analysis of policy options related to referral fees in legal services. On disclosure of information, the Charles River Associate’s report stated that ‘although consumers favour transparency, there is no evidence that they respond to information related to referral fees partly because they focus on the overall conveyancing fee that they needed to pay’. It went on to note that ‘the lack of consumer response to disclosure is consistent with evidence from the financial services sector where intermediaries are also common’.
  - (b) The CMA’s digital comparison tools market study stated that ‘we do not consider that digital comparison tools should have to show the actual commission they receive from suppliers, since this is more likely to be counter-productive’. A 2004 Federal Trade Commission study found that disclosure of mortgage broking fees led consumers to focus unduly on commission at the expense of more important factors, such as interest rates, leading to worse consumer outcomes.

- (c) The payment or receipt of referral fees in personal injury claims has been prohibited since 2013. The policy objectives for this intervention included reducing incentives to excessive litigation and reducing the overall legal costs involved in personal injury cases. The government considered alternative options, including recommendations by the Legal Services Board to improve transparency of referral fees and capping referral fees. However, the government felt such measures would not address the objectives as effectively.
- (d) The CMA's private healthcare market investigation found that the existence of certain benefits and incentive schemes provided by private hospital operators which reward (directly or indirectly) referring clinicians for treating patients at, or commissioning tests from, their private healthcare facilities were a feature of the provision of privately-funded healthcare services by private hospital operators. Such benefits included cash payments made to clinicians for each patient referred or test commissioned. This feature gave rise to AECs in the markets for the provision of hospital services by private hospital operators across the UK due to the distortion of referral decisions to their private healthcare facilities and distorting patient choice of diagnosis and treatment options. The CMA concluded that any scheme operated by a private hospital operator, whether contractual or not, which provided an inducement to, or created an obligation on, a clinician to treat or refer patients for tests at its facilities, should be prohibited outright.

9.71 We recognise that many organisations, including care providers and funeral directors, are likely to have anti-bribery and corruption policies in place. Similarly, the disclosure of referral fees is often likely to be required under consumer protection law. However, we do not consider that these considerations obviate the need for an approach which creates a higher level of protection for a particularly vulnerable group of consumers.

9.72 In addition to the prohibition of referral fees in other markets in the UK, we understand that in France, it is an offence for a funeral director to provide donations, gifts or offer any kind of advantage for recommendations to use that funeral director to anybody who in the exercise of their professional activity is made aware of a death. This can lead to a five-year prison sentence and a €75,000 fine. Similarly, the health professional can commit an offence for engaging in such arrangements, which may lead to a three-year prison sentence and a €45,000 fine.

### *Remedy implementation issues*

9.73 The key remedy implementation issues are:

- (a) the method and timing of implementation;
- (b) monitoring of compliance with and enforcement of the remedy; and
- (c) the cost of implementation.

*Method and timing of implementation*

- 9.74 When taking remedial action, the Group may act itself through exercising its Order-making powers against, or through accepting undertakings from, any appropriate person. Alternatively, or in addition, the Group may recommend that remedial action should be taken by others, such as government, regulators and public authorities.<sup>1174, 1175</sup>
- 9.75 We consider that an Order is the most appropriate method of implementation, because we have decided that this remedy should apply to all funeral directors and crematorium operators across the UK on the basis that price transparency is a core requirement for all customers in any market, irrespective of the size of the provider. Similarly, we have identified no reason to distinguish between large and small providers in relation to the other disclosures we have proposed. Given this, we do not think that the implementation of our proposed remedy through the use of undertakings is appropriate due to the difficulty and impracticality of negotiating and securing undertakings with the large number of funeral directors and crematorium operators across the UK.
- 9.76 We do not expect any of the components of this remedy to create significant additional burdens on funeral directors and crematorium operators:
- (a) Price information: as explained above, price transparency is a core requirement in any market and the trade associations already require their members to disclose price information to their customers. We note that in most cases, the customer deals with the funeral director and does not contact the crematorium operator directly. Therefore, it will typically be the funeral director that is providing both funeral and crematoria price information to customers. We appreciate this may create some additional work for some funeral directors, but this will be limited, as it will be the responsibility of the crematorium operator to provide the required price information to the funeral director. We understand that many crematorium operators already provide price information to funeral directors and local

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<sup>1174</sup> Such recommendations do not bind the person to whom they are addressed, although the UK Government has an ongoing commitment to respond to any recommendation made to it within 90 days of publication of the CMA's final report.

<sup>1175</sup> [CC3 \(Revised\)](#), paragraph 327.

authority crematorium operators are already required to publish their prices.

- (b) Provision of an Attended Funeral: we recognise that our price transparency remedy means that all funeral directors must offer an Attended Funeral and that, in principle, this may mean that some funeral directors will offer a specific combination of products and services that they may not frequently provide to customers. We have considered very carefully the extent to which this might impose additional burdens on funeral directors, but we do not consider that any additional burdens will be significant for the following reasons:
- (i) The components of the Attended Funeral (see paragraph 9.47) represent the core products and services already provided by all funeral directors.
  - (ii) The Attended Funeral is similar to the 'basic funeral' (recommended as part of the OFT's 2001 report).
  - (iii) We have proposed to adopt, subject to further consultation, the FSCSR definition of a simple attended funeral for the specification of the Attended Funeral, and note that through the work of the FSCSR to date, there has already been consultation on the suitability of this set of services and broad support from funeral directors and the trade associations.
- (c) Disclosure requirements: we consider that the disclosure of the items listed in paragraph 9.29 should not impose significant additional costs on funeral directors, particularly for those funeral directors who are already transparent with regards to their business, commercial and charitable arrangements. Moreover, in respect of the disclosure of business ownership, we consider that it could be a misleading omission<sup>1176</sup> for a funeral director to fail to disclose the ultimate owner of the business given that this may affect the consumer's choice of funeral director.
- (d) Prohibition of certain practices between funeral directors and third parties connected to the funerals sector: to the extent that funeral directors currently engage in these types of practices (which we understand very few do), there may be some additional costs for funeral directors in relation to terminating or unwinding any existing arrangements that are prohibited under this remedy, but we consider such costs to be limited

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<sup>1176</sup> Within the meaning of regulation 6 of the [Consumer Protection from Unfair Trading Regulations 2008](#).



and the termination or unwinding of any such arrangements to be relatively straightforward.

- 9.77 In light of the limited additional burdens involved with this remedy, we expect funeral directors and crematorium operators to be in a position to provide the required price information to customers within three months of the Order being made.

#### *Monitoring and enforcement*

- 9.78 To monitor compliance with the Order, we have decided to require funeral directors with ten or more branches and all crematorium operators to submit an annual compliance report to the CMA. It will be clear from these compliance reports whether any of the relevant parties are not complying with the Order. This would not obviate the need to comply with the requirements of the Order for those providers that are not required to submit an annual compliance report.
- 9.79 We consider that requiring compliance reports from funeral directors with ten or more branches is appropriate, as this will cover a significant proportion of funerals and will not place an undue burden on smaller funeral directors. We have decided, however, to include in the Order a requirement for other funeral directors to provide compliance reports to the CMA if requested by the CMA, for example, on a sampled basis or following a complaint. The CMA may also undertake exercises, such as compliance research, to understand the extent and nature of any non-compliance across the sector. Further, the public-facing nature of the requirements means customers, funeral directors or crematoria operators will be able to identify non-compliance, so it will also be important to make it as easy as possible for these groups to report any concerns about non-compliance to us.

#### *Cost of implementation*

- 9.80 As explained in paragraph 9.76, we do not expect that funeral directors and crematorium operators will incur significant costs in providing the required price, business and commercial information to customers, particularly those providers who already provide price information to customers, as required under consumer law. For example:

- (a) Midcounties Co-op told us that the cost to funeral directors of adapting their websites to display the required information would be limited, as the majority of funeral directors already operate websites;<sup>1177</sup> and
- (b) Co-op told us that the costs of provision of information directly by the funeral director are largely administrative and would not impose a material burden on funeral directors.<sup>1178</sup>

### *Effectiveness and proportionality of the measure we are taking forward*

#### *Effectiveness of the measure we are taking forward*

9.81 To assess the effectiveness of our remedy, we have considered:

- (a) how the remedy will work with other remedies to address the AECs and resulting customer detriment;
- (b) the extent to which the remedy is capable of effective implementation, monitoring and enforcement;
- (c) the timescale over which the remedy will take effect; and
- (d) the consistency of the remedy with existing and likely future laws and regulations.

9.82 We explain in paragraphs 9.32 to 9.35 how the remedies mitigate the AECs and resulting customer detriment that we have found. We are, however, mindful that not all customers will be willing or able to engage with this information following a bereavement. We consider that this remedy, unlike some of the more complex measures we have considered but decided not to pursue (see Appendix W), will be relatively straightforward to design and implement, as it will require limited further engagement with funeral directors and crematorium operators.

9.83 Our consideration of how the measure will be implemented, monitored and enforced is set out in paragraphs 9.74 to 9.79.

9.84 For this remedy, and given its simplicity relative to other market investigation outcomes, we expect to put in place an Order well within the statutory six-month period from the date of publication of our Final report. We expect the

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<sup>1177</sup> [MidCounties Co-op response to information and transparency remedies working paper](#), paragraph 5.31.

<sup>1178</sup> [Co-op response to information and transparency remedies working paper](#), page 14.

parties subject to the Order to be in a position to comply with all aspects of this remedy within three months of the making of the Order.

- 9.85 We expect the parties subject to the Order to begin complying with certain requirements in advance of the Order being made on the basis that the requirements are straightforward. While we do not expect this intervention to be transformational, we envisage its impact increasing over time, as the benefits of greater transparency in enabling customers and others to hold suppliers to account are realised.
- 9.86 We expect that the remedy will be consistent with existing or likely future laws and regulations applicable to the funerals sector, including consumer legislation. We note there is currently no sector-specific legislation which regulates the activities of funeral directors in England, Wales and Northern Ireland. While there is a recently established regulatory regime in Scotland, we do not foresee any conflict between that regime and this remedy.
- 9.87 We conclude that this component of our remedies package will mitigate the AECs and resulting customer detriment from high prices that we have found.

*Proportionality of the measure we are taking forward*

- 9.88 To assess the proportionality of our remedy, we considered whether the remedy:
- (a) is effective in achieving its aims;
  - (b) is no more onerous than necessary to achieve its aims;
  - (c) is the least onerous if there is a choice; and
  - (d) produces adverse effects which are disproportionate to their aims.
- 9.89 As set out above, we consider that the remedy will be effective in mitigating the AECs and resulting customer detriment that we have found.
- 9.90 We have assessed the remedy's key design considerations. In doing so, we have sought to avoid imposing costs and restrictions on funeral directors and crematorium operators that go beyond what would be needed to enable the remedy to achieve its aims (see paragraph 9.76).
- 9.91 Although our price transparency remedy means that all funeral directors must offer an Attended Funeral, we do not consider that the remedy is onerous on the basis that the components of the Attended Funeral (see paragraph 9.47) are offered to customers by all funeral directors. Although we intend to specify the components of an Attended Funeral in the Order, we do not intend to

specify the products and services that funeral directors must offer to customers to comply with the Order (but we will consult on the need for minimum standards for the various component elements). For example, it will be up to the funeral director to decide what vehicle they intend to provide for the transportation of the deceased to the nearest crematorium or cemetery. Further, the requirement to provide an Attended Funeral will not prevent funeral directors from offering other products and services or funeral packages to customers, and it does not mean that funeral directors will have to offer each item included in the Attended Funeral as a separate product or service, but funeral directors may choose to do so to differentiate their offering from other funeral directors.

- 9.92 If the Group is choosing between two remedy measures which are similarly effective, it should choose the remedy measure that imposes the least cost or is least restrictive. In our consideration of the range of potential remedies we identified or had suggested to us, we were unable to identify alternative remedies that would be less onerous but equally effective in mitigating the AECs and resulting customer detriment that we have found in respect of high prices. In Appendix W, we outline the remedies that we had initially considered but decided not to pursue due to the impact of COVID-19 on our investigation.
- 9.93 We have considered the potential effects, both positive and negative, on those persons that would be most likely to be affected by the remedy. We have paid particular regard to the impact of the remedy on customers. We have also had regard to the impact on those parties who may be subject to them and on other affected parties, such as other businesses (eg potential entrants), government and regulatory bodies and other monitoring agencies. Given the limited burden that this remedy will impose on funeral directors and crematorium operators, and the benefits associated with providing greater transparency to customers, we expect that the benefits of the remedy are likely to exceed its costs by a comfortable margin.
- 9.94 We conclude that our remedy is proportionate as part of a package of measures to mitigate the AECs and resulting customer detriment that we have found.

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

#### ***Description of remedy***

- 9.95 We have decided to recommend to the UK government and the devolved administrations in Northern Ireland and Wales to establish in England, Northern Ireland and Wales a registration and inspection 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. This recommendation does not extend to the Scottish government, as there is an existing regulatory regime for funeral services in Scotland.

- 9.96 The establishment of a registration and inspection regime will provide the UK government and the relevant devolved administrations with a clearer picture of the extent of poor practice in the funerals sector in England, Northern Ireland and Wales and, consequently, the appropriate approach required to establish quality standards for funeral services.
- 9.97 We consider that the regime should be supported by legislation to enable the UK government and the relevant devolved administrations to act upon the inspection findings – this may include the establishment of a broader regulatory regime, which could encompass minimum standards, a licensing regime and the publication of service quality metrics.
- 9.98 The UK government and the devolved administrations in Northern Ireland and Wales may wish to design the proposed inspection and registration regime in a manner that enables it to be later expanded to cover price control regulation if this is considered necessary by the CMA following the conclusion of any future market investigation (if a future MIR is considered necessary by the CMA Board).
- 9.99 We note that in November 2020, the government laid before Parliament legislation to bring all funeral plan providers within the remit of the FCA. The legislation will come fully into force within 18 months, which will allow time for the FCA to design, consult on and implement the relevant architecture for the new regulatory regime and for funeral plan providers and intermediaries to take the necessary steps (including seeking authorisation) to meet the requirements of the new regulatory framework. There may be some overlap between the authorisation of funeral plan providers and the registration and inspection regime that we have recommended to government to establish.

*How the measure addresses the AEC and resulting customer detriment*

- 9.100 There is currently no legislation which regulates the specific activities of funeral directors in England, Wales and Northern Ireland (see Appendix B).
- 9.101 We have decided that introducing a framework for quality regulation in England, Wales and Northern Ireland is necessary to address our concerns relating to the back of house standards of service among funeral directors. This is for the following reasons:

- (a) We judge it unlikely that any improvement in competition among funeral directors arising from our remedies package will lead to material improvements in the quality of back of house standards, particularly the care of the deceased. Given that customers are unable to easily assess or observe back of house standards, we consider that there may be limited incentives for funeral directors to address any issues with back of house standards, and, therefore, regulation is necessary to protect customers. This is in contrast to issues relating to the quality of front of house standards, which customers can more readily observe and assess, and which will be facilitated to some degree by our transparency remedy.
- (b) There is an assumption amongst many customers that the funerals sector is already subject to quality regulation. This is likely to have an impact upon the extent to which customers consider it necessary to assess aspects of quality, such as the care of the deceased (see Section 3).

9.102 The purpose of quality regulation would therefore be to improve and maintain the quality standards of funeral directors and also address the gap between customer expectation and the current reality.

9.103 Over time, a fully-fledged, broader regulatory regime for funeral services could include the following elements:

- (a) Clear requirements for funeral directors in the form of statutory minimum standards.
- (b) Effective monitoring and enforcement of standards through a statutory registration, licensing and inspection regime.
- (c) An appropriate body to monitor and enforce standards.
- (d) The publication of quality metrics to support customers in their assessment of funeral directors.

9.104 The first step towards the establishment of such a broader regime is the introduction of a registration and inspection regime. We are recommending the introduction of such a regime in England, Wales and Northern Ireland, mirroring the approach taken in Scotland. This will enable the relevant governments to establish a comprehensive evidence base regarding the current level of service standards, and to recommend the appropriate minimum standards to be specified.

## *Remedy design issues*

9.105 We set out a detailed consideration of issues relating to the regulation of service quality in Appendix W. Below, we set out the key remedy design issues that are particularly relevant to our decision to introduce a registration and inspection regime, as a precursor to the establishment of a broader regulatory regime, namely:

- (a) the appropriate model for the regime and the balance between outcomes-based and rules-based standards;
- (b) which of the services provided by funeral directors should be included under the scope of the regime;
- (c) how to effectively monitor and enforce compliance; and
- (d) identifying who is best placed to operate the regime.

### *Regulatory model*

9.106 The registration and inspection regime could take the form of an outcomes-based or rules-based regulatory model (or a combination of the two models).

9.107 A rules-based regulatory model typically involves regulatory requirements that are precisely drafted and prescriptive and gives limited flexibility to those being regulated in meeting those requirements. This approach is generally perceived as being more precise and therefore a greater constraint on regulatory discretion. In contrast, an outcomes-based regulatory model typically involves the setting of outcomes or principles, usually cast at a high level, and gives greater flexibility to those being regulated in meeting those requirements. This approach is generally perceived as being more adaptive to market changes and enabling the regulator to be more flexible in its approach to enforcement.<sup>1179</sup>

9.108 Under an outcomes-based model, one could establish a set of principles that reflect a minimum acceptable level of quality in respect of back of house standards. Under a rules-based model, one could prescribe specific requirements for back of house standards.

9.109 Most parties told us that a principles-based approach would better account for the diversity of funeral service provision in the sector. We think that the use of a predominantly outcomes-based regulatory model will provide a degree of flexibility in monitoring and enforcing compliance and ensuring that a rigid

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<sup>1179</sup> [Goals-based and rules-based approaches to regulation. BEIS Research Paper Number 8](#), May 2018.

approach does not inappropriately constrain the development of different business models in the sector.

9.110 Funeral Partners told us that they were fundamentally opposed to any degree of flexibility for a regulatory framework which would apply different standards by provider (eg different standards applicable to supposed ‘larger’ firms versus supposed ‘smaller’ firms, such as independent funeral directors or new entrants).<sup>1180</sup> In contrast, SAIF (as well as a number of small funeral directors) told us that they were concerned that a ‘one size fits all’ approach risked distorting competition in favour of the large corporate players.<sup>1181</sup>

9.111 We note that we are not proposing different regulatory requirements for different funeral directors. Instead, we are suggesting that there may be some flexibility in the manner in which funeral directors are required to demonstrate compliance with the regime, which reflects their size, capacity and capability. This flexibility would ensure that the regime is effective and proportionate and does not create unnecessary burdens on funeral directors, which may impact adversely on entry, expansion and exit. For example, under such an approach, funeral directors may be required to have, or have access to, appropriate refrigeration facilities. We think this approach would account for smaller funeral directors, who may not be able to have their own refrigeration facilities but could instead secure access to the appropriate facilities through an agreement with another funeral director.

9.112 The adoption of an outcomes-based regulatory model does not preclude the use of a rules-based approach in areas where there are specific concerns, where there are few acceptable ways of achieving the desired outcome, or where there is greater risk of non-compliance or circumvention under a principles-based approach. Further, the outcomes or principles of the regulatory model could also be supported by guidance to explain to funeral directors how they can comply with the regime, in order to minimise the risk of circumvention or non-compliance.

### *Scope of registration and inspection regime*

9.113 We have received broad support for the proposals for the registration and inspection regime that we presented in the PDR.

9.114 We have decided that the focus of the regime should be on back of house standards for the reasons set out in paragraph 9.101.

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<sup>1180</sup> Funeral Partners response to quality regulation remedies working paper, page 5.

<sup>1181</sup> SAIF response to PDR, page 2.



9.115 We have also decided not to extend the regime to crematorium services for the following reasons:

- (a) We have not identified significant concerns with the quality of services provided by crematorium operators.
- (b) Certain aspects of crematoria operations are already regulated, which indicates that there is less risk of crematorium operators offering poor quality services to customers (see Appendix B).
- (c) Unlike funeral directors, crematorium operators typically have a short space of time in which they handle and care for the deceased and so there is less scope for quality issues to arise, particularly in relation to those aspects of quality that cannot be easily assessed or observed by customers.<sup>1182</sup>

9.116 Although we have decided that the registration and inspection scheme should focus on the back of house quality of funeral directors, this does not preclude government from extending the regime to include funeral directors' front of house standards, and/or crematoria services, should it deem this necessary.

9.117 Given the nature of our concerns, we consider it especially important that the following back of house services provided by funeral directors fall under the scope of a registration and inspection regime:

- (a) Collection and transport of the deceased.
- (b) Care, storage and preparation of the deceased.

9.118 In order to provide these services to an acceptable minimum level of quality, funeral directors will need to be able to demonstrate that they have:

- (a) Suitable premises, facilities and equipment, including facilities for the storage and preparation of the deceased, having (or having access to) sufficient and appropriate refrigeration facilities, and (if embalming is to be carried out at the funeral directors' premises) access to embalming facilities;

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<sup>1182</sup> The body is not generally directly handled at the crematorium and the ICCM Guiding Principles state that the container and the body shall be placed in a cremator and cremation commenced no later than 72 hours after the service of committal. We recognise that this is more relevant to England, Wales and Scotland than Northern Ireland, where cremation is less prevalent and the time between death and burial or cremation is typically shorter than in the rest of the UK.

- (b) appropriate education and training, including continued professional development (CPD), the necessary accredited technical education and/or training for relevant staff;<sup>1183</sup>
- (c) appropriate processes to monitor quality standards, including to monitor premises, facilities and equipment and for the identification of the deceased; and
- (d) an appropriate complaints and consumer redress process to ensure that any incidences of funeral directors failing to meet the required standards can be effectively resolved and the customer appropriately recompensed.

9.119 Please refer to Table 1 in Appendix W for a more detailed framework.

### *Effective monitoring and enforcement*

- 9.120 In thinking about how to effectively monitor and enforce compliance with the regime, we considered existing licensing or registration and inspection regimes in the funerals sector in the UK and international regulatory models, as well as similar schemes in other regulated sectors in the UK.
- 9.121 We consider that the registration regime should initially apply to businesses and could later be extended to individuals. For businesses, registration would likely be most effective at individual branch level, although there may be scope for regulation at an organisational level for larger providers (eg scrutinising the governance procedures and processes that are in place to monitor quality standards across all branches). We consider that customers would benefit if information on registered funeral directors was made publicly available.
- 9.122 We consider that an inspection regime could include the following elements:
- (a) Announced and unannounced inspections at regular intervals to assess a provider's premises, facilities and equipment, and the processes and procedures in place to uphold any required quality standards and compliance with other relevant regulation – the time between inspections could reflect the risk of non-compliance.
  - (b) A clear mechanism for disseminating the information collected during inspection processes to customers to increase customer knowledge of, and engagement with, the funerals sector. This could be in the form of an inspection report, including a rating or score, which could be published on

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<sup>1183</sup> This could include education and/or training for funeral directors, as well as for other staff, such as funeral arrangers/administrators and funeral service operatives/assistants/drivers/bearers.

the inspector's website; displayed on the funeral director's website and premises; disseminated by trade associations and voluntary groups; and used by intermediaries, such as PCWs.

*Who is best placed to operate an inspection and registration regime?*

- 9.123 In determining an appropriate body to take forward this remedy, we could make a recommendation to government to either extend the powers of an existing body (or bodies) or to establish a new body to assume the role. We have considered a number of options, as set out below.
- 9.124 First, the CMA's primary function is to promote competition for the benefit of consumers. It has neither the expertise nor appropriate resources to regulate the quality of funeral director services.
- 9.125 Second, some parties told us that the regulation of funeral directors should be independent of the trade associations or any other industry body or group. However, both NAFD and SAIF, as well as some funeral directors, told us that any new regulatory framework should utilise the existing expertise in the sector. For example, SAIF told us that our remedy was unnecessary, disproportionate and too onerous for independent funeral directors in circumstances where such a large proportion of the industry was already regulated, and that a new regulatory regime would raise barriers to entry (and success) and could lead to market exit.<sup>1184</sup> Both NAFD and SAIF presented alternative solutions to our proposal:
- (a) NAFD proposed to establish the Independent Funeral Standards Organisation (IFSO), which would initially share accommodation and back-office functions with NAFD but would have governance arrangements which would ensure its independence to act as a public interest regulator. NAFD would also approach government to invest the IFSO with statutory powers to ensure that non-affiliated funeral directors would be required to register with the IFSO. The IFSO would be a Community Interest Company (CIC) to make it clear that its activities were for the benefit of the wider community and not funeral directors. It would have a Board of five members, the majority of which would not have any current or prior connection to the funerals sector. It was intended that the IFSO would become operational from 1 January 2021, existing in shadow form for six months to put in place the key policies and procedures for it to

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<sup>1184</sup> [SAIF response to PDR](#), page 14.

become operational during this period. NAFD estimated set up costs of £280,000 and annual operating costs of £745,000.<sup>1185</sup>

- (b) SAIF told us that it (and possibly also NAFD) could work with the CMA to develop a Code of Conduct that applied to all funeral directors in the UK. The CMA or other regulatory body could delegate inspection authority to SAIF, which could inspect all funeral directors and report back to the CMA. SAIF told us that as the CMA's appointed inspection authority, it would have authority to inspect both its members and non-members.<sup>1186</sup>

9.126 We think that the trade associations would not be best placed to monitor and enforce compliance with quality standards for the following reasons:

- (a) Membership is voluntary.
- (b) Membership does not cover the entire sector.
- (c) As there are two trade associations, a co-regulatory model would result in a fragmented and inefficient regulatory regime.
- (d) A co-regulatory model would create conflicts of interest where representative bodies would be responsible for promoting the interests of their members as well as regulating them. We do not think that the regulatory models proposed by NAFD and SAIF would alleviate our concerns regarding the potential conflict of interest caused by the trade associations having a role in the regulation of their members or our concerns about the exclusion of a significant proportion of funeral directors from any regulatory oversight. Further, funeral directors may choose to terminate their membership with NAFD or SAIF if they are not satisfied with the co-regulatory model, thus reducing the proportion of the funerals sector that the trade associations are able to regulate under their proposed regulatory models.
- (e) The trade associations have previously had difficulty in addressing transparency concerns identified by the CMA's predecessor body, the OFT (see Section 2). The provision of price information to customers intends to establish a minimum standard for the transparency of price information that we consider to be standard practice in other sectors and which is not currently present in the funerals sector.

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<sup>1185</sup> [NAFD response to PDR, Appendix A.](#)

<sup>1186</sup> [SAIF supplementary response to PDR, page 3.](#)

- (f) Some parties have raised concerns with us during the course of the investigation about the lack of visibility of the trade associations' monitoring and enforcement of compliance with their codes of practice, as well as the adequacy of the trade associations' inspection and enforcement regimes.<sup>1187</sup>

9.127 We do think, however, that the trade associations could play an important role in assisting their members in complying with any future regulatory regime.

9.128 Third, a number of parties told us that the CQC could take on the regulation of funeral director services. We note these submissions and that there may be some overlap between the CQC's existing capabilities and the skills that would be required to establish an inspection and registration regime for back of house quality. However contrary to this, we also note that the regulatory regime could possibly include economic regulation in the future (following any future MIR and if economic regulation is deemed necessary by the CMA following any future market investigation), for which the CQC is less likely to be well suited.

9.129 Fourth, in Scotland, an Inspector of Funeral Directors was appointed in 2017 to undertake a review of the funeral profession in Scotland with a view to making recommendations to Scottish Ministers on how the profession should be regulated, including whether to introduce a licensing regime. In June 2019, the Scottish government published for formal consultation a draft statutory Code of Practice for Funeral Directors.<sup>1188</sup> When it comes into force, the Code will set standards and be used as the basis for conducting inspections and making enforcement decisions.<sup>1189</sup> In August 2019, the Scottish government published the Inspector of Funeral Directors' recommendation to introduce and launch a scheme of 'Progressive Licensing' for funeral directors in Scotland. The report recommended that the licensing scheme should be introduced by December 2020.<sup>1190</sup>

9.130 While we can see the case for giving registration and inspection powers to an existing institution, our view is that there is not currently an existing institution capable of effectively taking on these powers. Further, vesting these powers in a new body would allow for greater flexibility for the regime to develop in light of any further findings, including those of the inspectorate and any future

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<sup>1187</sup> See, for example, [Beyond response to CMA statement of scope](#) and [Summary of responses from individuals to CMA statement of scope](#); [The Natural Death Centre response to CMA statement of scope](#); a funeral services operative at a fairly large independent; [submissions from certain embalmers](#).

<sup>1188</sup> The Code will apply to all funeral directors who carry out the activities of a funeral director in Scotland regardless of where their business is based. The consultation closed on 20 September 2019.

<sup>1189</sup> Similar codes of practice will be developed for cremation and burial authorities.

<sup>1190</sup> See [Regulatory model including Progressive Licensing scheme for Funeral Directors: report to Scottish Ministers](#).

market investigation. It would be for the UK government and the devolved administrations in Northern Ireland and Wales to determine the appropriate body to operate an inspection and registration regime.

### *Remedy implementation issues*

9.131 The key remedy implementation issues are:

- (a) the method and timing of implementation;
- (b) monitoring and enforcement; and
- (c) cost of implementation and how the regime should be funded.

### *Method and timing of implementation*

9.132 We have decided to implement the remedy by making a recommendation to government, because our view is that government is best placed to undertake the necessary actions to bring the remedy into effect. Such recommendations do not bind the person to whom they are addressed. We note, however, that the UK government has an ongoing commitment to respond to any recommendation made to it by the CMA within 90 days of publication of the CMA's final report.

9.133 The introduction of a quality regulatory regime, including the establishment of a new body, would require a recommendation to the UK government and the devolved administrations in Northern Ireland and Wales to introduce the necessary legislation, because funeral services, burial and cremation are matters that are devolved to Northern Ireland and Wales and within the legislative competence of their respective parliament and assemblies.<sup>1191</sup> The devolution of powers in this area is reflected, in Scotland, by the development of burials and cremations policy by the Scottish government and the enactment of related legislation by the Scottish Parliament. The devolved administrations in Northern Ireland and Wales have not, to date, taken forward comparable policy and legislative activity, although this remains a possibility in the future.

9.134 Most parties told us that a single UK-wide body to regulate funerals services rather than a body in each part of the UK would be more appropriate, as this would ensure consistency in monitoring and enforcement across the UK. However, some parties told us that this regulatory approach would not

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<sup>1191</sup> Funeral services are not reserved matters pursuant to Schedule 5 to the [Scotland Act 1998](#) or Schedule 7A to the [Government of Wales Act 2006](#) (as amended by the [Wales Act 2017](#)) and are not excepted or reserved matters pursuant to Schedules 2 or 3 to the Northern Ireland Act 1998.

appropriately account for the different religious and cultural needs, and different laws, across the four nations of the UK. For example:

- (a) Modern Funeral told us that there should be a different regulator in each part of the UK owing to different cultural expectations and needs;<sup>1192</sup> and
- (b) Consumer Council of Northern Ireland told us that the body should have a physical presence in Northern Ireland, as it needed to be sensitive to local customs and consumer concerns. Consumer Council told us that it had an ombudsman role in regard to Coal and a complaints role in regards to Energy, Financial Services, Postal Service, Private Car Parking, Transport, and Water and it would be keen to extend these services to encompass funeral services in Northern Ireland.<sup>1193</sup>

9.135 In principle, a UK-wide body could be potentially more cost-effective than establishing separate bodies for each of the nations in the UK. However, there may also be efficiencies arising from greater local control and accountability. The regulatory regime in England, Wales and Northern Ireland could take the form of one body to regulate all three nations, provided that this body is able to account for the different religious and cultural needs, and different laws, across England, Wales and Northern Ireland. If not, then we consider it may be necessary to have separate regulatory bodies for each nation. The new body (or bodies) can then work with the Scottish government to ensure consistency of regulatory approach across the UK where appropriate.

9.136 A number of small funeral directors asked for greater clarity in relation to the registration and inspection regime, as well as the broader quality regulatory regime that the UK government and the devolved administrations in Northern Ireland and Wales could establish in England, Northern Ireland and Wales. Similarly, Dignity asked us to lay out a clear path to full quality regulation of back of house standards in the near future, as absent a strong recommendation from the CMA, there was every likelihood that the quality regulation regime would not be implemented for a number of years with the risk of continuing customer detriment.<sup>1194</sup> The timescale for implementing the remedy, as well as the scope of any future regulatory regime, will be a matter for the UK government and the devolved administrations in Northern Ireland and Wales. However, we have set out in paragraphs 9.113 to 9.119 the key features of a registration and inspection scheme and, in Appendix W, we set out the key features of the broader quality regulatory regime.

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<sup>1192</sup> [Modern Funeral response to quality regulation remedies working paper](#), page 5.

<sup>1193</sup> [Consumer Council of Northern Ireland response to quality regulation remedies working paper](#), page 2.

<sup>1194</sup> [Dignity response to PDR](#), paragraph 1.6

## *Monitoring and enforcement*

9.137 It would be for the bodies to whom we are directing our recommendations to establish an appropriate monitoring and enforcement framework, in the light of our consideration of this issue.

## *Cost of implementation*

9.138 A number of parties told us that the cost of establishing a quality regulatory regime, as well as the cost of ongoing compliance for funeral directors, would be reasonable, provided that the regime was implemented using appropriate mechanisms. For example:

- (a) Dignity told us that provided the minimum quality standards were set at an appropriate level (eg largely reflecting current good practice in the sector), and that a suitable transitional period was given, then funeral directors would be able to comply with the new regime without incurring unreasonable costs;<sup>1195</sup>
- (b) Co-op told us that it did not consider that a regulatory regime would impose disproportionate costs or lead to increased prices, as many aspects of securing good quality related to good governance and process, which any funeral director would be able to implement proportionately to the size of its business. Co-op added that there was no inherent need for significant investment in capital or people costs in order to achieve compliance;<sup>1196</sup> and
- (c) The Good Funeral Guide told us that for most funeral directors, the likely costs of compliance with quality regulation would not be significant, particularly if a reasonable period of transition and a degree of flexibility was exercised in assessing achievement of compliance with standards.<sup>1197</sup>

9.139 However, NAFD told us that annual expenditure of £3 million was a conservative estimate of the likely cost of a regulator of the funerals sector.<sup>1198</sup>

9.140 It is difficult to determine the likely cost of establishing a quality regulatory regime, as the scope of the regime will be a matter for government. However, we do not think that the establishment of a regulatory regime will impose

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<sup>1195</sup> [Dignity response to quality regulation remedies working paper](#), paragraph 3.38.

<sup>1196</sup> [Co-op response to the quality regulation remedies working paper](#), paragraph 2.14.

<sup>1197</sup> [The Good Funeral Guide response to the quality regulation remedies working paper](#), page 6.

<sup>1198</sup> [NAFD response to PDR](#), page 11.



significant upfront and ongoing costs on funeral directors who currently have good back of house standards for the following reasons:

- (a) We are recommending, as a first step, the introduction of an inspection and registration regime in England, Wales and Northern Ireland. This staged approach will avoid unnecessary costs, by providing the UK government and the devolved administrations in Northern Ireland and Wales with a clearer picture of the extent of poor practice in the funerals sector and guidance as to the appropriate approach required to establish quality standards.
- (b) We envisage that any quality standards resulting from this process could largely reflect current good practice in the sector, so funeral directors who already offer an appropriate level of care to the deceased and have appropriate internal monitoring systems are unlikely to have to make material changes to their existing practices.
- (c) The use of an outcomes-based regulatory model approach will enable a degree of flexibility in achieving compliance with the proposed regulatory framework. This regulatory approach is not intended to create different requirements for different funeral directors.
- (d) The provision of an appropriate transition period, as well as the phasing in of certain elements of the regulatory regime, such as a potential future licensing scheme, will enable funeral directors to meet the requirements of the regime over time and at minimum additional cost.<sup>1199</sup>
- (e) If the operating costs of the regulatory regime is £3 million per annum (as estimated by NAFD), this would amount to approximately £5 per funeral (based on an annual death rate of 600,000 across the UK). We consider that this represents a reasonable outlay to ensure minimum quality standards across the funerals sector and to ensure the dignity of the deceased. We also consider that regulation by one body rather than two trade associations is likely to be more efficient.

9.141 The establishment of the registration and inspection regime could be funded through general taxation or a levy or registration fee imposed on funeral directors. We consider that the cost should be borne by funeral directors, rather than taxpayers in general, and so would suggest the use of a levy or licence fee.

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<sup>1199</sup> It will be for Government and the body tasked with registering and inspecting funeral directors to determine the length of the transitional period.

## *Effectiveness and proportionality of the measure we are taking forward*

### *Effectiveness of the measure we are taking forward*

9.142 To assess the effectiveness of the remedy, we have considered:

- (a) how the remedy works with other remedies to address the AEC and resulting customer detriment;
- (b) the extent to which the remedy is capable of effective implementation, monitoring and enforcement;
- (c) the timescale over which the remedy will take effect; and
- (d) the consistency of the remedy with existing and likely future laws and regulations.

9.143 We have explained how the staged introduction of quality regulation for funeral directors mitigates the AECs and resulting customer detriment we have found in paragraphs 9.101 to 9.104.

9.144 While we consider that the staged introduction of quality regulation is justified on a standalone basis, the introduction of a quality regime for funeral directors will also support other interventions in our remedies package, or any interventions that may arise from any future market investigation (if deemed necessary) as follows:

- (a) The introduction of minimum standards will help ensure that price control regulation (if introduced in the future) of funeral director services, or measures that result in greater competition on price or observable aspects of service quality, will not result in the reduced quality of back of house services if funeral directors attempt to reduce the cost of providing their services to maintain their profit margin.
- (b) The collection and dissemination of quality information to customers – a possible longer-term outcome of this recommendation – will increase the transparency of funeral director services, supporting customers in making better, more informed choices regarding their funeral services purchase.

9.145 We have decided to implement the remedy by making a recommendation to the UK government and devolved administrations in Northern Ireland and Wales, as legislation will be necessary to establish the quality regulatory regime. The detailed implementation, monitoring and enforcement of the remedy will be a matter for the UK government and the relevant devolved administrations to determine.

9.146 The timescale for implementing the remedy will be a matter for the UK government and the devolved administrations in Northern Ireland and Wales. The implementation of the remedy is therefore dependent on our recommendation being acted upon and the actions we expect to follow from our recommendation coming into effect. The establishment of a registration and inspection regime will require legislative change, which may take some time. Once legislation has been introduced, and the regime has been designed and established, we would expect the regime to start having an impact on the quality of funeral directors' back of house standards immediately, as funeral directors will likely begin to review their own processes in order to perform well under inspection. We would expect this impact to grow over the initial one to two years of the regime, as inspections take place and any issues or concerns are identified and appropriately addressed. Further improvements may be expected over time as the regulatory regime evolves towards a fully-fledged system, building on the recommendations of the inspection body.

9.147 We expect that the remedy will be consistent with existing or likely future laws and regulations in the funerals sector, as there is currently no legislation which regulates the specific activities of funeral directors in England, Wales and Northern Ireland.

9.148 We conclude that our remedy represents an effective solution and will mitigate the AECs and resulting customer detriment that we have found in respect of the quality of funeral director services.

*Proportionality of the measure we are taking forward*

9.149 To assess the proportionality of the remedy, we have considered whether the remedy:

- (a) is effective in achieving its aim;
- (b) is no more onerous than necessary to achieve its aim;
- (c) is the least onerous if there is a choice; and
- (d) produces adverse effects which are disproportionate to its aims.

9.150 As explained in paragraphs 9.101 to 9.104, we think that the remedy will be effective in remedying the AECs and the resulting customer detriment we have found in respect of the quality of funeral director services.

9.151 We consider that the remedy is no more onerous than necessary to achieve its aim. In response to the PDR, eight funeral directors said that they were

concerned about the perceived risk to the financial viability of small funeral directors if a new inspection and registration regime was put in place. They told us that any regulation needed to be related to the size of the businesses concerned, otherwise the additional bureaucracy and the associated costs would adversely impact on smaller funeral directors, possibly forcing them to sell their businesses to the larger conglomerates.

9.152 In assessing the key remedy design considerations, we have sought to avoid imposing costs and restrictions on funeral directors that go beyond what is needed to achieve an effective remedy (see paragraph 9.140). For example, we have:

- (a) Identified a pragmatic and proportionate next step towards the development of a regulatory regime, by recommending the establishment of a registration and inspection regime in England, Wales and Northern Ireland;
- (b) proposed the adoption of a predominantly outcomes-based regulatory model, as this model will enable a degree of flexibility in monitoring and enforcing compliance and ensuring that a rigid approach does not inappropriately constrain the development of different business models in the sector; and
- (c) focused our proposed quality regulatory framework on back of house standards, as this is where we have found quality issues.

9.153 In our consideration of the range of potential remedies we identified or had suggested to us, we were unable to identify an alternative remedy that would be both less onerous and similarly effective in remedying the AEC and resulting customer detriment that we have found. Specifically, we do not consider that the co-regulatory models proposed by NAFD and SAIF are likely to be effective, as membership of the trade associations is voluntary and does not cover the entire funerals sector; there may be a conflict of interest between supporting and regulating their members; the trade associations have previously had difficulty in addressing the OFT's concerns (see Section 2); and some parties have raised concerns regarding the trade associations' monitoring and enforcement of compliance with their codes of practice. We considered the establishment of a broad quality regulatory regime (see Appendix W). However, we have recommended that government introduces a registration and inspection regime for funeral directors as a first step towards the establishment of a broad regulatory regime to regulate the back of house quality of funeral director services, as this would provide government with a clearer picture of the extent of poor practice in the funerals sector and the appropriate approach required to establish quality standards.

9.154 In reaching a decision about whether to proceed with the remedy, we have considered the potential effects, both positive and negative, on those persons most likely to be affected by it. We have paid particular regard to the impact of the remedy on customers. We have also had regard to the impact on those parties who may be subject to them and on other affected parties, such as other businesses (eg potential entrants), government and regulatory bodies and other monitoring agencies. We expect that the benefits of the remedy are likely to exceed its modest costs (see paragraphs 9.138 to 9.140). In forming this view, we note that the cost of poor back of house quality is likely to be acute for those who experience it, although we acknowledge that many of the bereaved may not experience poor quality.

9.155 We conclude that our remedy represents a proportionate solution which will mitigate the AECs and resulting customer detriment that we have found in respect of the quality of funeral director services.

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

#### *Description of remedy*

9.156 We have decided to recommend to the CMA Board to:

- (a) Actively monitor market outcomes in the funerals sector, in order to:
  - (i) 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 other harmful behaviour to the CMA and/or by the CMA taking action using its competition and consumer powers where appropriate; and
  - (ii) inform the CMA's Board decision to consider whether to consult on a future MIR;
- (b) publish an annual review of market outcomes in the funerals sector, in order to raise awareness of trends in the sector, particularly any increase in prices; and
- (c) consider whether to consult on a future MIR at the earliest opportunity and once the impact and consequences of COVID-19 on the funerals sector are sufficiently understood and the sector is more stable.

9.157 We note that the decision to consult on a MIR in the future is a matter for the CMA Board and that for any such reference to be made, the statutory test in

s131 Enterprise Act 2002 would need to be satisfied.<sup>1200</sup> In the event that a future MIR is made, it would be for the group appointed for the purposes of that reference to answer the statutory questions<sup>1201</sup> pursuant to s134 Enterprise Act 2002 in respect of that MIR.

9.158 To enable the CMA to monitor the funerals sector, we have decided to require funeral directors with five or more branches to provide to the CMA, every six months, details of:

- (a) the total number of funerals provided in the previous six months; and
- (b) the total revenue (excluding disbursements) in the previous six months.

9.159 For funeral directors with 10 or more branches, this information must be provided both in aggregate form and split by Attended Funeral, Unattended Funeral and any other types of funeral provided by the funeral director, including those funerals that do not meet the definition of a Attended Funeral or Unattended Funeral (eg funerals delivered to a funeral plan, child funerals, public health funerals and funerals procured by a local authority). Funeral directors must also provide an explanation of any variance if this breakdown of revenue and volumes does not equate to the aggregate numbers provided.

9.160 We have decided to include in the Order the ability for the CMA to require the information specified in paragraphs 9.158 and 9.159 from smaller funeral directors (ie some or all funeral directors with fewer than five branches) if the CMA deems that this information is necessary to support its monitoring of the funerals sector.

9.161 To enable the CMA to monitor the crematoria sector, we have decided to require all crematorium operators to provide to the CMA details of:

- (a) the total number of cremations provided every quarter; and

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<sup>1200</sup> Under s131 [EA02](#), the CMA may make a reference 'if the CMA has reasonable grounds for suspecting that any feature, or combination of features, of a market in the United Kingdom for goods or services prevents, restricts or distorts competition in connection with the supply or acquisition of any goods or services in the United Kingdom or a part of the United Kingdom'.

<sup>1201</sup> On an ordinary reference, these being (i) whether any feature, or combination of features, of each relevant market prevents, restricts or distorts competition in connection with the supply or acquisition of any goods or services in the United Kingdom or a part of the United Kingdom; and, if so, (ii) whether action should be taken by it under section 138 for the purpose of remedying, mitigating or preventing the adverse effect on competition concerned or any detrimental effect on customers so far as it has resulted from, or may be expected to result from, the adverse effect on competition; or whether it should recommend the taking of action by others for the purpose of remedying, mitigating or preventing the adverse effect on competition concerned or any detrimental effect on customers so far as it has resulted from, or may be expected to result from, the adverse effect on competition; and in either case, if action should be taken, what action should be taken and what is to be remedied, mitigated or prevented.

(b) the total revenue during that quarter.

- 9.162 This information must be provided in aggregate form and split by standard fee services (eg peak services from 10am to 4pm), reduced fee early morning attended services (eg services at 9am or 9.30am), unattended services and any other services provided by the crematorium operator. 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.

*How the measure addresses the AEC and resulting customer detriment*

- 9.163 We consider that the CMA's monitoring of the funerals sector will have some mitigating effect on the detrimental effects of the AEC we have found in the form of the prices charged by funeral directors and crematorium operators by raising awareness of trends across the sector, particularly any rise in prices. The monitoring regime will also enable customers or third parties to report non-compliance or other harmful behaviour to the CMA, enabling the CMA to take appropriate action by, for example, publishing evidence of non-compliance with the remedies package and/or by the CMA taking action using its competition and consumer powers (where this is appropriate). The monitoring regime will also facilitate the CMA Board's assessment of the funerals sector and support the CMA Board in identifying more effectively whether, and if so when, any consultation on a future MIR should be undertaken.
- 9.164 The recommendation to the CMA Board to consider whether to consult on a future MIR is intended to facilitate, if needed, a further assessment by the CMA of the funerals sector when the impact and consequences of COVID-19 on the funerals sector are sufficiently understood and the sector is more stable. In considering whether to make a future MIR, the CMA Board will need to consider whether the statutory test for a reference is met. In doing so, we would expect the CMA Board to consider whether there are reasonable grounds to suspect (i) the features and the AECs we have identified during the course of this inquiry persist; and (ii) there are any other features causing an AEC. Such an assessment will be based on the evidence available at the time. If a future MIR is made, the inquiry group appointed for the purposes of that inquiry will need to decide whether, based on the evidence before it, there are any AECs and if so, what the appropriate remedies would be, including, if appropriate, whether price control regulation should be included in any effective and proportionate package of remedies.

*Remedy design issues*

- 9.165 The key remedy design issues are:

- (a) what information will the CMA require to actively monitor the funerals sector, and how often this information should be provided to the CMA; and
- (b) the content, form and frequency of publication of the CMA's review of market outcomes.

*What information should be provided to the CMA and how often should this information be provided?*

9.166 Based on our experience of collecting data to analyse the operation of this sector, we have decided that the following information should be provided to the CMA to enable it to actively monitor the funerals sector:

- (a) For funeral directors with five or more branches, every six months, the total number of funerals provided and the total revenue (excluding disbursements) per funeral in the previous six months. For funeral directors with 10 or more branches, this information must be provided both in aggregate form and split by Attended Funeral, Unattended Funeral and any other types of funeral provided by the funeral director, including those funerals that do not meet the definition of an Attended Funeral or Unattended Funeral (eg funerals delivered to a funeral plan, child funerals, public health funerals and funerals procured by a local authority). Funeral directors must also provide an explanation of any variance if this breakdown of revenue and volumes does not equate to the aggregate numbers provided.
- (b) For crematoria services, all crematorium operators must provide the total number of cremations provided each quarter and the total revenue per cremation during that quarter. This information must be provided both in aggregate form and disaggregated form, 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. 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.

9.167 This information should be provided to the CMA on a six-monthly basis to enable the CMA to assess and monitor the price of funerals services, both actively and frequently.

9.168 In response to our PDR in which we proposed a quarterly reporting requirement for both funeral directors and crematoria, the NAFD and SAIF



told us that our proposal to require funeral directors with five or more branches to provide to the CMA details of the total number of funerals provided each quarter and the total revenue (excluding disbursements) during that quarter, in order to enable the CMA to monitor the funerals sector, would place a great burden on smaller funeral directors.<sup>1202</sup> Conversely, Co-op expressed concern that the burden of reporting would be borne by a small number of larger operators.<sup>1203</sup>

9.169 The NAFD and SAIF, amongst other parties, also challenged the use of branches as an appropriate threshold for determining which funeral directors would be required to provide financial information to the CMA.<sup>1204</sup> SAIF told us that an ongoing reporting obligation should apply to funeral directors that employ 50 or more full-time employees, because this would more likely capture the larger end of the market and the reporting obligations were onerous for micro and small businesses that only have a small number of employees.<sup>1205</sup> Co-op told us that a far better metric (than number of branches) would be to determine size based on the number of funerals carried out across a funeral director's branch network.<sup>1206</sup>

9.170 Our rationale for requiring larger funeral directors (ie those with five or more branches) to provide price information to the CMA is to avoid placing a disproportionate burden on smaller funeral directors (ie those with fewer than five branches) and to also take into account the CMA's resourcing capacity. It would not be practicable for the CMA to process returns from, potentially, thousands of funeral directors, particularly when, based on our experience during the market investigation, responses from smaller funeral directors may require further work before the information can be used to support the CMA's monitoring activity. Much of our analysis to date has been conducted with information from a subset of funeral directors, so we are confident that the information we are proposing to use here will enable us to monitor the funerals sector going forward. We will, however, also include in the Order the ability for the CMA to require this information from smaller funeral directors if the CMA deems that this information is necessary to support its monitoring activity.

9.171 We acknowledge that the use of branches as a proxy for size of funeral director is not without its limitations, but we consider that it is the most

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<sup>1202</sup> [NAFD response to PDR](#), page 15 and [SAIF response to PDR](#) page 15. We also received a number of representations about the burden of this remedy from small funeral directors (see: [Summary of responses to the Provisional Decision Report](#)). However, as these were based on a misunderstanding of the proposed remedy (as communicated by SAIF to its members), we have not attached any weight to these representations.

<sup>1203</sup> [Co-op response to PDR](#), paragraph 8.54

<sup>1204</sup> [NAFD response to PDR](#), page 15 and [SAIF response to PDR](#), page 16.

<sup>1205</sup> [SAIF supplementary response to PDR](#), page 14.

<sup>1206</sup> [Co-op response to PDR](#), paragraph 8.54.

practicable option available to us, based on the information we have had available to us during the course of the market investigation. Based on the evidence available to us, the threshold of five or more branches covers 94 companies and accounts for approximately 52% of the market by number of branches, which we consider provides the CMA with good coverage when undertaking its monitoring activity.

- 9.172 We do not think that these reporting obligations will place an undue burden on funeral directors, particularly as we have decided that the CMA will only collect the information on a six-monthly basis (and not on a quarterly basis as originally proposed) and it is limited in scope and represents information that we would expect all funeral directors to collect in the ordinary course of business. We would expect the need for these obligations to be reviewed in the event that the CMA Board decides to make a further MIR, in the light of any further remedies that may come out of such a process.

#### *Review of market outcomes*

- 9.173 In order to hold the sector to account, we recommend that the CMA conducts a regular review of market outcomes. Drawing on the information provided to the CMA, the review could assess trends in average revenue per funeral and product mix at a national level and for different sizes of funeral director and crematorium operators, and also take into account any complaints that the CMA receives from funeral directors, crematorium operators, third parties and customers.
- 9.174 We recommend that such an update is published annually, as an annual analysis of six-monthly data is likely to provide a representative picture for public consumption of pricing movements and trends in the funerals sector.

#### *Remedy implementation issues*

- 9.175 The key remedy implementation issues are:

- (a) the method and timing of implementation;
- (b) monitoring of compliance with and enforcement of the remedy; and
- (c) the cost of implementation.

#### *Method and timing of implementation*

- 9.176 The decision on whether to consult on a future MIR requires a recommendation to the CMA Board, as only the CMA Board can consult on and make a MIR. The timescale for implementing this remedy will be a matter

for the CMA Board. We consider that the CMA Board should consider whether to consult on a future MIR at its earliest convenience. We consider that the CMA Board's decision should primarily be driven by the impact of COVID-19 on the funerals sector and the point at which the CMA Board is of the view that the sector is sufficiently stable.

- 9.177 The requirement for certain funeral directors and crematorium operators to provide information to the CMA to support the CMA's monitoring of the funerals sector could be implemented by undertakings or an Order. We do not think that the use of undertakings is appropriate due to the impracticality of negotiating and securing undertakings with the very large number of funeral directors and crematorium operators that would be subject to the requirements. Therefore, we consider that an Order is the most appropriate method of implementation.

#### *Monitoring and enforcement*

- 9.178 We have decided to implement the remedy primarily by making a recommendation to the CMA Board, because our view is that the CMA Board is best placed to undertake the necessary actions to bring the remedy into effect. Such recommendations do not bind the person to whom they are addressed. We expect the CMA Board to act upon the recommendation at its earliest convenience and when it considers that the impact of COVID-19 on the funerals sector is sufficiently understood and the sector is more stable.

- 9.179 The CMA will be able to monitor compliance with the Order requiring funeral directors and crematoria to provide information to the CMA, as it will be clear to the CMA which providers have not provided the relevant information to the CMA.

#### *Cost of implementation*

- 9.180 We do not expect this remedy to impose significant costs on funeral directors or crematorium operators, as the information that they will be required to be provided to the CMA should be readily available to them. While there will be some additional costs to the CMA in monitoring the funerals sector, we consider that these additional costs will be justified on the basis that it will support the CMA Board in its decision on whether to consult on a future MIR and whether it is appropriate to take any further action. We also consider it would have some mitigating effects on the effects of the AEC we have found in relation to the prices charged by funeral directors and crematorium operators.

9.181 We note that in the event the CMA Board were to consult on a future market investigation, this would impose some additional costs on funeral directors and crematorium operators. However, we do not consider such costs would be significant. In any event, we note that such costs would arise in circumstances where the CMA Board considers it may have reasonable grounds to suspect that there may be features of a market causing an AEC. While any future MIR would also impose costs on the relevant parts of the funerals sector, we note that:

- (a) a future MIR may not be undertaken; and
- (b) if it were, we would expect the costs associated with any such reference to be considered by the CMA Board as part of its decision regarding whether to make such a reference.

*Effectiveness and proportionality of the measure we are taking forward*

*Effectiveness of the measure we are taking forward*

9.182 To assess the effectiveness of our remedy, we have considered:

- (a) how the remedy will work with other remedies to address the AEC and resulting customer detriment;
- (b) the extent to which the remedy is capable of effective implementation, monitoring and enforcement;
- (c) the timescale over which the remedy will take effect; and
- (d) the consistency of the remedy with existing and likely future laws and regulations.

9.183 We describe in paragraphs 9.163 and 9.164 how the recommendation to the CMA Board will mitigate the detrimental effects arising from the AECs that we have found.

9.184 Our consideration of how the measure will be implemented, monitored and enforced is set out in paragraphs 9.176 to 9.179.

9.185 The timescale for implementing the recommendation to the CMA Board will be a matter for the CMA Board. We expect the CMA Board to act upon the recommendation as soon as is feasible.

9.186 We expect to put in place the Order on certain funeral directors and crematorium operators to provide information to the CMA to support its monitoring of the funerals sector well before the end of the statutory six-month

period from the date of publication of our final report, as we do not expect this remedy to require extensive consultation with funeral directors and crematorium operators. We expect the parties subject to the Order to comply with this remedy within three months of the making of the Order.<sup>1207</sup>

9.187 Our recommendation to the CMA Board is dependent on our recommendation being acted upon and the actions we expect to follow from our recommendation coming into effect. We would expect the monitoring of the funerals sector to take immediate effect and any customer harm identified by the monitoring activity to be a relevant factor in the CMA Board's consideration of whether to consult on any future MIR. We are of the view that the consideration of a future MIR should be primarily determined by the CMA Board's assessment of the impact of COVID-19 on the funerals sector and the point at which the CMA Board is of the view that the sector is sufficiently stable. The full effect of this remedy would be determined by the outcome of any future MIR (if deemed necessary) and any measures put in place following the conclusion of any such MIR.

9.188 We expect that our remedy will be consistent with existing or likely future laws and regulations in the funerals sector, as there is currently no legislation which regulates the specific activities of funeral directors in England, Wales and Northern Ireland. While there is a recently established regulatory regime in Scotland, we do not foresee any conflict between that regime and this remedy.

9.189 We conclude that this component of our remedies package contributes towards mitigating the AECs and resulting customer detriment that we have found.

*Proportionality of the measure we are taking forward*

9.190 To assess the proportionality of our remedy, we have considered whether the remedy:

- (a) Is effective in achieving its aims;
- (b) is no more onerous than necessary to achieve its aims;
- (c) is the least onerous if there is a choice; and
- (d) produces adverse effects which are disproportionate to their aims.

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<sup>1207</sup> The Order would then subsequently be subject to a formal statutory public consultation (minimum 30 days) prior to being made.

- 9.191 We have set out in paragraph 9.164 how the recommendation to the CMA Board to consider whether to consult on a future MIR is intended to mitigate the AECs and the detrimental effects that we have found. In paragraphs 9.180 and 9.181, we have set out the costs associated with the recommendation and we have explained that we consider these costs to be limited.
- 9.192 We do not consider that the reporting obligations for funeral directors and crematorium operators to support the CMA's monitoring activity are onerous. We consider that they represent the minimum requirements necessary to enable the CMA to effectively monitor market outcomes in the funerals sector.
- 9.193 If the Group is choosing between two remedy measures which are both effective, it should choose the remedy measure that imposes the least cost or is least restrictive. In our consideration of the range of potential remedies we identified or had suggested to us, we have not identified another remedy that would be both less onerous and as effective in mitigating the AECs and resulting customer detriment that we have found. In Appendix W, we outline the remedies that we considered but have decided not to pursue due to the impact of COVID-19 on our investigation.
- 9.194 In reaching a decision about whether to proceed with the remedy, we have considered the potential effects, both positive and negative, on those persons most likely to be affected by it. We have paid particular regard to the impact of the remedies on customers. We have also had regard to the impact on those parties who may be subject to them and on other affected parties, such as other businesses (eg potential entrants), government and regulatory bodies and other monitoring agencies. We recognise that consulting on a future market investigation would impose additional costs on both the CMA and relevant funeral directors and crematorium operators.
- 9.195 However, given the nature of the features and AECs we have found, as well as the detriment experienced by customers as a result, we consider that the potential benefits of the proposed remedy are likely to exceed the associated costs.
- 9.196 We conclude that our remedy is proportionate as part of a package of measures to mitigate the AECs and resulting customer detriment that we have found.

### ***Effectiveness and proportionality of remedies package***

- 9.197 We have previously considered the contribution that each of the three components makes to the effectiveness of our remedies package and their

proportionality in meeting this aim. In this section, we assess the effectiveness and proportionality of our remedies package taken as a whole.

### *Effectiveness of remedies package*

9.198 To assess the effectiveness of the remedies package taken as a whole, we have considered:

- (a) how the remedies work together to address the AEC and resulting customer detriment we have found;
- (b) the extent to which the remedies are capable of effective implementation, monitoring and enforcement;
- (c) the timescale over which the remedies will take effect; and
- (d) the consistency of the remedies with existing and likely future laws and regulations.

9.199 In our earlier assessment of each of our remedies, we explained how each component of our package helps to mitigate the AECs and resulting customer detriment we have found. In this section, we summarise how the remedies work together to mitigate the AECs and resulting customer detriment that we have found.

9.200 The context for this decision on remedies has been the considerable impact of the COVID-19 pandemic on our ability to design, consult upon and implement all of the remedies that we judge may be necessary to address all aspects of the AECs and resulting customer detriment that we have found. The package of measures has been designed to acknowledge the current limitations on our ability to act, and we believe that the remedies are effective and proportionate in their aim of mitigating the AECs and their detrimental effects, given the need to take now those steps we can reasonably take to protect customers.

9.201 We consider that these remedies, unlike some of the more complex measures we have considered, have been relatively straightforward to design and will be relatively straightforward to implement, as they require only limited engagement with funeral directors and crematorium operators. Greater transparency and improved quality will help mitigate the AECs and resulting customer detriment, although we acknowledge that transparency by itself will not be sufficient to fully address our concerns about high pricing, for which we envisage some form of measures to control prices may ultimately be required following a future MIR.

- 9.202 Our consideration of how the remedies will be implemented, monitored and enforced is set out in our assessment of each of the remedies above. In summary, we consider that the remedies are capable of being effectively implemented, monitored and enforced. We consider that the CMA's monitoring of the funerals sector will help support the CMA's enforcement of its requirements on providers to provide price, business and commercial information to customers, as providers will be incentivised to provide accurate information to customers while under the scrutiny of the CMA.
- 9.203 Our consideration of the timescale over which the remedies are likely to take effect is set out in our assessment of each of the remedies above. In summary, we consider that the remedies are likely to be implemented as soon as feasible following the publication of our final report.
- 9.204 We expect that our remedies will be consistent with existing or likely future laws and regulations in the funerals sector, as there is currently no legislation which regulates the specific activities of funeral directors in England, Wales and Northern Ireland. Where our remedies are intended to apply across the UK, while there is a recently established regulatory regime in Scotland, we do not foresee any conflict between that regime and our remedies.
- 9.205 We conclude that our remedies package is effective in mitigating the AECs and resulting customer detriment that we have found.

#### *Proportionality of remedies package*

- 9.206 To assess the proportionality of the remedies package, we have considered whether the remedies:
- (a) are effective in achieving their aims;
  - (b) are no more onerous than necessary to achieve their aims;
  - (c) are the least onerous if there is a choice; and
  - (d) produce adverse effects which are disproportionate to their aims.
- 9.207 As explained in paragraphs 9.199 to 9.200, we expect that the remedies will mitigate the AECs and the resulting customer detriment that we have found.
- 9.208 We have assessed the key remedy design considerations for each remedy in our assessment of each of our remedies. In doing so, we have sought to avoid imposing costs and restrictions on funeral directors that go beyond what is needed to achieve the aim of each remedy.



- 9.209 We consider that a recommendation to the CMA Board, and the actions anticipated in that recommendation, is the most appropriate mechanism to allow time for the impact of COVID-19 on the funerals sector to subside before further action is contemplated.
- 9.210 In our consideration of the range of potential remedies we identified or had suggested to us, we have not found another remedies package that would be less onerous and equally as effective in mitigating the AECs and resulting customer detriment that we have found.
- 9.211 We have considered the potential effects of the remedies, both positive and negative, on those persons most likely to be affected by it in our assessment of each of the remedies above. Given the modest costs associated with our remedies package, and the scale of detriment experienced by customers and which will be mitigated by these remedies, we expect that the benefits of the remedies package are likely to exceed its costs.
- 9.212 We conclude that our remedies package represents a proportionate solution to mitigating the AECs and resulting customer detriment that we have found.

### ***Relevant customer benefits***

- 9.213 We have not identified, nor has any party suggested to us, any RCBs resulting from the features we have found. Therefore, we have not considered RCBs in designing our remedies package.

### **Final decision on remedies**

- 9.214 We have decided to introduce the package of measures set out in paragraphs 9.15 to 9.212. In our judgement, this package of measures represents as comprehensive a solution as is reasonable and practicable to the AECs and resulting customer detriment that we have found.