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**FUNERALS MARKET INVESTIGATION**

**The Funerals Market Investigation Order 2021**

**Explanatory Note**

*This note is not a part of the Order*

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## Introduction

1. The Competition and Markets Authority (CMA) published its findings in the Funerals Market Investigation in a report under section 136 of the Enterprise Act 2002 (the Act) entitled Funerals Market Investigation: Final Report on 18 December 2020 (the Final Report).
2. The Final Report set out the CMA's findings that there are features of the relevant markets for funerals in the United Kingdom which individually or in combination prevent, restrict or distort competition in the supply of: (a) services by funeral directors at the point of need; and (b) crematoria services.
3. The CMA decided on a package of remedies to be implemented by it in order to remedy, mitigate or prevent the adverse effects on competition (AECs) that it found and the detrimental effect on customers that may be expected to result from the AECs.
4. The AECs arise from the following features:
  - (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; and
  - (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.
5. The CMA decided to address the AECs and resulting customer detriment through an integrated package of remedies, as follows:
  - (a) A requirement on all funeral directors and crematorium operators to disclose price information to customers.
  - (b) A requirement on all funeral directors to disclose particular business, financial and commercial information to customers.
  - (c) A prohibition on all funeral directors from:
    - (i) 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

- (ii) soliciting for business through coroner and police contracts.
- (d) 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.
- (e) 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 market investigation reference (MIR).<sup>1</sup>
- (f) To assist the CMA in monitoring the funerals sector, a requirement on 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.

6. The remedies outlined in paragraphs 5(a), 5(b), 5(c) and 5(f) will be implemented by this Funerals Market Investigation Order 2021.

## **Possible consequences of not complying with the Order**

7. Section 167 of the Act places a duty on any person to whom the Order relates to comply with it. That duty is owed to any person who may be affected by a

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<sup>1</sup> 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 section 131 of the Act would need to be satisfied. 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 pursuant to section 134 of the Act in respect of that MIR.

contravention of the Order. Any person who sustains loss or damage that is caused by a breach of this duty may bring an action before the court.

8. The CMA has the power under the Order to give directions, including directions to a person in their capacity as an office holder, for the purpose of carrying out, or ensuring compliance with, the Order.
9. Section 167 of the Act also provides that the CMA can enforce compliance with the Order by civil proceedings for an injunction or for any other appropriate relief or remedy.

## **Review of the Order**

10. The CMA has a duty under section 162 of the Act to keep under review the carrying out of the Order. This includes a duty to consider, from time to time, whether the Order needs to be varied or revoked by reason of any change of circumstance.

## **Status of this Explanatory Note**

11. Nothing in this Explanatory Note is legally binding. In the event of a conflict between this Explanatory Note and any provision of the Order, the Order shall prevail. Terms defined in the Order have the same meaning in this Explanatory Note.

## **Structure of the Order**

12. The Order has six parts:
  - (a) **Part 1** contains general provisions, which include specifying when the Order comes into force, the geographic scope of the Order, and definitions used throughout the Order and which are also used in this Explanatory Note.
  - (b) **Part 2** requires Funeral Directors to display and supply certain information, and sets out how, where and when this must be done. It requires Funeral Directors to display and supply information on their own prices and terms of business and the charges made by local Crematorium Operators. Funeral Directors must also disclose information relating to the ownership of their business and certain other related commercial interests they may have.
  - (c) **Part 3** prohibits Funeral Directors from making certain arrangements with, or payments, benefits or gifts to, third parties such as hospitals, hospices,

care homes, providers of bereavement services in a hospital setting or providers of palliative care, and from soliciting business through coroner and police contracts. It requires Funeral Directors to terminate any such arrangements.

- (d) **Part 4** requires Crematorium Operators to display and supply certain information, and sets out how, where and when this must be done.
  - (e) **Part 5** requires certain Funeral Directors and all Crematorium Operators to provide the CMA with specified revenue and volume information.
  - (f) **Part 6** requires certain Funeral Directors and all Crematorium Operators to send annual compliance statements to the CMA, and confirms the CMA's power to require information from, and give directions to, Funeral Directors and Crematorium Operators.
13. This Explanatory Note follows the structure of the Order and contains five Schedules:
- (a) Schedule A: minimum standards for the products and services on the Standardised Price List.
  - (b) Schedule B: an initial list of Funeral Directors with five or more Branches.
  - (c) Schedule C: an initial list of Funeral Directors with ten or more Branches.
  - (d) Schedule D: an indicative template compliance reporting form for Funeral Directors.
  - (e) Schedule E: an indicative template compliance reporting form for Crematorium Operators.

## **Part 1 – Preliminary (Articles 1 – 2)**

- 14. Articles 1(2) and 1(3) provide for different parts of the Order to come into force at different times.
- 15. Article 1(4) provides that the Order applies throughout the United Kingdom.
- 16. Article 2 defines certain terms used in the Order and applies the general definitions in the Interpretation Act 1978 to the Order. These include definitions for the 'CMA Attended Funeral' and the 'CMA Unattended Funeral' which are referred to in the Order and the Explanatory Note in order to denote those products and services which are generally deemed sufficient to deliver an Attended Funeral and an Unattended Funeral. The Attended Funeral and Unattended Funeral on the Standardised Price List cover the products and

services included in the CMA Attended Funeral and CMA Unattended Funeral although they do not use those terms.

17. For the avoidance of doubt, the definition of a Funeral Director is not limited to those businesses which provide Funeral Director Services directly to Customers, but also includes those businesses which provide Funeral Director Services to Customers via a third-party Funeral Director.

## **Part 2 – Funeral Directors price, commercial information and transparency (Articles 3 – 5)**

### ***Price information***

18. The aim of Article 3 is to make it easier for Customers to access the prices of Funeral Directors and Crematorium Operators and to help increase Customers' awareness of the total cost of the services they may require. To the extent that Customers are able and willing to do so, these provisions are intended to help them compare the prices and services of different Funeral Directors and Crematorium Operators so that they can assess what best suits their needs and budget. The greater upfront price transparency required by Article 3 is also intended to make it less likely that Customers are surprised by the final cost of a funeral.
19. Article 3(1) requires a Funeral Director to display the following price information in a clear and prominent manner:
  - (a) The Standardised Price List, which includes the products and services covered in the CMA Attended Funeral Price and the CMA Unattended Funeral Price (if the Funeral Director offers any Unattended Funerals), using the terms and format set out in Part A of Schedule 1 to the Order. Note that on the Standardised Price List in Part A of Schedule 1 of the Order, the terms 'CMA Attended Funeral' and 'CMA Unattended Funeral' are to be referred to as 'Attended Funeral' and 'Unattended Funeral', ie 'CMA' is not to be included.
  - (b) The Additional Options Price List.
  - (c) The price information provided to it by Crematorium Operators in accordance with Article 8.
20. The full range of additional products and services offered by the Funeral Director must be presented on the separate Additional Options Price List.

21. By full range of additional products and services, we mean all products and services that the Funeral Director offers to Customers. This does not include those products and services that the Funeral Director only provides to Customers if they request them.
22. A Funeral Director must display the price information in Article 3(1) (the Standardised Price List, the Additional Options Price List and the price information provided to a Funeral Director by Crematorium Operators in accordance with Article 8) in the following places:
  - (a) Within any Branch it may have.
  - (b) On its website(s) if it has any website(s).
  - (c) On any other online channels or platforms from which it markets itself if it does not have a website.
23. Online channels or platforms from which it markets itself means any channels or platforms where a Funeral Director provides information to Customers on its products and services, such as Facebook or Instagram.
24. Where a Funeral Director provides the price information on its website(s), it may choose to provide the price information on any other online channels or platforms from which it markets itself as well but it is not required under the Order to do so.
25. A Funeral Director must supply to a Customer upon request a physical or electronic copy of the Standardised Price List and the price information of Crematorium Operators specified in Article 3(1)(c).
26. A Funeral Director must also offer to supply a physical copy of the Standardised Price List and the price information of Crematorium Operators specified in Article 3(1)(c) to any Customer who is unable to visit the Branch or does not have access to the website or online channel or platform.
27. If a Funeral Director has multiple Customer-facing websites, such as dedicated websites for each of its Branches, it must display the relevant price information required by Article 3(1) for each Branch on each such website that is relevant to that Branch.
28. If a Funeral Director has any Branches, it must also display the Standardised Price List for that Branch in the Branch window where practicable, for example, unless the Branch window is too small or is inaccessible.



*In a clear and prominent manner*

29. The requirements for the price information in Article 3 (and Part A of Schedule 1 to the Order), the terms of business in Article 4, and the disclosure of interests in Article 5 to be displayed in a 'clear and prominent manner' mean that the information must be:
- (a) legible and written in plain and intelligible language;
  - (b) easy to find irrespective of whether it is displayed in a physical format or online;
  - (c) prominent within its particular location; and
  - (d) brought to the Customer's attention in such a way that the average Customer would be aware of it. This means that a Funeral Director must actively draw the information to the Customer's attention in an appropriate manner.
30. In a Branch window, a display of anything less than A4 for a poster or a similarly prominent digital display (eg a wall-mounted computer monitor) is not considered clear and prominent.
31. Inside a Branch, the information in Article 3(1) must be displayed in an area frequented by Customers and not, for example, behind a counter.
32. The display of the information in Part A of Schedule 1 to the Order, the Standardised Price List, of anything less than A2 for a poster or similarly prominent digital display is not considered clear and prominent. The exception to this would be if there is insufficient available space inside the Branch to display an A2 poster or similarly prominent digital display. Under these circumstances, the Funeral Director must display the required information on no smaller than an A3 poster.
33. Further guidance on the information to be displayed and disclosed by Funeral Directors is set out in paragraphs 114 to 144 of this Explanatory Note.
34. In relation to the display inside a Branch of the price information provided to a Funeral Director by Crematorium Operators in accordance with Article 8, the headline price, that is to say the prices provided under Article 8(5) and the times when these prices apply, must be displayed in a way similar to that required for the Standardised Price List and explained in paragraphs 31 and 32. The A2 poster or similarly prominent digital display can include the price information for multiple local crematoria. The other information specified in Article 8 must also be made available to Customers inside a Branch in a clear

and prominent manner. This could be within a clearly labelled folder in close proximity to the poster display and easily accessible for Customers.

35. Where a Funeral Director has any website(s), the information in Part A of Schedule 1 to the Order, the Standardised Price List, must be displayed in a PDF titled 'Standardised Price List' and the terms of business in Article 4 and disclosure of interests in Article 5 must be displayed in separate PDFs. If a Funeral Director has multiple Customer-facing websites, such as dedicated websites for each of its Branches, a Funeral Director must display a PDF on each website containing the information in Part A of Schedule 1 to the Order that is relevant to that Branch (as well as separate PDFs for the terms of business in Article 4 and disclosure of interests in Article 5).
36. The PDFs referred to in paragraph 35 must be displayed on a page no more than one click away from the homepage, with any link to that page prominently labelled and clearly visible on the homepage so the nature of the information to which it leads is clear. This requirement applies only to the Branch homepage and not any other page that the customer may land on through a web search.
37. The obligation to display this information in PDF is intended to enable it to be easily downloaded and printed by Customers, as this may help them assess and compare the services and prices of different Funeral Directors. It is also intended to help the CMA to collect pricing data from across the sector for monitoring purposes. This obligation does not prevent a Funeral Director from displaying this information on its website(s) in other formats as well.
38. If a Customer or potential Customer requests a physical or electronic copy of the information, the Funeral Director must meet that request as soon as possible.

#### *What a Funeral Director must offer*

39. Article 3(8) requires a Funeral Director to offer the CMA Attended Funeral. If a Customer wishes to purchase an Attended Funeral as described on the Standardised Price List, the Funeral Director must supply it to the Customer.
40. Article 3(9) requires a Funeral Director who offers Unattended Funerals to offer the CMA Unattended Funeral. If a Customer wishes to purchase an Unattended Funeral as described on the Standardised Price List, the Funeral Director must supply it to the Customer.
41. The requirement to offer the CMA Attended Funeral and the CMA Unattended Funeral does not preclude a Funeral Director from offering a Customer other products, services or packages provided these are included on the Additional

Options Price List. A Funeral Director may also provide bespoke products or services if a Customer requests them.

42. The CMA Attended Funeral and the CMA Unattended Funeral must be provided at the price displayed and inclusive of all elements listed in Part B and Part C of Schedule 1 to the Order (as relevant) and in accordance with the minimum standards set out in Schedule A to this Explanatory Note. The Unattended Funeral Price must be presented inclusive of the cremation fee.
43. The descriptions of the CMA Attended Funeral and CMA Unattended Funeral in Part B and Part C of Schedule 1 to the Order reflects the descriptions of the simple attended funeral and simple unattended funeral adopted by the Funeral Services Consumer Standards Review (FSCSR). This is different to the language used on the Standardised Price List, which is intended to describe the elements comprising the CMA Attended Funeral using language which is more understandable to Customers.
44. As set out in Article 3(10), a Funeral Director may also offer products and services which are an alternative to the CMA Attended Funeral, or are additional to those shown in Part B of Schedule 1, which may reflect regional, national or cultural needs or preferences, provided they are included on the Additional Options Price List. If a Customer does not wish to purchase one or more of the elements included in the CMA Attended Funeral, the Funeral Director can remove these elements at its discretion and apply an appropriate discount to the total price of the CMA Attended Funeral if they choose to do so. The Funeral Director should explain to the Customer which elements of the CMA Attended Funeral can be removed and whether or not a discount will be applied under these circumstances.
45. The duty to provide Customers with the price of each item on the Standardised Price List does not mean that a Funeral Director must offer each item included in the CMA Attended Funeral as a separate product or service, but a Funeral Director may choose to do so. This does not affect the duty on a Funeral Director to offer a Customer the CMA Attended Funeral and the CMA Unattended Funeral at the price displayed.
46. A Funeral Director who does not provide Attended Funerals is not required by the Order to provide, on the Standardised Price List, the CMA Attended Funeral Price or any fees which would only be relevant for an Attended Funeral. This exclusion is intended to cover those parties who provide Unattended Funerals and principally what are commonly known as direct cremations or Unattended Cremations. For the avoidance of doubt, a Funeral Director who does not provide Attended Funerals must still provide the

relevant fee and other information on the Standardised Price List, which includes the Unattended Funeral Price.

47. The CMA may, through its own initiative or in response to a request from an interested party, modify the minimum standards relating to the CMA Attended Funeral and the CMA Unattended Funeral set out in Schedule A to the Explanatory Note to this Order if the conditions set out in Article 3(13) are met.

### ***Terms of business***

48. The aim of Article 4 is to support Customers in choosing a Funeral Director on the basis of relevant information which may influence that choice.
49. Article 4 requires a Funeral Director to display its terms of business in a clear and prominent manner at each of its Branches if it has any Branches, and on its website(s) if it has any websites(s).
50. 'Clear and prominent manner' means that the information must be:
- (a) legible and written in plain and intelligible language;
  - (b) easy to find irrespective of whether it is displayed in a physical format or online;
  - (c) prominent within its particular location; and
  - (d) brought to the Customer's attention in such a way that the average Customer would be aware of it. This means that a Funeral Director must actively draw the information to the Customer's attention in an appropriate manner.
51. Inside a Branch, the information must be displayed in an area frequented by Customers and not, for example, behind a counter.
52. The information should include:
- (a) the amount of any deposit;
  - (b) when any such deposit is to be paid, including whether the deposit must be paid before the Funeral Director will carry out any services;
  - (c) the payment options, including whether interest is payable, which the Funeral Director offers to a Customer in respect of payment of any deposit made and final balance; and

- (d) any charges which the Funeral Director will make for late payment of sums due.
53. A Funeral Director must display this information in the following places:
- (a) Within any Branch it may have.
  - (b) On its website(s) if it has any websites(s).
  - (c) On any other online channels or platforms from which it markets itself if it does not have a website.
54. Online channels or platforms from which it markets itself means any channels or platforms where a Funeral Director provides information to Customers on its products and services, such as Facebook or Instagram.
55. Where a Funeral Director provides the price information on its website(s), it may choose to also provide the price information on any other online channels of platforms from which it markets itself but it is not required under the Order to do so.
56. A Funeral Director must supply to a Customer on request, and as soon as possible, a physical copy or electronic copy of the information in Article 4(1).
57. A Funeral Director must also offer to supply to any Customer who is unable to visit the Branch or does not have access to the website or online channel of platform, a physical copy of the information in Article 4(1).
58. If a Funeral Director has multiple Customer-facing websites, such as dedicated websites for each of its Branches, it must display the information required by Article 4 for each Branch on each such website that is relevant to that Branch.

### ***Disclosure of interests***

59. The aim of Article 5 is to support Customers in choosing a Funeral Director on the basis of relevant information which may influence that choice.
60. Article 5 requires a Funeral Director to display in a clear and prominent manner:
- (a) The Ultimate Owner.
  - (b) Any business or material financial interest the Funeral Director has in a price comparison website which compares Funeral Director Services and/or Crematoria Services and their respective prices.

- (c) A register providing details of any material charitable donation, charitable contribution or payment of a gratuity to a third party connected to the funerals sector, or other form of payment which does not relate to a cost incurred or a service provided by the third party on behalf of or to the Funeral Director.
61. 'Clear and prominent manner' means that the information must be:
- (a) legible and written in plain and intelligible language;
  - (b) easy to find irrespective of whether it is displayed in a physical format or online;
  - (c) prominent within its particular location; and
  - (d) brought to the Customer's attention in such a way that the average Customer would be aware of it. This means that a Funeral Director must actively draw the information to the Customer's attention in an appropriate manner.
62. Inside a Branch, the information must be displayed in an area frequented by Customers and not, for example, behind a counter.
63. A Funeral Director must display this information in the following places:
- (a) Within any Branch it may have.
  - (b) On its website(s) if it has any websites(s).
  - (c) On any other online channels or platforms from which it markets itself if it does not have a website.
64. Online channels or platforms from which it markets itself means any channels or platforms where a Funeral Director provides information to Customers on its products and services, such as Facebook or Instagram.
65. Where a Funeral Director provides the price information on its website(s), it may choose to also provide the price information on any other online channels of platforms from which it markets itself but it is not required to do so under the Order.
66. If a Funeral Director has multiple Customer-facing websites, such as dedicated websites for each of its Branches, it must display the information required by Article 5 on each such website.
67. The disclosure of the Ultimate Owner is intended to capture, in particular, 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. Where there is a change in the Ultimate Owner, a Funeral Director must update the information in the Branch and on its website(s) within 14 days of the change taking place.

68. Any business or material financial interest in a price comparison website means any ability materially to influence the management, strategic direction or commercial objectives of the price comparison website which compares Funeral Director Services and/or Crematoria Services and their respective prices. Where a Funeral Director acquires or disposes of a business or material financial interest in such a price comparison website, a Funeral Director must update the information in Branch and on its website(s) within 14 days of the change taking place. Our approach to considering material financial interest will be consistent with the CMA's approach in merger control.
69. The register must include details of any material charitable donation, contribution or payment of gratuity to a third party, or other form of payment which does not relate to a cost incurred or a service provided by the third party on behalf of or to the Funeral Director (eg fund raising), made in the previous 12 months including the name of the party involved, the amount concerned and when it was made. The register made available to Customers in the Branch must cover any charitable donations, contributions or payments of gratuities made by that Branch. For the avoidance of doubt this does not include charitable donations, contributions or payments of gratuities collected and/or processed by a Funeral Director and made on behalf of Customers. The register must be updated biannually on the first working day of [...] and [...].
70. A third party connected to the funerals sector means a hospital, hospice, care home, provider of bereavement services in a hospital setting or provider of palliative care, or other similar institution.
71. A material charitable donation, contribution or payment of gratuity means any individual or cumulative donation within any 12-month period of £250 or more.
72. A 'gratuity' includes a small payment or tip given to third parties, such as mortuary attendants, grave diggers, chapel attendants.
73. The requirement to disclose any material charitable donation contribution or payment of a gratuity to a third party, or other form of payment which does not relate to a cost incurred or a service provided by the third party on behalf of or to the Funeral Director is not intended to prevent charitable donations being made to any such institution or to fetter a Funeral Director's fund-raising

activities. Instead, it is intended to promote greater transparency and to enable Customers to be aware of any kind of relationship, including altruistic relationships, between such an institution and the Funeral Director they may decide to choose. It covers payments and donations to any third parties that may have a role in influencing Customers' choice of Funeral Director.

74. Funeral Directors are required to disclose on the register charitable donations from the Branch and/or made by another Branch or by another company within the same group of companies to which that Funeral Director belongs when made on behalf or in consultation with that Funeral Director.
75. Funeral Directors are not required to disclose on the register:
  - (a) donations or membership fees to independent organisations (such as charity partners or rotary clubs) who may then go on to distribute such funds at their discretion, provided that the Funeral Director does not have any role in influencing distribution decisions;
  - (b) charitable donations to third parties not connected to the funerals sector, such as a community group or a local sports club;
  - (c) charitable donations made by employees in a personal capacity (eg funds raised by employees volunteering at fundraising community events in their own time);
  - (d) charitable donations collected and/or processed by a Funeral Director and made on behalf of Customers; and
  - (e) donations in kind (eg volunteering activities).

### **Part 3 – Prohibited practices (Articles 6 – 7)**

76. The aim of Articles 6 and 7 is to eliminate arrangements, including any exchange of services with, or payments, benefits or gifts to, a hospital, hospice, care home, provider of bereavement services in a hospital setting or provider of palliative care, or other similar institution (whether contractual or not) which could reasonably be understood to encourage, incentivise or require the institution to refer a Customer to a Funeral Director or give that Funeral Director preference over other Funeral Directors. Such practices may have an adverse impact on Customers and the competitive process, particularly if the institution concerned holds a position of trust. This may undermine the Customer's willingness to shop around or to make choices appropriate for their needs.



77. As soon as possible and at the latest within three months after the date this Order is made, Funeral Directors must terminate and cease any existing arrangements for the exchange of services with, and payments or gifts to, a person in a position of trust providing goods or services to a Customer or potential Customer. This includes but is not limited to hospitals, hospices, care homes, providers of bereavement services in a hospital setting and/or providers of palliative care.
78. Funeral Directors are also prohibited from establishing any such new arrangements, engaging in any such new exchange of services, or making any such new payments from the day after the Order is made.
79. To illustrate, the following (non-exhaustive) scenarios would be caught by this prohibition:
- (a) An arrangement whereby a payment or other gift or benefit is made by a Funeral Director to a hospital, hospice, care home, provider of bereavement services in a hospital setting or provider of palliative care, or similar institution which could reasonably be understood to incentivise or require that party to refer Customers or potential Customers to the Funeral Director or give that Funeral Director preference over other Funeral Directors.
  - (b) The production by a Funeral Director (for a hospital, hospice, care home, provider of bereavement services in a hospital setting or provider of palliative care, 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.
80. For the avoidance of doubt, Article 6 is not intended to capture:
- (a) arrangements designed to ensure the proper treatment of the deceased, such as commercial arrangements between a Funeral Director and the institution to collect and transport the deceased to appropriate facilities for storing the deceased;
  - (b) arrangements with other third sector organisations who provide bereavement counselling services outside of a hospital setting; and
  - (c) the training of third party staff by a Funeral Director.
81. The aim of Article 6(3) is to prohibit Funeral Directors from soliciting for business through coroner and police contracts irrespective of whether they are subject to a non-solicitation clause. For the avoidance of doubt, Article 6(3) does not preclude Funeral Directors from identifying themselves to the

bereaved when collecting the deceased, and it does not prevent a Funeral Director from providing their services to the bereaved, provided that they do not offer Funeral Director Services unless requested to do so by the bereaved.

#### **Part 4 – Crematorium Operators price information and transparency (Article 8)**

82. The aim of Article 8 is to make it easier for Funeral Directors and Customers to access up-to-date price information for the Crematoria Services provided by local Crematorium Operators, and to help increase Customers' awareness of the total cost of the services they may require. To the extent that Customers are able and willing to do so, these provisions are intended to help them compare the prices and services of different local Crematorium Operators so that they can assess what best suits their needs and budget.
83. Article 8 requires a Crematorium Operator to provide Funeral Directors in their local area with price information on:
- (a) a Crematorium Standard Fee Attended Service;
  - (b) a Crematorium Unattended Service if offered by the Crematorium Operator; and
  - (c) a Crematorium Reduced Fee Attended Service if offered by the Crematorium Operator.
84. A Funeral Director is in their local area if the business premises of the Funeral Director are within a 30-minute, cortege-speed, driving distance from the Crematorium Operator. Where there is not a Funeral Director within a 30-minute, cortege-speed driving distance from the Crematorium Operator, the Crematorium Operator must provide its price information to the nearest Funeral Director. For the avoidance of doubt, this does not prevent a Crematorium Operator from supplying a Funeral Director who is not in their local area with its pricing information, and a Crematorium Operator must provide its price information to any other Funeral Director on request.
85. A Crematorium Operator must take reasonable steps to ensure that the price information that it provides to Funeral Directors is received. For example, where this information is sent by post, the Crematorium Operator should obtain proof of postage.
86. A Crematorium Operator shall include in the pricing information:

- (a) a description of what is included in, and is excluded from, the services it provides;
  - (b) the length of time permitted for the service, and whether this includes the time allowed for mourners to gather and leave the crematorium;
  - (c) any additional charges for a service taking place on particular days or at a particular time (eg for services taking place on a weekend);
  - (d) any charge made for exceeding the permitted time or late arrival and/or departure of the cortege; and
  - (e) a breakdown of the headline price into the total price for all core services (eg cremation forms and environmental levies and any other elements that are necessary for the cremation service) and the individual prices for any optional services, including (but not limited to) the purchase of additional cremation service time; use of music facilities; webcasting; organists; visual tributes; memorials; and container for ashes, scattering of ashes, storage of ashes, collection of ashes (by a Funeral Director or the bereaved from the crematorium) and delivery of ashes (by the crematorium to a Funeral Director or the bereaved).
87. Article 8(7) requires a Crematorium Operator to display in a clear and prominent manner at each crematorium, and on its website(s) if it has one, the price information specified in Article 8(6).
88. If a Crematorium Operator does not have a website, but uses other online channels or platforms to market itself, it must make the price information available on those other online channels or platforms.
89. Online channels or platforms which it uses to market itself means any channels or platforms where a Crematorium Operator provides information to Customers on its products and services, such as Facebook or Instagram.
90. Where a Crematorium Operator provides the price information on its website(s), it may choose to also provide the price information on any other online channels or platforms which it uses to market itself but it is not required to do so under the Order.
91. The requirements for the price information to be displayed in a 'clear and prominent manner' mean that the information must be:
- (a) legible and written in plain and intelligible language;
  - (b) easy to find irrespective of whether it is displayed in a physical format or online;

- (c) prominent within its particular location; and
  - (d) brought to the Customer's attention in such a way that the average Customer would be aware of it. This means that a Crematorium Operator actively draws the information to the Customer's attention in an appropriate manner.
92. In a crematorium, the price information must be displayed in an area frequented by Customers (eg an office where arrangements are made or a family room), and a display of anything less than A2 size for a poster or a similarly prominent digital display (eg a wall-mounted computer monitor) would not be considered clear and prominent unless there is insufficient available space to display an A2 poster. Under these circumstances, the Crematorium Operator must display the required information on an A3 poster.
93. When a Crematorium Operator displays any of the price information on its website(s), it must do so in a PDF titled 'Standardised Price List'. If a Crematorium Operator has multiple Customer-facing websites, such as dedicated websites for each of its crematoria, a Crematorium Operator may display a PDF on each website containing the price information that is relevant to that crematorium. The PDF must be displayed on a page no more than one click away from the homepage, with any link to that page prominently labelled and clearly visible on the homepage so the nature of the information to which it leads is clear. This requirement applies only to the crematorium homepage and not any other page that the customer may land on through a web search.
94. The duty to display this information in PDF is intended to enable it to be easily downloaded and printed by Customers, as this may help them assess and compare the services and prices of different Crematorium Operators. It is also intended to help the CMA to collect pricing data from across the sector for monitoring purposes. This duty does not prevent a Crematorium Operator from displaying this information on its website(s) in other formats as well.

## **Part 5 – Information required by the CMA (Articles 9 – 10)**

### ***Information required by the CMA from Funeral Directors***

95. The purpose of Article 9 and Article 10 is to provide information to the CMA to enable it to:
- (a) actively monitor market outcomes in the funerals sector;

- (b) inform the CMA Board's decision to consider whether to consult on a future MIR; and
  - (c) publish an annual review of market outcomes in the funerals sector.
96. Article 9(1) requires Funeral Directors operating from five or more Branches to supply the CMA every six months with the total number of funerals it has arranged for Customers and the total revenue (excluding disbursements) gained from the provision of Funeral Director Services. This information must be provided to the CMA every six months commencing seven months prior to the reporting month. For example, if the information is to be provided for April to September, Funeral Directors are required to provide the information by the first working day in November. The format in which this information must be provided is set out in Part A of Schedule 2 to the Order. This information must be provided separately for each Branch and in aggregate form.
97. The format in which this information must be supplied is set out in Part A of Schedule 2. Any Funeral Director operating from five or more Branches is subject to this requirement. Funeral Directors listed in Schedule B of the Explanatory Note are those Funeral Directors that the CMA is aware of as operating from five or more Branches. For the avoidance of doubt, inclusion (or exclusion) of a Funeral Director on (or from) this list does not determine whether a Funeral Director is (or is not) subject to this requirement. The determining factor for a Funeral Director being subject to this requirement is whether it operates from five or more Branches.
98. A Funeral Director operating from less than five Branches is only required to supply this information if and when requested to do so by the CMA. The CMA may request this information if, for example, it deems it necessary to monitor market outcomes across a larger proportion of the funerals sector.
99. Article 9(3) requires Funeral Directors operating from ten or more Branches to supply the CMA every six months with the information specified in Article 9(1) both in aggregate form (ie all funerals it has arranged) and in disaggregated form, showing separate totals for CMA Attended Funerals, any other Attended Funerals offered by the Funeral Director, CMA Unattended Funerals (if Unattended Funerals are offered), and any other Unattended Funerals offered by the Funeral Director. Funeral Directors must provide a description of the types of funeral that are covered in the other Attended Funerals and other Unattended Funerals categories. If a Customer purchases additional items to those specified in the CMA Attended Funeral or CMA Unattended Funeral, the purchase of this funeral should be captured under the any other Attended Funerals or any other Unattended Funerals categories. If the total number of funerals and the total revenue provided in accordance with this paragraph do

not equate to the disaggregated information (eg because the revenue information required does not capture child funerals or funerals delivered against pre-paid funeral plans), the Funeral Director must also provide an explanation of the variance. The format in which this information must be provided is set out in Part B of Schedule 2 to the Order. This information must be provided separately for each Branch and in aggregate form.

100. Any Funeral Director operating from ten or more Branches is subject to this requirement. Funeral Directors listed in Schedule C of the Explanatory Note are those Funeral Directors that the CMA is aware of as operating from ten or more Branches. For the avoidance of doubt, inclusion (or exclusion) of a Funeral Director on (or from) this list does not determine whether a Funeral Director is (or is not) subject to this requirement. The determining factor for a Funeral Director being subject to this requirement is whether it operates from ten or more Branches.
101. A Funeral Director operating from less than ten Branches is only required to supply this information if and when requested to do so by the CMA. The CMA may request this information if, for example, it deems it necessary to monitor market outcomes across a larger proportion of the funerals sector.
102. If a Funeral Director subject to Article 9(1) or Article 9(3) ceases to have the relevant number of Branches, it may notify the CMA and request to be released from the obligation to provide the information specified in Article 9(1) or 9(3) (as the case may be), and be removed from the corresponding Schedule to the Explanatory Note. Subject to receiving notice from the CMA, the Funeral Director will no longer be required to provide the information specified in Article 9(1) or 9(3).
103. If a Funeral Director increases its number of Branches such that it would be subject to Article 9(1) or Article 9(3), it must notify the CMA within four weeks of the increase in Branches and comply with the relevant information requirements under Article 9(1) or 9(3). The increase in Branches is deemed to arise from the day the fifth or tenth Branch opens for business. The Funeral Director must provide to the CMA the information specified in Article 9(1) or 9(3) for the same first six-month period after it begins operating from five or more or ten or more Branches and in accordance with the dates specified in those Articles.

### ***Information required by the CMA from Crematorium Operators***

104. Article 10 requires Crematorium Operators to provide the CMA every six months with details of the total number of cremations they have carried out and the total revenue gained from Crematoria Services during the two

preceding three-month periods (quarters) commencing seven months prior to the reporting month. For example if the information is to be provided for April to June and for July to September, Crematorium Operators are required to provide the information for those two quarters by the first working day in November. The format in which this information must be provided is set out in Part C of Schedule 2. This information must be provided separately for each crematorium and in aggregate form.

105. Each Crematorium Operator shall supply the information required in aggregate form and also in disaggregated form, showing the totals for: (a) Crematorium Standard Fee Attended Services; (b) Crematorium Reduced Fee Attended Services if offered by the relevant Crematorium Operator; (c) Crematorium Unattended Services if offered by the relevant Crematorium Operator; and (d) any other services provided by the Crematorium Operator that are not captured by (a), (b) and (c). Revenue must include all revenue generated from crematoria services and must exclude revenue generated from burial services. Crematorium operators should provide revenue from memorials related to Crematoria Services separately and explain how they have allocated this revenue to Crematoria Services. If the disaggregated information does not equate to the aggregate information provided, the Crematorium Operator must provide an explanation of the variance.

## **Part 6 – Enforcement (Articles 11 – 14)**

106. Article 11 requires certain Funeral Directors and all Crematorium Operators to send annual compliance statements to the CMA by email (or post if email is not available). Schedule D of this Explanatory Note provides an indicative template compliance reporting form that may be used by Funeral Directors. Schedule E of this Explanatory Note provides an indicative template compliance reporting form that may be used by Crematorium Operators.
107. The compliance statement should confirm that the Funeral Director or Crematorium Operator has complied with all the requirements in the Order that apply to the Funeral Director or Crematorium Operator. If a Funeral Director or a Crematorium Operator is aware that it is not compliant with any part of the Order, it must report this non-compliance to the CMA within 14 days of becoming aware that it is not compliant.
108. Article 12 provides that section 174 of the Act shall apply to the enforcement functions of the CMA under the Order.
109. Article 13 provides that the CMA may give directions as to compliance with the Order and it may vary or revoke any directions so given.

110. Article 14(1) provides that any person to whom the Order applies shall have a duty, as may be required by the CMA, to provide any information and documents for the purposes of enabling the CMA to monitor the carrying out of the Order, or to review the effectiveness of the operation of the Order.
111. Article 14(2) provides that any person to whom the Order applies shall have a duty, as may be required by the CMA, to keep and produce those records specified in writing by the CMA that relate to the operation of any provision of the Order.
112. Article 14(3) provides that any person to whom the Order applies and whom the CMA believes to have information which may be relevant to the monitoring or the review of the operation of any provision of the Order shall have a duty, as may be required by the CMA, to attend and provide such information in person.
113. Article 14(4) provides that, subject to Part 9 of the Act, the CMA may publish any information or documents that it has received in connection with the monitoring or the review of the Order or any provision of the Order for the purpose of assisting the CMA in the discharge of its functions under or in connection with the Order.

## **Schedules to the Order**

### ***Schedule 1 – Price information***

114. This Schedule contains the details of the price information which Funeral Directors must display and the format in which this must be done.

#### ***Attended Funeral***

115. The Attended Funeral Price is intended to reflect the price for an at-need funeral for an adult (age 18+) in the UK and include:
- (a) the itemised services that would normally be expected to be provided at the Funeral Director's Branch during office hours;
  - (b) a single arrangement meeting during which appropriate instructions can be taken from the Customer; and
  - (c) appropriate arrangements for care of the deceased person prior to the funeral, such as preparing the body for funeral (including (non-ritual) washing and dressing the body in a simple shroud or gown/robe).



116. Burial Fee: the price range displayed is to be for cemeteries in the local area for a weekday, single-depth, 'lawn' grave interment in a coffin, for (if applicable) a resident of the local authority, and where "interment" means the charge for digging the grave.
117. Cremation Fee: the price range indicated is for crematoriums in the local area for the shortest peak-time weekday slot in the crematorium chapel, inclusive of time for mourners to arrive and leave the crematorium, for (if applicable) a resident of the local authority.

#### *Unattended Funeral*

118. In so far as the Unattended Funeral Price displayed reflects the price of the Funeral Director Services, it is to reflect the elements set out in Part C of Schedule 1 to this Order; and comply with the minimum standards set out in Schedule A to the Explanatory Note.

#### *Further disclosures*

119. In order to support Customers in deciding which products and services are most appropriate for their needs and budget, when discussing the Standardised Price List, Funeral Directors would be expected (but not required) to disclose the information below, to the extent relevant to the Customer's circumstances.

#### *Attended Funeral*

120. All locations at which the body of the deceased will be kept in addition to the branch premises.
121. Any limits on the number of viewings before any additional charges apply.

#### *Unattended Funeral*

122. All locations at which the body will be kept in addition to the branch premises.
123. That the body of the deceased may be transferred to the cemetery/crematorium in a shared vehicle (if applicable).

#### *Burial fee*

124. Whether the fee is or is not inclusive of use of the cemetery chapel.
125. That weekend/public holiday interment fees are more expensive (if applicable).

126. That double- or triple-depth grave internments (if permitted) may be more expensive.
127. That traditional, woodland or wild meadow grave internments may be more expensive.
128. That casket internments may be more expensive.
129. That internment fees for non-residents may be higher.
130. That customers may choose to use a different, non-local cemetery, although this may have an impact on the Funeral Director's charges.
131. That late arrival/late departure fees, where these are the result of circumstances beyond the Funeral Director's control, may be passed onto the customer.
132. That cancellation fees may be charged.
133. That headstones/memorials/other grave furniture etc. will have an associated additional charge.

*Cremation fee*

134. That (if applicable) off-peak weekday slots are cheaper.
135. That (if applicable) weekend slots are more expensive.
136. That (if applicable) longer slots are more expensive.
137. That costs for non-residents may be higher.
138. That customers may choose to use a different, non-local crematorium, although this may have an impact on the Funeral Director's charges.
139. That use of chapel facilities (audio, visual, broadcasting, webcasting, recording) may have an impact on the cost of the cremation.
140. That late arrival/late departure fees, where these are the result of circumstances beyond the funeral Director's, may be passed onto customers.
141. That cancellation fees may be charged.
142. That, if required, the Medical Referee Fee will be payable.
143. That memorials (entry in book of remembrance, plaques etc.) will have an associated additional charge.

144. That (if applicable) the Funeral Director will charge to collect/deliver the ashes.

***Schedule 2 – Information required by the CMA***

145. The Schedule contains details of the revenue and volume information required from certain Funeral Directors and all Crematorium Operators by the CMA to enable the CMA to monitor the funerals sector.

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## **Schedule A – Minimum standards for the products and services on the Standardised Price List**

In providing the CMA Attended Funeral Price and the CMA Unattended Funeral Price, a Funeral Director must adhere to the following minimum standards in respect of the parts of the Standardised Price List in Schedule 1, Part A of the Order set out below:

1. Providing a coffin suitable for burial or cremation – appropriate means a wood veneer coffin or higher-grade coffin.
2. Collecting and transporting the deceased person from the place of death (normally within 15 miles of the funeral director's branch premises) into the funeral director's care – the Funeral Director must ensure that the vehicle is in good working order, fit for purpose and suitable by normal industry standards.
3. Care of the deceased person before the funeral in appropriate facilities – the Funeral Director must ensure that the deceased person is stored in appropriate facilities, with these being those considered to be in good working order, fit for purpose and suitable by normal industry standards.
4. At a date and time you agree with the funeral director, taking the deceased person direct to your choice of cemetery or crematorium (which can be up to 20 miles from the funeral director's branch premises) in a hearse or other appropriate vehicle – the Funeral Director must ensure that the vehicle is in good working order, fit for purpose and suitable by normal industry standards.

## **Schedule B – Funeral Directors with five or more Branches**

A B Walker and Son Ltd

A J Wakely and Sons Ltd

A. W. Lymn The Family Funeral Service Limited

Alan Greenwood & Sons Limited

Anderson Maguire Limited

Arnold Funeral Service Limited

Arthur Gresty Ltd

Austins Funeral Directors

Beverley Funerals Limited

Brian Sharples and Son Limited

Bristol Funeral Directors Limited

Bristol Funeral Directors Ltd

Brodies Funeral Services Ltd

C.P.J. Field & Co. Limited

Central England Co-operative Limited

Charles Stephens Funeral Directors Ltd

Chelmsford Star Co-operative Society Limited

Co-operative Group Limited

Cowley and Son Ltd

Dignity plc

East of England Co-operative Society Limited

Ernest Heal & Sons Funeral Directors Ltd

Evershed Brothers Ltd

F A Albin and Sons Ltd

F C Douch and Son (Funerals) Ltd (trading as Douch and Small)

Ford Mears and Partners Limited

Fred Hamers Funeral Services Ltd

Funeral Directors and Monumental Masons (trading as Overmass & Chapple, A G Down, E A Dodd & Son and W G Potter)

Funeral Partners Ltd

Garner's Funeral Service Ltd

Gillotts Funeral Service Limited

Gore Bros Ltd

Grassby & Sons Limited

H D Tribe Ltd

Heart of England Co-operative Society Ltd

J E Davies and Son Limited

J G Fielder and Son

Jepson Funerals Limited

John Heath & Sons Limited

Lincolnshire Co-operative Limited

Lodge Brothers (Funerals) Ltd

M Garton and Son Limited

M K Ginder Ltd

Manor House Funeral Services Ltd

McAllister & Considine Ltd (trading as G McAllister Funeral Directors)

Mears and Jackson Limited

Melville and Co Ltd

Neville Funeral Service Ltd

Paul J King Funeral Directors

R Banks and Son (Funerals) Ltd

R Gwinnell & Sons (Memorials) Limited

Rosedale Funeral Home Ltd

Rowland Brothers Limited

S Stibbards and Sons Ltd

Scottish Midland Co-Operative Society Limited

Sherry Funeral Service Ltd

Stoneman Funeral Services Ltd

T Cribb & Sons Limited

Tamworth Co-operative Society Limited

Tapper & Son (Poole) Limited (trading as Tapper Funeral Service)

The Family Funeral Service Limited

The Hunnaball Family Funeral Group Limited

The Independent Family Funeral Directors Ltd (trading as Fosters Family Funeral Directors)

The Midcounties Co-operative Limited

The Southern Co-operative Limited

W Uden and Sons Ltd

W.A Truelove and Son Ltd

Walter C Parson Ltd

Welham Jones Limited

William Purves Funeral Directors Ltd

## **Schedule C – Funeral Directors with ten or more Branches**

A J Wakely and Sons Ltd

A. W. Lymn The Family Funeral Service Limited

Alan Greenwood & Sons Limited

Anderson Maguire Limited

Austins Funeral Directors

C.P.J. Field & Co. Limited

Central England Co-operative Limited

Co-operative Group Limited

Dignity plc

East of England Co-operative Society Limited

Fred Hamers Funeral Services Ltd

Funeral Partners Ltd

Heart of England Co-operative Society Ltd

John Heath & Sons Limited

Lincolnshire Co-operative Limited

Lodge Brothers (Funerals) Ltd

R Banks and Son (Funerals) Ltd

Scottish Midland Co-Operative Society Limited

T Cribb & Sons Limited

The Independent Family Funeral Directors Ltd (trading as Fosters Family Funeral Directors)

The Midcounties Co-operative Limited

The Southern Co-operative Limited

W.A Truelove and Son Ltd



Walter C Parson Ltd

William Purves Funeral Directors Ltd

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## **Schedule D – Indicative template compliance reporting form for Funeral Directors**

I [name] [position] on behalf of [name of Funeral Director] confirm that Articles 3, 4, 5, 6, 7 and 9 of the Funerals Market Investigation Order 2021 [has been] [has not fully been] complied with.

[Signature]

Signed by any two of Chief Executive Officer, Managing Director, any Non-Executive Director or any Senior Director (if the Funeral Director operates as a body corporate) OR owners of the business or any other individual with decision-making authority (if the Funeral Director operates as a sole trader or in a partnership).

Please submit the form to [general.enquiries@cma.gov.uk](mailto:general.enquiries@cma.gov.uk) and title your email 'Funerals Order compliance' and include any instances of non-compliance.

## **Schedule E – Indicative template compliance reporting form for Crematorium Operators**

I [name] [position] on behalf of [name of Crematorium Operator] confirm that Articles 8 and 10 of the Funerals Market Investigation Order 2021 [has been] [has not fully been] complied with.

[Signature]

Signed by any two of Chief Executive Officer, Managing Director, any Non-Executive Director or any Senior Director (if the Funeral Director operates as a body corporate) OR owners of the business or any other individual with decision-making authority (if the Funeral Director operates as a sole trader or in a partnership)

Please submit the form to [general.enquiries@cma.gov.uk](mailto:general.enquiries@cma.gov.uk) and title your email 'Funerals Order compliance' and include any instances of non-compliance.