

1. Is the Standardised Price List (see Part A to Schedule 1 of the draft Order) appropriately presented?

No. There are no requirements for presentation. (Layout, size, font etc) The opportunities for loophole and fakery are obvious. (Parallel trading, inventive supply chain, third party loss leading and anti-competitive practices)

The 'fees you must pay' box is unclear. It only needs state that the fees for the burial or cremation are not set by the Funeral Director but may be included within the final estimate if the client does not wish to deal pay personally. Those choices and costs will be discussed and agreed prior to confirmation. The reasoning for this is that the CMA are also regulating the Cremation and Burial sectors and this crosspollination is uncompetitive. FDs should only be responsible for transparency for their own fees and different sectors should collect their own monies.

The optional services listing is more important than the Attended or Unattended, as the majority are derived from there. Direct service (<10%) and Simple service (<25%) funerals are in the minority; this layout encourages them, This, is neither transparent nor competitive, but is clumsy social engineering.

2. Does the Standardised Price List appropriately describe the items that are included under the Attended Funeral?

No. Whilst the information should as accurate and transparent as possible to have to specify the make and model of the transfer vehicle is restrictive for obvious reasons and the mileage limits noted will not fit every situation, especially in rural areas where the nearest public mortuary or crematorium may be 100 miles away. The standardization of exactly what is regarded as a Hearse or removal vehicle needs urgent discussion. Mileages should be quoted as radius.

The terminology, explaining an attended service is not factual as clients will have an event within the funeral home or other venue, then have an unwitnessed cremation. It should read with the deceased's body present at said event.

3. Do you agree with the items that are included under the Attended Funeral and Unattended Funeral (see Part B and Part C to Schedule 1 of the draft Order)?

No.

For the attended:

An optional cost for family transport should be included along with a general descriptor, i.e., a 4/5/6/7 seat x/y/z limousine no older than xx years driven by a professional chauffeur.

For unattended:

An inclusive period for uncharged shelter must be stated.

Why have fees included for unattended cremation but not burial? This is anti-competitive as in some circumstances, it may be more cost effective for a burial than a cremation. This is a Funeral Directors list of charges, not third parties, the co-mingling of both costs leads to confusion and is misleading.

4. Funeral Directors must maintain a register of any material charitable donations, contributions, or payment of gratuities. Material has been defined as any individual or cumulative donation, contribution or payment within any 12-month period of £250 or more (see Article 7 of the draft Order and paragraph 71 of the draft Explanatory Note). Is £250 an appropriate de minimis figure?

Yes, for record keeping, but it should be for any amount.

5. Crematorium Operators must provide price information to local funeral directors and customers on a Crematorium Standard Fee Attended Service; a Crematorium Unattended Service if offered by the Crematorium Operator; and a Crematorium Reduced Fee Attended Service if offered by the Crematorium Operator (see Article 8(5) of the draft Order). Do these names appropriately identify the three services?

They do not offer a CMA attended funeral therefore, this is not necessary, they should offer direct invoicing.

6. Articles 9 and 10 of the Order require Funeral Directors with five or more branches and ten or more branches to provide certain information to the CMA. Schedule B and Schedule C to the Explanatory Note list funeral directors with five or more branches and ten or more branches, respectively. Please inform us if you consider your own or another Funeral Director business is erroneously included or excluded from the lists in these schedules.

The number of branches is inaccurate and misleading. It should be decided by the number of services conducted and in truth, all FDs should be reporting the same information annually. This would provide a level playing field for all.

7. If a party 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 (see Article 11(6) of the draft Order). Is 14 days sufficient time for parties to report non-compliance to the CMA? If not, please give reasons

This is a very subjective area. Who from the CMA should be contacted? (See Previous note on enforcement) When the initial party is aware of the non-compliance will be hard to prove; will likely be denied and is far more probable to be picked up during an inspection or third-party complaint/ whistle-blower.

8. The substantive requirements of the Order will come into force three months after the Order is made. Does this allow sufficient time for parties to make the necessary changes to their systems and processes so that they are in a position to comply with the requirements of the Order? If not, please give reasons.

Whilst we as a firm are already compliant, (albeit awaiting the final statutory version to be approved) The sector, is woefully underprepared or even aware of its imminent introduction.

General Issues Surrounding the draft CMA order.

ENFORCEMENT

The size, complexity and fractured nature of the Funeral Sector, (Cemetery, Cremation and Funeral Director) means that the CMA are ill-equipped to monitor, let alone enforce this draft order. The MOJ have made it clear, they are not going to be involved yet, with a least a year's grace for all UK Governments before addressing. Therefore, the CMA are introducing a Statutory instrument prematurely without robust compliance.

Registration.

Can the CMA provide an accurate, legal definition as to what a Funeral Director business is? Do the CMA know how many trading Funeral Businesses exist in the UK? (This should be a prerequisite and clearly reported, as the number of Funeral support services who also deliver the odd funeral is surprising)

Inspection

The CMA has no Inspection regime to enforce this statutory instrument.

License

Without a statutory licence with a fit and proper persons criterion to operate, this draft order is lip service and cannot achieve its goal to protect the vulnerable.

Marketing

With specific regard to pricing and marketing, the area of misleading information has been ignored.

1. Actual facilities, capabilities and constituents of the business should be displayed.
2. Use of Misleading language.
3. Unsubstantiated False claims.
4. Lack of clarity for marketing "awards."
5. Lack of proof to professional qualifications or training.
6. No requirement to disclose parallel trading.

There are various loopholes which a firm could employ to circumvent the transparency of the order. i.e.:

A firm could claim 'at cost' coffin supply, whilst owning a coffin supplier with a differing name, setting its own 'prices' or 'hire in' fleet from its own, differently named company yet pass both off as disbursements. Likewise, a cremation authority can conduct funerals as a standalone company but in fact be parallel trading. The online fakery at play at present is shocking. Yet the CMA currently has no mechanism to address this?

The opportunity for abusing dominant positions has already been reported. This position will have a serious affect upon the market going forward but is ignored, leading to less consumer choice.

A Celebrant is a self-employed provider of oration and support. There is no need to include these costs within the funeral director fees, unless the officiant is supplied by the firm, which is still unusual and needs to be made transparent.

ULTIMATE OWNERSHIP

The terminology of Ultimate ownership is wide open for marketing misdirection. i.e., Fosters Family Funeral Directors, a 'trading name' is wholly owned by The Independent Family Funeral Directors Limited, (SC391536) which is wholly owned by a variety of BIDCO, FINCO, MIDCO and TOPCO holding entities, right up to various versions of August Equities Management Ltd (04261261) a Venture Capitalist investment company which also owns a Cremation Authority and other Funeral Related firms without any transparency. All of which is completely legal but deliberately deflective as this is not acknowledged, rather the Family is over emphasised. This company is not alone as an example of misdirection to ownership

This draft order would only demand acknowledgment of The Independent Family Funeral Directors as the ultimate owner which it clearly is not.

PROHIBITED PRACTICE

6 Inducements and referrals (1) A Funeral Director is prohibited from entering into any arrangement with another party which could reasonably be understood to encourage, 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.

Whilst this would appear to be very straightforward, the marketing relationship between a Funeral Director and a Funeral Planning Company is adversely affected. Especially with imminent FCA regulation, this is made even more so with the statutory inclusion of AR and IAR status. This necessary symbiotic relationship has been ignored, as has the market affecting impact of Planning Companies upon the Funeral Market.

Funeral Planning Companies

The lack of attention to the impact that pre planning companies have on the market is staggering. Integrated or not they are a factor which greatly affect pricing and were a driver for higher prices. Larger amounts invested led to better quality maturities which was fine when most plans were bought in a single payment, but the 50+ life assurance advertising blitzkrieg mimicking Funeral Plans, adversely affected this model, (Self Fulfilling prophecy of faked high funeral costs every year, not helped by the Cremation authorities cashing in)

The companies sell a Funeral Product but are regarded as financial entities, not under the remit of the CMA. The CMA have failed to explain this omission at all.

The US FTC 'Funeral Rule' which is similar to this draft order, binds all funeral related activities, including pre-need, within the same 'rule' and has been operating since 1984. I cannot help feeling a massive opportunity has been lost in the name of expediency to meet unrealistic pre-covid set timelines.

If you get this wrong, we as a profession will have to live with those consequences.

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