

FUNERALS MARKET INVESTIGATION

FUNERALS MARKET INVESTIGATION ORDER 2021

CO-OP RESPONSE

17 May 2021

1. Introduction

- 1.1 The CMA's Market Investigation into the Funerals sector came at a time when the industry was experiencing significant change. Changing customer expectations have encouraged Funeral Directors to innovate in order to remain competitive. We know that families value choice: this came out loud and clear during the early months of the pandemic when families were severely restricted in the funeral services they could have. We know that families want to make informed choices (both in terms of the arrangements and managing costs) and to take the worry away from their loved ones by buying a pre-need plan. We know that families increasingly want to be able to engage online, and expect greater transparency on price and quality of service.
- 1.2 We have responded to what families tell us and to changes in their behaviour. Our current proposition supports a journey of choice and also of personalisation, with clear information being provided to families and rigorous training for our teams to ensure that families receive the funeral they choose and are clear on the options and costs. The impact of the Covid-19 pandemic and the lockdown restrictions has only accelerated these changes in customer behaviour and we believe that these changes are here to stay.
- 1.3 Co-op has consistently championed greater transparency, alongside quality standards to ensure that families' loved ones are cared for in the way they would expect. We are supportive of the CMA's objectives and we look forward to engaging with the appropriate stakeholders in the establishment of a regulatory regime focussed on ensuring that quality standards are met across the funerals industry.
- 1.4 We welcome the opportunity to provide feedback on the CMA's draft Market Investigation Order 2021 (**Order**) together with the Explanatory Note (**Explanatory Note**) and to answer the CMA's specific consultation questions (**Consultation Questions**).
- 1.5 Overall, we believe that the draft Order will be beneficial for consumers; however, we set out below a small number of observations and suggestions which we hope are constructive in making the remedies more practical to implement, more helpful to customers and so help ensure that the CMA achieves its objectives. Our responses to the Consultation Questions and our further comments are set out below.

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

Viewing of the deceased

- 2.1 The CMA's proposal to list viewing of the deceased as an '*optional service*' goes beyond the scope of the remedy set out in the Final Report. The requirement set out in 9.18 of the Final Report obliges Funeral Directors to provide pricing information but it does not oblige Funeral Directors to offer separately priced optional services. Viewing of the deceased should either form part of the Attended Funeral or not: it cannot be listed as an optional item within a mandated set of services.
- 2.2 We consider that viewing of the deceased should form part of the Attended Funeral. As the CMA sets out in the Final Report, this service is typically included within a 'standard funeral'.¹ We do not currently attribute a cost to the service of viewing the deceased, or charge a fee for this service. We fear that listing this important service as '*optional*' and attributing a specific cost to it will lead to Funeral Directors to set limits on visits and/or charge additional fees for visits in excess of those limits (discouraging those who wish to say a final goodbye to their loved ones), creating uncalled for pressure and adversely impact on our ability to meet the social, cultural and emotional needs of different families appropriately.
- 2.3 We ask that the term '*optional service*' is removed from the Standardised Price List.

Other

- 2.4 Funeral Directors rely on third parties to provide them with the costs of disbursements. Whilst crematoria will be mandated by the Order to provide such information, celebrants, and others cannot be obliged to do so and we will not always be certain of having accurate and up-to-date information. To reflect this, the obligation on Funeral Directors to provide such information should be expressed as an obligation to provide '*indicative costs*' of third party fees.
- 2.5 The selection of Standard List of Additional Funeral Director Products and Services appears to be an incomplete and unrepresentative selection of options. For example, it does not list flowers or stationery, which are typically a core part of a funeral for most families.
- 2.6 The cost of Officiants varies depending on a number of factors and Funeral Directors cater for a very large variety of religious and non-religious practices. It would simply not be possible to present the prices of all religious and non-religious Officiants as a single fee and the Standardised Price List should provide for these fees to be expressed as an indicative range of costs expressed as '*from £X*'.

¹ CMA (2020), 'Final Report', para 2.7. At 9.50 of the Final Report, the CMA stated its intention for viewing of the deceased to form part of the Attended Funeral.

- 2.7 The Standardised Price List requires Funeral Directors to describe the '*vehicle style and make*'. In practice, we will deploy a variety of vehicles, which will be of a minimum quality but could be altered for practical reasons. The language should be amended to say '*typical*' vehicle style and make, to permit some flexibility as our fleet evolves.
- 2.8 Schedule A paragraph 1 of the Explanatory Note sets out that an appropriate coffin must be a '*wood veneer coffin or higher-grade coffin*'². We consider that setting a wood veneer coffin as the minimum standard is unnecessary and will lead to increased consumer costs. We only use coffins which meet the FFMA standard, details of which can be found on the FFMA website³, and believe that all such coffins (regardless of their wrapping) will offer sufficient functionality and quality. As drafted, good quality foil paper wrapped coffins would not be permitted in Attended Funerals and this will not necessarily result in a higher quality product for consumers relative to the increased cost of providing wood veneer. We propose that the definition of '*appropriate*' is amended to include *foil or wood veneer wrapped coffin, tested to FFMA Standards*.
- 2.9 We note from the Funerals Market Investigation Transparency Remedies – Qualitative Research Report that the CMA has not tested the final form Standardised Price List. Best practice principles and the CMA and FCA's own research in this area⁴ highlight the importance of testing demand side remedies before implementation to ensure that initial assumptions are not incorrect or likely to have unintended harmful consequences.⁵ We will be happy to work with the CMA and assist in any such testing.

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

- 3.1 It is unclear where the encoffining process sits within the disaggregated services set out in the Standardised Price List. Encoffining is an important element of the funeral service and could be regarded as part of the care of the deceased, or the provision of a coffin. As consistent treatment of this element is relevant to appropriate comparisons, we suggest that this is clarified. See previous answer re viewing of the deceased (2.1-2.3 above), Flowers and stationery (2.5), vehicle style and make (2.7) and minimum coffin standard (2.8).

4. Consultation Question 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)?

- 4.1 Our comments on the Attended Funerals, in particular with respect to viewing, are set out above. We agree with the items included in the Unattended Funeral.

5. Consultation Question 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

² We think the term 'appropriate' may be an error and the word 'suitable' may be used in its place.

³ [The Co-Operative Funeralcare | FFMA](#)

⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744521/UKCN_consumer_remedies_project_-_lessons_learned_report.pdf

⁵ *ibid*, p51

Order and paragraph 71 of the draft Explanatory Note). Is £250 an appropriate de minimis figure?

5.1 The requirement to track and record the cumulative amounts of charitable donations made over a 12 month period means that in practice all charitable donations of any amount need to be recorded by businesses in order to identify whether a cumulative threshold is reached; however, £250 seems an appropriate amount for a de minimis threshold (although provision needs to be made for this figure to increase with inflation).

6. Consultation Question 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?

6.1 We consider that these names appropriately identify the three services.

7. Consultation Question 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.

7.1 Co-op Funeralcare has been correctly included on the list of Funeral Directors with more than ten branches. We cannot comment on other Funeral Directors. We note that the Order provides for the CMA to be able to request that smaller operators supply such information. We would suggest that this power be exercised to conduct regular spot checks for a minimum number of smaller operators, otherwise it will not have sufficient sense of how the greater part of the market overall is operating.

8. Consultation Question 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.

We would suggest a longer period (28 Days) to permit a full investigation to establish the facts before reporting non-compliance. There is a risk that after 14 days, Funeral Directors will be obliged to report potential non-compliance without a sufficient understanding of the facts.

9. Consultation Question 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

- 9.1 The Covid-19 pandemic has tested the funeral sector to the full. In very difficult circumstances, our colleagues have demonstrated extraordinary levels of empathy, adaptability and resolve in order to deliver high levels of care at fair prices. The ongoing national crisis has served to underline that our colleagues are at the frontline of a caring industry. Our colleagues have stepped up and delivered exceptional levels of service and support when others haven't been able to help. When crematoria services have been reduced or limited or when celebrants have been unavailable, our colleagues have been there, doing their very best to support the bereaved. It is difficult to overstate the levels of dedication that our colleagues have demonstrated during this emergency. It is clear that they view their role as a vocation and they work long hours, day and night, seven days a week to collect the deceased, arrange funerals and do all that they can to look after and comfort our customers in their darkest moments.
- 9.2 These same colleagues are now also now having to get ready to implement the changes set out in the CMA's Order as well as preparing for regulation by the FCA of pre-paid plans. All of this change, is being faced into by the same colleagues that have just dealt with the full force of a pandemic, and while we are satisfied that we can make the changes required, there is only so much that we can ask of our colleagues at the same time. That is a key reason for why we are asking for more time to allow for training and embedding the change.
- 9.3 This is in the context of a number of practical difficulties related to implementation of Part 2 of the Order, especially larger operators which typically require longer to (i) implement changes to more complex operational systems and (ii) to provide training and support to colleagues spread across a wider branch network. We have also given some context below on the impact of managing over the last 12 months, and continuing to manage, the many genuine challenges arising from the pandemic. We request that the implementation period for Part 2 of the Order is extended by 3 months (i.e. to give 6 months for implementation). We are keen to set a realistic and achievable deadline for implementing these important changes and we will endeavour to make them earlier than the deadline if possible.
- 9.4 The relative complexity of our business means that changes to our proposition typically take some months to roll out and embed. Before changes can be implemented, we will need to:
- (a) translate the CMA's mandated Standard Price List, Attended and Unattended Funeral Price as well the Attended Products and Services into customer facing materials to be used in branch, in window displays and online, adapting our existing propositions and materials;
 - (b) make all the necessary IT changes (website, branch channels, contact centre solutions and reporting solutions); and

- (c) design and implement a high-quality training programme to ensure that our colleagues understand the new proposition and are able to present it to customers in a consistent way across all of our branches.

- 9.5 Co-op faces specific technological barriers to a three-month implementation period.
- 9.6 The impact of the Covid-19 pandemic on colleagues and the business should not be underestimated. Just like key workers in the NHS, the mental health and wellbeing of our colleagues has been impacted through dealing with a large number of families who have suffered an unexpected loss. Our colleagues have gone 'above and beyond' every day since the first wave of the pandemic and the whole industry's capacity to implement material change, such as that envisaged by the Order, is severely limited this year.
- 9.7 The proposed implementation date would put additional strain on colleagues who have already been under significant pressure and we do not believe that it would be reasonable or proportionate to do so, or that customers would benefit. We do recognise that it is important to implement the Order in a timely and effective way, but if we are not able to do so well, that in itself could compromise the remedy. These exceptional circumstances justify a slightly longer implementation period.

10. Further comments on the draft Order:

Part 1 - Preliminary

- 10.1 We suggest that within the definitions of '**Crematorium Reduced Fee Attended Service**' and '**Crematorium Standard Fee Attended Service**', weekends are clearly expressed to constitute 'peak' hours. Weekend services are typically more expensive due to factors such as overtime rates for the staff involved⁶.
- 10.2 The definition of '**Disbursement**' permits Funeral Directors to levy additional charges on top of third party fees. We believe that in the interests of transparency, mark-ups should not be permitted. We suggest that, in order to prohibit mark-ups, avoid confusion and aid comparison, the Order should adopt the definition of disbursements set out in the Funeral Service Consumer Standards Review, as adopted by the National Association of Funeral Directors, i.e. to mean:

*'Any payment made on behalf of a client to a third party for which reimbursement (without any mark-up) is subsequently charged to the client.'*⁷

Comments on the draft Order: Part 2 and Schedule 1 - Funeral Directors price, commercial information and transparency

- 10.3 Article 3 raises practical considerations for our business which operates banded pricing (in order to take into account different conditions in different geographic areas): issues

⁶ A point acknowledged at 86 (c), 125 and 135 of the Explanatory Note.

⁷ See FSCR Consultation Document: Transparency, p31 <http://www.fscsr.co.uk/wp-content/uploads/2020/02/FSCSR-Consultation-paper-2-transparency-for-website.pdf>

which do not arise for a Funeral Director operating one or a small number of homes in a single area. We wish to ensure we can display the relevant information in a way that is readily comprehensible to customers.

- 10.4 At Article 3(1) of the Order, the CMA envisages a single price list across a Funeral Director's business; however, such a single list would need to be extremely lengthy in order to provide all pricing options for all the regional permutations which apply in our UK wide business (most of which will not be relevant to that particular customer and would have to be understood and interpreted). If this complete price list were required to be displayed in the window of every branch it would run beyond what could reasonably be displayed in a typical window. We don't believe that this is the CMA's intention: the Order states that the information must be displayed '*where practicable*' and paragraph 28 of the Explanatory Note states that the Standardised Price List '*for that Branch*' must be displayed. We ask the CMA to clarify that price information displayed at a branch should be limited to information that is relevant to that specific branch.
- 10.5 Similar issues apply in respect of the online provision of pricing. Article 3(5) of the Order requires Funeral Directors to display pricing information in a pdf which '*must be displayed on a page no more than one click away from the homepage...*'. While this may work for the hypothetical average Funeral Director with a single or small number of homes in a single region, this requirement will create a significant practical difficulty for those Funeral Directors who do not operate a single price across their business. At present, customers enter their postcode into our website before being presented with the prices which apply in their region. As drafted, the Order would require us to present a lengthy pdf covering all pricing options for all the regional permutations which apply in our UK wide business (most of which will not be relevant to that particular customer and would have to be understood and interpreted). Providing such a list would not inform customers and may well confuse them: the resulting customer journey would be materially inferior to what we currently offer. We propose that the Order be amended so that a pdf file '*or a pricing engine*' be made available no more than one click from the homepage. This would meet the CMA's requirement of having the information readily accessible whilst avoiding the provision of extensive additional information that is not relevant to the customer concerned.
- 10.6 The requirement at Article 3(1)(c) to provide all Crematoria pricing with a 30 minute cortege time will, in many cases, go further than is reasonably necessary. In urban areas where a large number of crematoria are within the 30 minute cortege-speed driving distance, customers will be presented with a large amount of information. For illustrative purposes, one of our branches in East Finchley has 5 crematoria within a 15 minute drivetime. We request that this obligation is limited to a maximum of the three nearest crematoria (with additional information available from funerals directors on request).

11. Comments on the draft Order: Part 4 - Crematorium Operators price information and transparency

- 11.1 The provision in Article 8(1) for crematoria to provide at least seven days' notice of pricing changes before they are implemented is unlikely to be sufficient for Funeral

Directors to assimilate and present the information to customers. The proposed seven day period should be amended to 30 days to allow Funeral Directors to update and roll out correct information (in both electronic and print form for display in branches) and to inform colleagues.

- 11.2 In order to provide an objective, comparable measure and to ensure a consistent approach across the industry, the term '*cortege-speed*' in Article 8(3) should be defined as a speed in miles per hour (for each of city, urban and rural areas). We note that in the CMA's Final Report⁸, cortege speeds are stated to be 60% of normal driving speeds and, as a minimum, we propose that this is stated in the Explanatory Note.

12. Comments on the draft Order: Part 5 – Information required by the CMA

- 12.1 Articles 9(1) and 9(3) are blank regarding the first month that reporting will be required. In order to ensure sufficient time to comply with these reporting obligations, we request that the CMA confirms that these dates will be no less than three months from the date the Order will come into force.

⁸ CMA (2020), 'Final Report', para 4.43.