

FUNERALS MARKET INVESTIGATION

Dignity Plc's response to formal consultation on the draft funerals Order

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

1.1 Article 3 of the draft Order does not require funeral directors to provide customers with the description of the services included in the Attended Funeral and Unattended Funeral as set out in Schedule 1 Part B and Part C. It is unclear from the Standard Price List alone what service elements are included in the Unattended Funeral and how these differ from the Attended Funeral.

1.2 To show that the Unattended Funeral and Attended Funeral share the same base elements but that the Attended Funeral also has additional elements - i.e. viewing of the deceased, provision of a hearse or appropriate vehicle at a date and time agreed with the customer and the opportunity to hold a service – the Standard Price List could be amended to (i) number the service elements listed in the Attended Funeral section; and (ii) update the description of the Unattended Funeral section as follows:

This is a funeral where family and friends choose to have a ceremony, event or service for the deceased person at a later date (if at all) and not at the same time as their burial or cremation. The provision of service elements 1-3 as detailed for the Attended Funeral will be included in the funeral director's charge for the Unattended Funeral, together with the provision of a suitable coffin and transportation of the deceased to a crematorium or cemetery at a date and time determined by the funeral director and clearly described to the client.

1.3 Otherwise, Dignity considers the layout of the Standardised Price List to be appropriate.

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

2.1 Dignity suggests that the minimum standards required for the care of the deceased should be more clearly described for both the Attended and Unattended Funeral. This necessarily means that the deceased should be cared for not only in appropriate facilities but also by appropriate staff as without the latter the standard of care is not likely to be acceptable regardless of the standard of the facilities:

Care of the deceased person before the funeral by appropriate staff in appropriate facilities. The deceased person will be kept at [both] the funeral director's branch premises [and other premises]

2.2 The Explanatory Note ("EN") should reference at Schedule A (Minimum standards for the products and services on the Standard Price List) the set of quality standards that the Ministry of Justice is currently developing with the funerals sector, in response to the

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CMA's Funeral Market Report. This code of practice is expected to outline what constitutes appropriate care of the deceased.

Storage of the deceased

- 2.3 Dignity notes that the previous version of the CMA draft Order included wording to detail whether the storage of the deceased was or was not in a refrigerated environment: "*the deceased will / will not be kept in refrigeration until the time of the funeral [delete as applicable]*". We assume that this level of detail has been removed as inappropriate for the customer-facing Standard Price List. However, Dignity considers that the principle of requiring funeral directors to normally provide refrigerated or temperature control facilities should still apply. The EN Schedule A point 3 (care of the deceased in appropriate facilities) should therefore clarify that "appropriate facilities" would generally mean storage of the deceased in a refrigerated or temperature controlled environment (unless this is not required due to the short time gap between death and cremation or the general outside temperature in that location / at that time of year). The EN should require a funeral director to bring to the customers attention – in the Standard Price List – where these appropriate facilities are not provided as that will allow customers to make an informed decision based on the quality of service being offered.

Embalming

- 2.4 Embalming should be included in the list of Additional Funeral Director Products and Services. Dignity notes that it is also important for the EN and/or a footnote in the Standard Price List to make clear that embalming is an optional extra that should only be provided once they funeral director has clearly explained the process, benefits / disadvantages and associated costs to the customer. By including embalming as an item on the Standard Price List, it will be clear to customers that embalming should not occur automatically, without their express agreement.

Further disclosures

- 2.5 For the reasons given at point 14 in the table of additional comments at paragraph 9 below, Dignity considers that it should be mandatory to include as footnotes to the Standard Price List the following 'Further disclosures' listed in the EN:
- (A) All locations at which the body of the deceased will be kept in addition to the branch premises (EN, para 120) – IF not being kept on premises or where the specific location is unclear (for instance when temporary mortuary facilities are used) then a clarification that off-site facilities will be used;
 - (B) Any limits on the number of viewings before any additional charges apply (EN, para 121);
 - (C) Whether the burial fee is or is not inclusive of use of the cemetery chapel (EN, para 124); and
 - (D) That cancellation fees may be charged (EN, paras 132 and 141).

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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)?

Appropriate staff (Attended and Unattended Funeral)

3.1 As noted at paragraph 2.1 above, certain minimum quality standards should be met of Attended and Unattended Funerals. The provision of appropriate staff as well as appropriate facilities are necessary to achieve this.

3.2 Schedule 1 Part B and Part C should therefore refer to the Attended and Unattended Funerals including:

*Provision of the necessary **Appropriate Staff** for care of the deceased.*

3.3 Further, Appropriate Staff could be defined in Part 1 (2) (1) of the draft Order as follows:

***'Appropriate Staff'** means individuals deemed suitable and competent by the Funeral Director to assist in the provision of the Funeral Director Services.*

Funeral Director at crematoria or cemetery (Attended Funeral)

3.4 The Attended Funeral does not account for the funeral director being present at cemetery or crematorium after transporting the deceased. Funeral directors typically provide support to customers on the day of the funeral, overseeing the entry and exit of the coffin and mourners into/from the chapel and ensuring the smooth running of the service; this could include, for example, handing out orders of service and generally directing events on the day. This service is separate to the provision of pallbearers (included in the Standard Price List as an optional extra).

3.5 In Dignity's experience this is a service that customers would expect to be provided as a core part of the services of a funeral director, as these activities will otherwise fall to one or more of the attendees, thus adding distress to the mourner(s). Developing a relationship with the customer and offering support before, during and after the funeral is a key element of the professional service provided by funeral directors and it is not a service that is normally provided by the crematorium.

3.6 Further, Schedule 1 Part B of the draft Order does not account for the aftercare support the bereaved families may require, such as the collection of the ashes, discussing appropriate memorialisation options and the opportunity to provide feedback or embark on a complaints procedure. These are all elements that should be offered and promoted by a funeral director as part of the Attended Funeral.

3.7 Apart from the additions required in light of the above, Dignity agrees with the other items that are included under the Attended Funeral and Unattended Funeral.

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

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£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?

4.1 Dignity has no further comments to make on the de minimis figure for charitable donations, contributions or payment of gratuities.

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?

5.1 Dignity considers that the names given to the three services are appropriate.

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.

6.1 Dignity has been correctly included in both Schedule B and C to the EN.

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.

7.1 Dignity considers 14 days to be an insufficient amount of time to report non-compliance to the CMA. It would be more appropriate, and more efficient for the CMA, for parties to have 28 working days to report non-compliance as this would allow time for the necessary fact gathering and assessment to take place. Alternatively, if the requirement under Article 11(6) of the draft Order was to report “**potential** non-compliance to the CMA”, Dignity would consider 14 working days from becoming aware to be a sufficient amount of time. Additional fact-gathering could take place subsequently, together with engagement from the CMA, to establish the precise facts. The CMA would need to accept on this approach that there will be a greater frequency of cases where a report ends up being withdrawn or amended if further facts established that there had in fact been no breach, or a different issue to the one originally anticipated. This follow-up process could be limited to a further 14 working days of the notification of the potential non-compliance being made (i.e. 28 working days in total).

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.

8.1 Dignity considers three months to be a sufficient amount of time for parties to make the necessary changes to comply with the requirements of the Order.

Additional comments on the draft Order

9. The table below sets out Dignity’s additional comments to the draft Order and EN. These are in addition to the comments Dignity made in response to the informal consultation on an earlier draft of the Order, although for ease of reference some of the key comments are reproduced below for the CMA’s consideration.

No.	Article / Para	Extract	Suggested Change	Explanation
Draft Order				
1	Article 3(1)(c)	A Funeral Director must display the following price information in a clear and prominent manner within each of its Branches if it has any Branches, and on its website(s) if it has website(s): ... (c) the price information provided to it by Crematorium Operators in accordance with Article 8.	N/A	Many Funeral Director branches are small, making it difficult to find space to display information in a clear and prominent manner in branch. This is exacerbated where a Funeral Director is required to display information from more than one Crematoria within the 30-minute radius. Dignity would therefore suggest that Article 3(1)(c) is limited to information provided to the Funeral Director by local Crematoria in accordance with Article 8(5) and 8(6)(b) only (i.e. the charge made by a Crematorium Operator for a Standard Fee Service, any Unattended Service and any Reduced Fee Service in addition to the length of time permitted for a cremation service, to allow comparability). Additional price information as specified at Article 8(6) could be made available in branch on request only

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No.	Article / Para	Extract	Suggested Change	Explanation
				<p>(as well as being available on the Funeral Director's website).</p> <p>Dignity also suggests that the CMA prescribe a standardised format for Funeral Directors to display price information provided by local Crematoria (i) in branch (limited to Article 8(5) as suggested above) and (ii) on a website (in accordance with Article 8).</p>
2	Article 3(6)	A Funeral Director must supply to a Customer upon request a physical or electronic copy of the Standard Price List [...].	A Funeral Director must take reasonable steps to supply to a Customer upon request a physical or electronic copy of the Standard Price List [...].	Dignity provides physical copies of price lists to customers by post on request as a matter of course. However, the Funeral Director should not be held accountable for the failure to supply price lists due to reasons beyond their control, such as where the Funeral Director has been supplied incorrect delivery details (i.e. name and address) by the customer. The requirement should therefore be caveated so that the Funeral Director is obliged to take reasonable steps to supply a physical or electronic copy of the Standard Price List.
3	Article 4(4)	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 or	A Funeral Director must also offer to take reasonable steps to supply to any Customer who is unable to visit the Branch, or does not have access to the	As above.

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No.	Article / Para	Extract	Suggested Change	Explanation
		platform, a physical copy of the information in paragraph (1).	website or online channel or platform, a physical copy of the information in paragraph (1).	
4	Article 5(9)	Funeral Directors are required to disclose on the register in subparagraph (1)(c) charitable donations made by another branch or by another company within the same group of companies to which that Funeral Director belongs when made on behalf of or in consultation with that Funeral Director.	In addition to the register in subparagraph (1)(c), Funeral Directors with multiple branches are required to disclose on a centralised register available on the Funeral Director's website all the register in subparagraph (1)(c) charitable donations made by another all branches or by another company within the same group of companies to which that Funeral Director belongs when made on behalf of or in consultation with that Funeral Director.	<p>The requirement for a Funeral Director to provide at each branch a register of any material charitable donations made across <u>all</u> branches would be disproportionate and is not necessary to achieve the CMA's intended result.</p> <p>A practical solution could be for the Funeral Director to record: (a) a full updated register on its central website; (b) an updated register at each branch in accordance with subparagraph (1)(c), pertaining only to that branch but noting where the central register can be obtained.</p> <p>Dignity also notes that the EN should be updated to explain the meaning of "in consultation with".</p>
5	Article 8(1)	A Crematorium Operator shall supply Customers and local Funeral Directors with price information as specified in this Article and keep such price information updated by notifying those local Funeral Directors of any change in the price	N/A	Dignity would suggest that the CMA prescribes a standard format for the supply of price information prescribed in Article 8, similar to Schedule 1, Part A. It is not clear to Dignity why a different approach is being proposed for crematoria than for Funeral Directors.

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		information no later than seven days before such change has effect.		
6	Article 8(3)	In this Article. 'local Funeral Director' means a Funeral Director whose business premises are within a 30-minute, cortege-speed driving distance for a crematorium. Where there is not a Funeral Director within a 30-minute, cortege-speed driving distance from the crematorium, the Crematorium Operator must provide its price information to the nearest Funeral Director.	In this Article. 'local Funeral Director' means a Funeral Director whose business premises are within a 30-minute, cortege-speed driving distance for a crematorium and that it is aware of, having made reasonable enquiries. Where there is not a Funeral Director within a 30-minute, cortege-speed driving distance from the crematorium, the Crematorium Operator must provide its price information to the nearest Funeral Director.	Dignity notes that it is not possible for a crematorium to confirm compliance with Article 8 of the draft Order to supply price information to local funeral directors (as defined in Article 8(3)) without a definitive register of funeral directors. Dignity notes that paragraph 85 of the EN requires crematoria to take "reasonable steps to ensure that the price information that it provides to Funeral Directors is received". However, the EN does not address the earlier step in the process of identifying the local funeral directors who are required to be supplied with the price information. A crematorium's obligations under Article 8 should be limited to providing price information to those local funeral directors that it is aware of, having made reasonable enquiries or based on previous cremations arranged through such funeral directors.
7	Article 9(1)	Commencing the first working day of [month] 2021 and thereafter the equivalent working day every six months, a Funeral Director operating from five or	Commencing the first working day of [month] 2021 and thereafter the equivalent working day every six months, a Funeral Director operating from five or more Branches shall within one month of	Regarding the commencement date and subsequent reporting deadlines, Dignity strongly requests that these be set so as to avoid deadlines falling during the industry's

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No.	Article / Para	Extract	Suggested Change	Explanation
		<p>more Branches shall supply the CMA with (a) the total number of funerals it has arranged for Customers in the preceding six-month period commencing seven months prior to the date in paragraph (1); and (b) the total revenue (excluding disbursements) gained from the provision of Funeral Director Services in the preceding six-month period commencing seven months prior to the date in paragraph (1).</p>	<p>the relevant working day supply the CMA with (a) the total number of funerals it has arranged for Customers in the preceding six-month period commencing seven months prior to the date in paragraph (1); and (b) the total revenue (excluding disbursements) gained from the provision of Funeral Director Services in the preceding six-month period commencing seven months prior to the date in paragraph (1).</p>	<p>busiest months, e.g. January. The commencement date should also avoid common financial year ends (e.g. December or March) so that resources are not unnecessarily stretched during busy administrative periods.</p> <p>Furthermore, the CMA should ensure that Funeral Directors do not circumvent this reporting requirement by operating their Branches as independent single trading entities rather than as related branches. One way of addressing this could be to expand the Funeral Director definition to include reference to the Ultimate Owner.</p>
8	Article 11(1)	<p>A Funeral Director operating from ten or more Branches shall supply the CMA by email (or by post if email is not available) no later than the last working day of January in each year a compliance statement confirming compliance with the information requirements of Articles 3, 4 and 9, the disclosure requirements of Article 5 and the prohibition requirements in Articles 6 and 7 in the preceding calendar year.</p>	<p>A Funeral Director operating from ten or more Branches shall supply the CMA no later than the last working day of January March in each year a compliance statement confirming compliance with the information requirements of Articles 3, 4 and 9, the disclosure requirements of Article 5 and the prohibition requirements in Articles 6 and 7 in the preceding calendar year.</p>	<p>January is the busiest month of the year for Funeral Directors. Dignity strongly requests that the relevant reporting date is changed to later in the year; we cannot see that it would in any way undermine the purpose or effectiveness of Article 11(1) but would be more proportionate in terms of its practical impact.</p>

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No.	Article / Para	Extract	Suggested Change	Explanation
9	Article 10(4)	[...] Each Crematorium Operator must 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.	N/A	It is not clear why Crematorium Operators are required to provide revenue from memorials under the draft Order. The CMA did not identify any AEC in its Final Report in relation to memorials nor reference memorial reporting in its remedy descriptions, so it is not clear why this revenue information is required.
10	Schedule 2 (Part C)	Total revenue from memorials	N/A	As above.
11	Schedule 2 (Part C)	<i>Sets out the information required by the CMA under Article 10(1).</i>	N/A	Dignity notes that slot length data is not requested at Part C despite this information being given to Customers and Funeral Directors. It is unclear how the CMA will be able to use the data supplied to compare different Crematoria Operators without this information.
Explanatory Note				
12	Schedule D	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.	I [name] [position] on behalf of [name of Funeral Director] confirm that to the best of my knowledge and belief having made reasonable enquires Articles 3, 4, 5, 6, 7 and 9 of the Funerals Market Investigation	Dignity suggests adding a knowledge qualifier to the indicative template reporting form since this will better reflect the real position of the person signing the form.

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No.	Article / Para	Extract	Suggested Change	Explanation
			Order 2021 [has been] [has not fully been] complied with.	
13	Schedule E	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.	I [name] [position] on behalf of [name of Crematorium Operator] confirm that to the best of my knowledge and belief having made reasonable enquiries Articles 8 and 10 of the Funerals Market Investigation Order 2021 [has been] [has not fully been] complied with.	As above.
14	Paragraphs 120, 121, 124, 132 and 141	[Non-mandatory disclosures for Funeral Directors when discussing the Standardised Price List]	N/A	<p>When discussing the Standardised Price List with customers, Funeral Directors should be required to disclose:</p> <ul style="list-style-type: none"> Paragraph 120: All locations at which the body of the deceased will be kept in addition to the branch premises – IF not being kept on premises or where the specific location is unclear (for instance when temporary mortuary facilities are used) then a clarification that off-site facilities will be used. Paragraph 121: Any limits on the number of viewings before any additional charges apply.

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No.	Article / Para	Extract	Suggested Change	Explanation
				<ul style="list-style-type: none"> • Paragraph 124: Whether the fee is or is not inclusive of use of the cemetery chapel. • Paragraphs 132 and 141: That cancellation fees may be charged. <p>To ensure that these details are adequately communicated to customers, they should be included as additional footnotes to the Standard Price List.</p>