



The SAIF Response to the CMA Online Pricing Consultation 17th May 2021

Introduction

This is the response from the National Society of Allied and Independent Funeral Directors (“SAIF”) to the CMA’s online pricing consultation. Accompanying this paper are the CMA consultative questions with the answers from the SAIF-CMA Regulatory Taskgroup.

SAIF welcomes online pricing among the funeral services sector. There are legitimate reasons why the independent funeral director has been cautious about this approach. This has primarily been around the cultural norms with how bereaved families are reticent to discuss death and pricing. In the majority of the sector, clients have been treated honourably, fairly, and transparently. This is evidenced by the fact that complaints on pricing and final invoicing have been minimal for the independent sector.

Notwithstanding, we believe it is appropriate for online pricing and SAIF’s Code of Practice stands ready to include the changes brought by the CMA’s legal order on the 17th June 2021.

The subjects below reveal ongoing details about the suitability of the remedy which shows the challenge for the CMA to provide directives for online pricing in such a fragmented business market for funeral services. The problem of a one size fits all, is there is a serious risk that it will provide a competitive advantage to vertically integrated funeral companies, and add a burden to small to medium-sized independent funeral firms, that doesn’t reflect the bespoke method of contracting and servicing their clients.

We are grateful that the CMA has recognised that firms with less than five branches will not have to provide revenue and volume data and that the CMA has honoured SAIF’s request to move the six-monthly reporting from January and December to April and October for five branches and above.

We hope that the CMA will be open to assessing the impact of these terms for online pricing and price lists, and if an adverse effect on competition impedes independent funeral directors through unintended consequences, the CMA will issue rapid changes to their legal order to right the impediments.

1. Price list concerns

Part 2

Funeral Directors Price, commercial information and transparency

(8) ‘A Funeral Director must 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’.

(12) ‘For the avoidance of doubt a Funeral Director who only offers Crematorium Unattended Services and/or Direct Burials is not required to display the sections of the Standardised Price List Labelled Attended Funeral or those elements in ‘Additional Funeral Director Products and Services’ which would only be relevant for an Attended Funeral’? Please clarify.



By using the word 'must' it expresses a necessity. This, therefore, precludes a funeral director only offering direct funerals as they must offer the CMA Attended Funeral. (12) does not correct this but clarifies what such a company is not required to do if they only offer this type of funeral which is not an option if complying with (8).

This is further emphasised in the explanatory notes No 39 under the general heading 'What a funeral director must offer'.

Part 3

Prohibited practices.

6. Inducements and referrals

Is it prohibited for a funeral director to refer clients to a Solicitor for probate services and for that Solicitor to refer clients or use the same funeral director?

What if the funeral director is asked by the client to recommend a solicitor?

What is the situation with a florist where you use them exclusively and when it would be in their commercial interest for them to promote your business?

If you recommend a florist as you believe them to have the best quality and price and they then recommend you as having the best quality and price will this now be illegal?

Is this interfering with the practice of mutual commercial recommendations? A builder may recommend a particular architect who in return would recommend the builder.

If there is full disclosure where is the problem?

Part 4

Crematorium Operators price information and transparency

8. (1) This will require a funeral director to have new A2 price lists printed and displayed in all branches within seven days. This is unreasonable, the requirement should be to give a minimum time and not a time no later than. SAIF proposes a minimum of three weeks or 15 working days.

3. A 30 minutes driving cortege speed in the Scottish Highlands will take you around 20 miles this will exclude almost all funeral directors outside of Inverness which is the furthest north crematorium. Similar to Cardross in Dunbartonshire which is the furthest north on the west coast and will exclude many funeral directors. There are approximately 100 funerals per year at Cardross from funeral directors, north of a 30 mins drive.

Clarification is required to confirm the CMA Unattended Funeral.

Most people would not understand the language of Unattended Funeral. As SAIF has stated previously, the definition of a funeral involves a gathering for a ceremony or event. It should better be described as the CMA Unattended Service. Furthermore, the wording could read

" This is a funeral where family and friends choose not to have a ceremony, event, or service at the time of the burial or cremation. Often referred to as a Direct Cremation/Direct Burial."

Standard Price List – the 'fees you must pay' section.

The fees for a typical cemetery should relate to the local cemetery which could be specified. However, some councils charge greater fees for non-residents. This could therefore read "For an Attended or Unattended burial at XXX Cemetery for a resident of XXX town the burial fee is £XXX.XX".

SAIF is not clear what is achieved by adding "in this area the typical burial fee is £xxx.xx as this could be adversely affected by the deceased's and applicant's residency.

Concerning the cremation fee, there is often a different fee for the unattended (Direct Cremation) service. Therefore, could this read " For an Attended cremation the fee at XXX crematorium the



cremation fee is £xxx.xx” “For an Unattended cremation at XXX crematorium the cremation fee is £XXX.XX

2. Disclosure of Interest

(3) Is a wholly-owned subsidiary or an unconsolidated subsidiary the ultimate owner?

3. The payment for the cremation/burial by the Funeral Director – Inverness case law

SAIF has noticed that in the price list requirement on the CMA Attended and Unattended funerals. This states that the funeral director must pay burial and cremation fees.

Whilst this is a common practice for funeral directors to pay these to our knowledge it has never been a legal requirement. SAIF is aware of one Local Authority requiring the funeral director to pay these fees who were subsequently legally challenged in Inverness and the Court found the funeral director was not required to pay these. If this has now been established in case law, how can the CMA insist on this? We cannot think of any other business where they are ordered to pay a fee which they are not legally liable for.

The application for cremation or burial is made by the client and that makes them the person entering into the contract and is responsible for payment, the funeral director is simply booking the time on the clients' behalf as a friend may do. If the funeral director decides to advance the cost to the client and pay this on their behalf then that is a commercial decision for the funeral director to take and does not imply a transfer of responsibility.

Will the CMA amend the mandatory statement to an option for the funeral director to be at liberty to decide?

Pall Bearers

Another serious concern is what appears at the foot of the proposed Standard Price List, stating that families may wish to carry out certain parts of the service themselves and not be charged for it. One example is Pallbearers. SAIF members often encourage close relatives and friends wanting to carry their loved one but the funeral director will still need at least four bearers available at the funeral.

The reason for this is this, the funeral director needs to load the coffin from the funeral home, at the venue Orders of Service need to be distributed and donations to take along to the service too. But, notably, some families change their minds at the funeral service not to carry, and if bearers had not accompanied the cortege, it would have caused major difficulties in fulfilling the funeral and incurred significant extra cost to reschedule the funeral.

4. Appropriate sizing of printed posters in the office

Explanatory Note 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.



Notes 114 to 144 expand what must be displayed and is greater than what is stated in Part A in schedule 1 of the Order. Note 34 also states that crematoria prices must be displayed in a similar way and size meaning you will need at least two of these posters.

A2 size is 16.5 x 23.4 inches (420 x 549mm)

SAIF questions the seriousness of this size in a reception area where you are greeting bereaved families perhaps for the first time. We genuinely think the CMA has not fully grasped the nature of the funeral profession, as part of the health care sector and the end of life care immediately after death and the care of their close relatives and friends.

Imagine a hospice putting a donation price list in the reception equating the costs of care per night to their significant person in the hospice's care.

Furthermore, the A2 poster will resemble in magnified size of a wall menu from the local take-away and will completely be at odds with the dignified facilities expected from a funeral director.

Please can the CMA explain the rationale for this size indoors when an A4 is sufficient for the window outdoors?

There will not be many if any independent funeral directors who could produce this size in-house and will require to order from a printer adding further cost. Let alone the misfit of the sizing of the poster. It fails to see the sensitive nature of providing assistance, understanding, and comfort to the bereaved.

We respectfully ask for the sizing to be reconsidered to an A4 or A3 size.

5. Local Authority Trading – even pricing on fees to internal LA-owned businesses and external funeral firms.

SAIF is very concerned by the practices of some Local Authorities who enter offering funerals with an unfair competitive advantage. We have made the case to the CMA in one situation where the European Structural Fund plus the Scottish Government's investment fund was given to a Direct Cremation provider of some £100,000 per year over three years. This led to unfair competition against independent funeral directors who in many cases when starting up had to mortgage their homes to fund the start-up of their funeral home.

We are aware of some good examples where Local Authorities have been transparent in setting up a funeral service as a stand-alone registered company. However, SAIF's experience on several occasions has seen Local Authorities entering the funeral service to fund holes in their revenue, and in most cases, the LA funeral services are charged less for their internal service whilst the local independent funeral director is charged a higher fee set, which the bereaved have to pay. We remain concerned that Local Authority funeral services have been advertised by stealth and the crematorium fees to the Local Authority provision are vastly reduced and undercut to what local funeral directors have to pay for a cremation funeral fee.

Also, we have concerns about the lack of professional experience some Local Authority staff have who collect and handle the deceased and are not given the dignity expected.

A two-tier system is anti-competitive and unfair. We request the CMA mandate a level competitive baseline to ensure fair play.



Another concern remains the recommendation from the CMA for Local Authorities to contract with a funeral director to offer discounted funerals. As we know this often (not always) leads to poor service as no checks are made on the standards of the contracted funeral director and it is likely that funeral directors who are desperate for work at any cost are likely to be the lowest cost tendered.

SAIF is concerned that this kind of Local Authority trading is detrimental to the deceased and their next of kin because the service is lower cost to the public and very likely will provide poor quality of service to the bereaved and care of the person who has died.

6. The funeral officiant – Celebrant/Minister's fees

The charges made by celebrants whether Civil or Humanist vary from the Clergy in the Church of England and Scotland. It is a Parish Ministers' duty to carry out funerals free of charge for people within their Parish which is again different from Roman Catholics, Iman, Rabbis, and anyone else that decides to perform a Funeral Ceremony.

Presently the charge will vary from zero to £250 approximately so a mean average is similar to a funeral cost average, no one actually pays it and is therefore meaningless. To give a mean average of £125 is of no interest to the person who gets it for free and is not truly representative of the person who pays £250.

SAIF, therefore, suggests the answer is to make it a 'price on request. Or segregate out the difference between a Celebrant and a Minister in the price list.

7. Specific religious/cultural funerals

SAIF has stated this point on several occasions in multi-cultural Britain and has not received clarity from the CMA apart from information that a roundtable with ethnic minority funeral directors has taken place.

The proposed price order simply fails to take into account specific religious customs around funerals, especially within Muslim or Jewish funerals that occur within a 24 time period as burials. These funerals do not fit the proposed pricing remedy, as they have specific and often unchanging patterns.

Will SAIF's members who offer Hindu, Muslim, or Jewish funerals be exempt from some of these requirements such as listing crematorium prices when these services are not pursued?

SAIF needs urgent clarity on this point so that we can advise our members who offer specific religious and cultural funerals that will not have the core elements of a CMA attended funeral.

8. Post legal order implementation timeframe

The CMA has proposed a three-month implementation period. For micro to small funeral directors, this timeframe simply fails to take into account that the funeral services sector is exhausted from their heroic efforts for a once-in-a-century global pandemic and the staff structure of many independent funeral directors who cover multiple roles in the operations of the service.



Surprisingly, the CMA fails to understand that many independent funeral directors who have nothing to hide, yet their small business model is often a husband and wife team, or two-person owner with part-time and occasional staff, whose time is taken completing the funerals for their bereaved clients and do not have the staff resource to understand the digital world, nor the time to grasp all of this.

We respectfully ask the CMA, for a minimum of a six-month lead time to the order being implemented. Nine months would be preferred as a lead-in period which would allow the necessary improvisation to meet the forthcoming legal order, whilst still running their businesses.

The legal order, for online IT knowledge, is equivalent for many funeral directors learning a new language or attempting an assault course. Notwithstanding independent funeral directors are embedded in their local communities and can walk down their street knowing that they have charged their families fairly and been open with printed costs which have been necessary for many years to comply with the SAIF Code of Practice.

It is our view that the CMA has failed to differentiate between this complex market of large PLC funeral firms, co-operatives to micro to small independents that provide overwhelmingly the majority of funerals to the bereaved.

Summary

SAIF welcomes online pricing, we understand the importance of this in the 21st century.

However, we believe the additional options list, the sizing of the posters, the expectation that the price list is one click away from the home page, will require further clarification.

Funeral Directors in the main are caring professionals who seek to serve families, especially independent funeral directors whose name is above the office door and are not answerable to anonymous shareholders or distant Board of Directors. These Funeral Directors live in their communities, participate in charitable services, and have been in these communities for generations.

SAIF is keen to learn how the CMA will be monitoring the effectiveness and appropriateness of this legal order, what transparency of the CMA review will be? Also, how consumers as well as Funeral Directors and trade associations can report AEC's should they occur and distort fair competition or consumer detriment in the funeral services sector?

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