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National Association of Funeral Directors' response to the Competition and Markets Authority's Funeral Directors and Crematoria Services Market Investigation Statement of Issues

Introduction

The Competition and Markets Authority (CMA) has sought views on whether all of the issues set out in its Statement of Issues should be within the scope of the investigation and whether they are correctly characterised.

The NAFD's initial thoughts are set out below. However, the implications of various approaches to the funerals sector will clearly depend heavily on their details. We have discussed the implications as far as possible, but would emphasise the need for more detail regarding the options proposed by the CMA before definitive views on these can be provided. At the very least, the CMA should consider carefully and set out how it would implement the different approaches as this detail will materially affect the effects on the funerals market.

Issues identified by the Competition and Markets Authority

Issue (a) - What customers consider to be the essential components of a funeral, what they understand to be a good quality funeral or crematorium and how they assess quality when dealing with funeral directors and crematoria.

The NAFD agrees that this issue should be within the scope of the investigation. We are pleased that the CMA is proposing to investigate consumer expectations in relation to quality in addition to the price of products and services.

Issue (b) - How any quality differentials between funeral directors and between crematoria are taken into account by customers in their choice of funeral directors and/or crematoria and the extent to which investments in quality explain price differentials between suppliers.

The NAFD feels that this should not be treated as a single issue but instead as two distinct issues:

1. *The extent to which investments in quality explain price differentials between suppliers.*

This is clearly an important question which needs to be answered in order to understand how the market operates.

2. *How any quality differentials between funeral directors and between crematoria are taken into account by customers in their choice of funeral directors and/or crematoria.*

This is also an important question but should be considered separately from the question of how price differentials can be explained by quality differences. While certain quality differentials, such as the level of customer service, will be apparent to consumers, others, such as the quality of mortuary equipment and training costs, may not. Our view is that work should be done to improve consumer awareness of these differentials rather than encouraging firms to make savings by lowering quality in 'out of sight' areas.

Issue (c) - The extent to which the vulnerability of customers at the point of need impedes their ability to engage with the process and make informed choices at all stages in the funeral arrangement process, and what practical aspects of this process have the most significant impact on customers' ability to make informed choices.

The NAFD broadly agrees that this issue should be within the scope of the investigation. However, we would caution against assuming that all consumers are inherently vulnerable at the point of need. Grief affects us all differently and the decision-making ability of a confident and well-informed consumer, even at a time of bereavement, will not necessarily be impaired.

In addition to investigating the impact of vulnerability on consumer decision-making, we would like the CMA to investigate the extent to which consumers are vulnerable at the point of need, and the reasons for this vulnerability (e.g. lack of knowledge). This will allow the CMA and the funeral industry to act effectively to reduce the vulnerability of consumers.

Issue (d) - How different circumstances, including social, economic, faith-related and cultural, may have an impact on the options available to customers and on their ability to make informed choices.

The NAFD agrees that this issue should be within the scope of the investigation. The CMA could consider the extent to which typical 'simple funeral' packages meet the needs of some minority religious and cultural groups.

In [our response to the Scottish Government's recent Funeral Costs Guidance Consultation](#),¹ the NAFD raised concerns that the promotion of a 'simple funeral' package that is based on a traditional Anglican funeral service, could leave consumers from some religious and cultural minorities at a disadvantage.² For example, the necessary arrangements for ritual washing, as is required in accordance with the Hindu and Islamic faiths, falls outside of the typical description of a simple funeral. Increased competition between the providers of simple funeral services would not therefore necessarily improve outcomes for consumers from certain religious and cultural groups.

Issue (e) - The nature and extent of competition between funeral directors, including how prices and behaviours differ between small and large providers.

The NAFD agrees that this issue should be within the scope of the investigation. Given that the vast majority of UK funerals are provided by independently owned firms, we would particularly emphasise the importance of meaningful engagement with small and medium sized businesses. A failure to seek to engage with a significant proportion risks the CMA only seeing part of the wider picture, which could distort the investigation's findings. We appreciate that such engagement will

¹ <https://nafd.org.uk/?ddownload=53936>

² This negative impact could also be felt by those who prefer a secular funeral, which is a growing majority. Church of England (CoE) statistics show the percentage of CoE funerals dropping year on year (133,000 funerals in 2018 compared with 139,000 in the previous year). This trend was also identified by YouGov in its 2016 survey, commissioned by the NAFD.

be challenging and time consuming so stand ready to assist the CMA engage with the sector in any way we can.

Our experience is that competition is most fierce between firms operating within the same local areas. It is not uncommon for small firms to advertise on the basis of a comparison with their larger rivals.³ It is therefore important that the CMA investigates the nature and extent of local competition between small and large providers in addition to considering competition between large providers at a national level.

Issue (f) - The funeral sales process, including how and when in the process prices are provided to customers and any other aspects of the sales process that may affect customers' ability to make the best choices.

The NAFD agrees that this issue should be within the scope of the investigation. It is our view that price transparency in the funeral market is currently not good enough.

The NAFD is taking active steps to improve price transparency within our membership. In particular:

- we are giving our backing to the Scottish Government's Funeral Costs Guidance and will be encouraging all of our members operating in Scotland to conform with the guidance when it is launched;
- we are in the process of updating our Funeral Directory website to enable members to display their full pricing information online even if they do not have their own website; and
- we are introducing a mandatory requirement for all NAFD members to display their pricing information online, which will come into effect in May 2020.

The NAFD is also considering what other information should be made available alongside our members' pricing information. For example, it could be argued that a funeral director displaying their price list online is of little help to a consumer unless their full terms of business, which may require a deposit to be paid up-front, can also be accessed in a similar way.

Issue (g) - The profitability of both large and small funeral directors, and the extent to which cost increases and/or investments in quality improvements explain the increases in funeral prices that have been reported.

The NAFD agrees that this issue should be within the scope of the investigation. The growing impact of bad debt on the profitability of funeral businesses should also be considered.

Issue (h) - The nature and extent of competition between both private and local authority crematoria, including how they set prices, the range of services they offer and the level of quality of their facilities.

The NAFD agrees that this issue should be within the scope of the investigation. We would also encourage the CMA to consider the rising cost of interment fees and the impact this is having on consumers. For example, the recent 54% increase in Birmingham City Council's adult interment fee from £681.00 to £1054.00, which the Council openly admitted was made in order to "bring Birmingham City Council's fees and charges into line with those of other burial authorities within the region".⁴ Such unjustified increases harm consumer welfare and limit consumer choice.

³ An example of an independent firm advertising in this way can be found at <https://www.youngsfs.co.uk/traditional-funeral-services.html>. Another at <https://www.youtube.com/watch?v=34f4mPa6Z9A&app=desktop>.

⁴ Letter from Birmingham City Council to local funeral director, dated 6 February 2019. A copy can be provided if this would assist the investigation.

Issue (i) - The potential factors impeding the development of crematoria, including the planning process and project viability.

The NAFD agrees that this issue should be within the scope of the investigation.

Issue (j) - The profitability of local authority and private crematoria

The NAFD agrees that this issue should be within the scope of the investigation. We would urge the CMA to investigate whether council cremation fees are being disproportionately inflated in order to subsidise other council services.

Further issues that the NAFD considers that the CMA should examine

Further issue 1 – Price and service transparency in relation to funerals sold by parties other than funeral directors

We were disappointed to see that the CMA does not currently envisage investigating the terms on which pre-paid funeral plans are offered. The NAFD feels strongly that all interactions between consumers and those who sell funeral services should fall within the scope of the CMA's market investigation.

If the CMA is unwilling to reconsider its position in relation to funeral plan providers, we would still urge the panel to think carefully about its definition of a 'funeral director' and whether this should be interpreted more widely in order to include businesses that sell, but do not directly provide, funeral services. Our members have reported that some firms have already started to provide an informal 'at need' funeral brokering service.

One NAFD member recently reported that a particular firm contracted with a family for an 'at need' funeral that was immediately passed to our member to service, for a much-reduced sum. Once our member met with the family, they established that they had expressly asked for the funeral to be provided by their (our member's) firm from the outset. They also discovered that the service that the salesperson promised to the family did not correspond to that which was agreed with our member.⁵ It is difficult to see what value the family got in return for the fee paid to this third-party.

In [our response to the CMA's recent consultation on the scope of its proposed market investigation](#),⁶ we highlighted that a failure to consider the way in which funeral services are sold and marketed by third parties such as funeral plan providers would lead to an investigatory blind spot which could significantly restrict the CMA's ability to gain a full understanding of the funeral services market and consumer risks within it. We are also concerned that, should the CMA only take steps to regulate how funeral directors can market and sell their own services, this could inadvertently encourage the formation of third-party funeral sales businesses that would seek to take advantage of the regulatory gap.

Further issue 2 – Inadequacy of the social fund funeral payments system and the impact on consumer choice

We were disappointed to hear that the CMA does not consider it appropriate to bring the Scottish and Westminster Governments' respective funeral expense assistance payments processes within the scope of its investigation.

⁵ We will be happy to provide further details separately if this would be useful.

⁶ <https://nafd.org.uk/wp-content/uploads/2019/03/NAFD-response-to-CMA-investigation-scoping-consultation- March-19 .pdf>

Not only does the fact that the payment has decreased in real terms, year on year, create serious financial difficulties for families, but the requirement that claimants must commit to paying for a funeral well ahead of a determination about their eligibility being made has led to an unsatisfactory situation in which funeral directors must either insist on a large deposit, typically outside of the reach of social fund applicants, being paid at the outset or risk taking on a bad debt in relation to local authority disbursements in the event that a family's application is unsuccessful.

An example of the impact on consumers can be seen in Doncaster, where the local authority, with a view to reducing the number of public health funerals it conducts, has adopted a policy of directing members of the public who intend to apply for a social fund payment to a particular funeral business purely on the basis that it does not require an upfront deposit from social fund applicants. Unfortunately, this business is not currently a member of any trade association and is therefore not required to adhere to any set quality standards.

In essence, this means that social fund applicants in Doncaster, unless they have sufficient funds to cover a deposit, have a choice between seeking a public health funeral or settling for the only funeral service provider in the local area that doesn't require an upfront deposit, despite them not being held to any defined quality standards. There is a risk that such situations could lead to a race to the bottom in relation to standards in order to service this particular end of the market.

Further issue 3 – Impact of local authority market intervention on competition between funeral firms

The NAFD feels it is important that the CMA examines the competition risks posed by emerging models of local authority intervention into the funeral market.

For example, in Scotland, more than one local authority has sought to set up and promote a specified funeral package to be provided by local businesses at a price set by the council. This approach typically involves the local authority setting out some minimum requirements for a funeral service that they wish to market to local residents and then inviting local funeral directors to bid against each other (below a specified price) to become funeral service provider 'partners' of the local authority.

Once all bids have been received, the council selects the cheapest firm(s) and produces promotional materials for the service, which are distributed to members of the public at local authority buildings, hospitals etc. In essence, the local authority uses its position and influence to encourage funeral directors to drop their prices and then directs customers to the cheapest funeral director.

Such intervention, however well-meaning, comes with the risk that, due to the close relationship between the relevant local authority manager and the funeral service provider, the latter receives favourable treatment in terms of crematorium or interment services or the advertising and promotion of the service by the local authority.

An example of this occurred in relation to East Ayrshire Council's much publicised Respectful Funeral Service. Members of the public were initially offered a discount on fees payable to the council (the interment fee) as an incentive to use the services of a "partner firm". Only after the NAFD highlighted the anti-competitive nature of this practice to East Ayrshire Council did the council confirm that the practice would be abandoned.⁷

⁷ In an email to the NAFD, dated 1 February 2019, East Ayrshire confirmed that *"The Respectful Funeral Service is currently going back out to market for a list of new partners with an implementation date of 1st April 2019. As discussed, the interment fee discount is being removed for the next phase, in line with other authorities in the area who are also currently rolling out this service."*

Although the negative impact of this particular issue was limited, it highlights the lack of awareness that many local authorities have about competition law and the fair treatment of local businesses. With an increasing number of local authorities looking for ways to influence the market to improve consumer outcomes, it is important they are made aware of the limits of what is legally acceptable.

Further issue 4 – Actual and potential impact of local authority trading on competition

Until recently, the market for the provision of funeral services to the paying public has been served by a wide range of privately-owned funeral directors. Local authorities have always had a duty, now under the Public Health (Control of Diseases) Act 1984 (“PHA”), to dispose of the dead where no other suitable arrangements have been made.

Historically local authorities have for PHA funerals used some assistance from privately owned funeral directors for the transport and care of the deceased prior to the point of burial or cremation at the local authority’s facility. More recently however, local authorities have set up their own in-house funeral services (either as part of their overall operations or through a separately established trading company) and become involved in procuring from privately owned funeral directors “low-cost” funerals in their areas.

Our concern is that local authorities could be effectively providing state aid to the commercial undertakings which supply the funeral services. When the local authorities provide funeral services, they do so in their own name or via a trading company established and owned by them, but in either case operating as an undertaking for the purposes of Article 107(1) of the TFEU. This means that they need to be careful not to fall foul of the rules on state aid.

State aid would be given by them if the local authority concerned provided aid which depleted its resources and this would be anti-competitive if it resulted in favouring the relevant undertaking (i.e. the trading company set up by the local authority or its in-house funeral service to the paying public).

The main types of aid which the local authority might provide are as follows:

- Finance and administration services which are not (or not properly) charged to the undertaking
- Free use of local hospital mortuary facilities
- Provision of premises without charge
- Free use of public advertising spaces to promote its funeral services offering
- HR and legal services which are not cross-charged
- Discounted interment fees
- Preferential treatment for crematorium bookings

For example, in response to an FOI request submitted by the NAFD in 2018⁸, Brent Council confirmed that the Brent Funeral Service (the commercial funeral service operated by Brent Council) benefits from the following, at no additional cost:

- Use of advertising space on council owned property
- Use of publicly owned mortuary facilities

The fact that Brent Council is operating in this way seems unfair to local businesses and indicates a failure to understand the state aid legislation properly.

⁸ We will be happy to provide this request separately if this would assist the investigation.

The NAFD would like the CMA to investigate how the various elements of council run commercial funeral services such as the Brent Funeral Service are provided and costed in order ascertain whether all service elements have been included in the cost breakdown and charged or cross-charged appropriately.

With an increasing number of councils looking for ways to raise income, a failure to tackle this issue now could lead to significant competition problems in the future.

NAFD view on likely effectiveness and proportionality of the potential remedies identified by the CMA

Improving the preparedness of customers ahead of the point at which the funeral needs to be organised

The NAFD supports the CMA's proposal to explore, at an early stage in its investigation, ways in which people could be encouraged to consider making funeral arrangements before the point of need. The NAFD has wrestled with this problem with limited success of many years and believes firmly that its solution is crucial to putting right any aspects of the market that may not currently be functioning as they should be.

Engaging third party intermediaries, such as critical illness charities, in order to encourage those diagnosed with serious conditions to think about their funeral wishes is a good idea, provided there are clear guidelines governing how this should be done. However, we hope that the focus of the CMA in this regard will not be limited to situations that particularly lend themselves to a discussion about death. The CMA, as an independent body with robust powers, has an opportunity to go much further than the NAFD has been able to, by exploring ways in which the wider population can be persuaded to consider their funeral wishes and making provision for the arrangements long before they are faced with news or circumstances that, in themselves, could render them quite vulnerable.

The NAFD stands ready to assist the CMA in any way we can in this regard. We hope that, as an independent body with robust powers, the CMA will have greater success in shifting this country's damaging culture of leaving consideration of funeral arrangements, and the associated costs, to be dealt with by those who are left behind.

Making it easier for customers to make the best choices for themselves

The NAFD agrees that both the amount and quality of information accessible to consumers about the price and range of funeral services provided need to be improved. The funeral services market is a very traditional market, with a significant proportion of long-standing, small and independently owned firms. As a result of this, it has perhaps been slower than other comparable markets to adapt to the information age.

We would support intervention by the CMA to establish what information, and in what format, funeral service providers should be required to make available in order to facilitate useful market comparison tools. We would urge the CMA to consider the work on this topic currently being proposed by the independently chaired Funeral Service Consumer Standards Review (FSCSR) before deciding on a suitable remedy.

Price/charging remedies

While we note that the CMA has yet to find any competition concerns in the market, and that the proposed remedies are therefore hypothetical, we are alarmed that the CMA is even contemplating the option of economic/price regulation at this early stage.

This very interventionist type of regulation carries significant risks to businesses and should be reserved for markets in which particular firms have significant market power and are able to behave

in a monopolistic way. It is far from clear that this is true of the funeral market, in which the majority of services are provided by SMEs.

The NAFD fully accepts that the market could be working much better for consumers. It is clear that the reluctance of funeral customers to shop around, coupled with a lack of clear and easily comparable information, is likely distorting the operation of the funeral market to the detriment of consumers. Our view is that initial regulatory interventions should focus on remedying these structural issues, in order to facilitate better competition in the funerals market.

However, we do not believe the evidence supports the view that the market is operating in a way that inhibits competition between funeral service providers. In fact, competition appears to be working well both on a local and, in relation to the larger players, on a national level (e.g. in relation to the price of a 'simple funeral').

In these circumstances, a sensible approach would be for the CMA to review the effectiveness of non-economic structural measures after a period of time, rather than making the disproportionate step of moving straight to regulate prices.

Below, we have outlined some of our specific concerns about the potential impact of the types of price regulation proposed in the CMA Issues Statement on the funeral market.

Rate of return allowance

Introducing a measure that ensures prices charged remain broadly in line with the cost of providing services will disincentivise firms from seeking to reduce their costs and operate efficiently. For example, firms may have less incentive to shop around when purchasing products from third party suppliers (e.g. coffins, memorials). In a market in which consumers already appear reluctant to shop around for the best deal, this could lead to an overall increase in the price of funerals.

Such a measure also has the potential to negatively affect firms' ability to raise finance. Even if allowed a reasonable return on investments, companies might still experience difficulties in raising finance if, for example, investors are concerned about the company's short-term cash-flow position and its ability to pay interest.

The CMA would need to work out an appropriate rate of return, which would introduce some regulatory burden. It would also need to assess what constitutes 'unusual pricing trends' which would require a view of an appropriate baseline. It is unclear from the Issues Statement how this task would be approached and funded.

Firms may be at risk from regulatory failure, if the CMA (or appointed regulator) determines an inappropriate rate of return. This may affect certain business types more than others, e.g. where the types of investment differ significantly. Examples could include funeral directors who also own and operate crematoria, or funeral directors who specialise in niche funerals, which may have different investment needs (e.g. green/eco funerals). If the allowed rate of return is too low, then firms will not be able to recover enough revenue from customers to pay investors, and investment in the sector – or parts thereof – may suffer. The affected firms would be at a disadvantage *vis a vis* other firms.

Similarly, rate of return regulation potentially has risks for innovation. It may be the case that new, innovative firms could enter the market and earn significant market share and thus a higher return on capital for investors. These firms ought to be rewarded with a higher regulated rate of return, but if the rate of return is fixed then may be too low to incentivise investors to support riskier innovation.⁹

⁹ Similarly, *existing* innovative firms may not be able to profit appropriately from innovations.

Specific types of investors may also be disadvantaged by rate of return regulation. For example, an investor who might seek to take over a company and make it profitable by driving down costs would have the rewards capped in a situation of rate of return regulation.

Cost orientation condition

Cost orientation carries many of the same risks as rate of return regulation. Cost orientation does not impose an efficiency incentive on regulated firms, and may also benefit wholesale firms in the supply chain if funeral directors are less incentivised to shop around and drive down prices.

The burden to firms of recording costs in a way that satisfies a regulator (e.g. standardised reporting) is likely to be an expensive exercise. Such costs would be passed on to consumers, thereby pushing up the base cost of funerals.

If all the services are including in the cost orientation approach, then the regulatory cost requirement may map with the firm's annual accounts. However, regulators and accountants often have different ways of defining and recording costs and revenues, so mapping the business accounts to the regulatory reports may be time consuming and require additional systems to be put in place. The cost standard chosen by the regulator could also affect the complexity and cost of mapping accounting to regulatory costs.

Furthermore, if only a sub-set of the firm's services are subject to the cost orientation requirement, then there would be an added burden of separating accounts, and deciding how to allocate common costs across regulated and non-regulated services. This could be a significant exercise.

Similar to rate of return regulation, cost orientation may deter investors who might have entered the market to improve a firm's profitability by driving down costs.

Safeguard cap on essential services

The CMA's proposed remedy as it stands implies that firms would set the price of each service with reference to its costs. This may limit the flexibility of firms to price differentially between services in response to different elasticities of demand (compared to a requirement that a group of services in aggregate be cost orientated), and as such might undermine the efficient recovery of total costs.¹⁰ Consumers would lose out as they would be paying more for services they value less, and vice versa.

In addition, there may be common costs that the firm incurs in providing both regulated and unregulated services – the cost standard chosen could mean that firms are unable to fully recover their common costs.

The cost standard selected by the regulator may also create additional administrative burdens on the companies if they needed to work out how to allocate their costs accordingly between regulated and unregulated services.

The implications of this option depend significantly on how 'essential services' are defined and how the regulation is applied. For example, if all firms are required to provide the 'essential services' this may force some out of the market (e.g. if an essential service includes the funeral service, some providers of 'direct cremations' would not be able to comply).

Similarly, there may be scope for firms to work around the definition of an 'essential service' such that they offer something that is very similar but falls outside the definition and is thus not captured by the regulation. This may have the negative result of (a) not protecting consumers and (b) incentivising firms to spend time and effort trying to work around the restrictions.

¹⁰ Economic theory suggests that such price differentiation based on consumer demand elasticity and willingness to pay (sometimes referred to as cross-subsidisation) may be beneficial to recover costs efficiently.

Depending on how essential services are defined, different firms might be negatively impacted. We would like the CMA to provide more detail on this option before seeking further views.

Safeguard cap on a specific package

The NAFD's view is that the implementation of a 'simple funeral' safeguard price cap would be counterproductive as it has the potential to deter market entry for those who wish to specialise in this end of the market, while distorting the very element of the market in which the CMA's own evidence suggests that price competition is most developed.

A price cap for a 'stakeholder' service such as a "simple funeral" package would likely have a different impact on firms depending on their customer base. Experience from other sectors, such as the stakeholder pension example, suggest that take-up of stakeholder products can be low.¹¹

Firms specialising in a "simple funeral" may be at a disadvantage *vis a vis* other firms. These firms would have a larger proportion of their revenues regulated by the cap compared to other firms, who may be able to cross-subsidise and thus undercut the specialist firms. This may deter market entry and specialisation in simple funerals, which could in turn undermine potential benefits to consumers.

There may also be difficulties for a regulator when setting the default tariff. If the default level is set too low, there may only be limited opportunity for new entrants to offer improved terms, limiting the extent to which the choice of customers can influence the price paid or the level of service provided.

These impacts would be a particularly distorted outcome, as price competition in the market for simple funerals appears to be currently the most developed compared to standard funerals. There is a risk that this form of regulation could distort the very element of the market that is most competitive.

A potential shortcoming of any price cap is that this may become a focal point for firms and consumers, such that there are fewer incentives to reduce costs and compete further on prices (i.e. if consumers expect the price cap to be the standard cost across all providers). If the price cap were set in relation to costs, this would also provide no incentive for firms to reduce their costs.

Consumers may also be less well-off under a price cap if it gives them even less incentive to shop around and compare prices between funeral directors for simple funerals. They may miss out of better deals, and competition in the market for simple funerals may be even further restricted.

Two key shortcomings with this approach are (a) the difficulties in determining what a 'simple funeral' should consist of and (b) deciding which firms to apply the regulation to. Defining a simple funeral could be challenging for a regulator especially if consumer demand changes over time and different elements of a funeral become more/less important. A pre-defined package may either overly limit consumer choice or, more likely, simply fail to be widely bought. The second issue is that some firms may not currently be providing all elements of the defined funeral package. If all firms are made to provide the package this could result in market exit. On the other hand, if there was no requirement for all firms to provide the package, then there could be a situation where no firms provide it and thus none would be subject to price regulation.

Suggestion of implementing an 'access charge' price cap

The NAFD would support the implementation of an 'access charge' price cap to allow dissatisfied consumers to switch funeral provider more easily prior to a funeral taking place. We are aware that,

¹¹ For example, in the Department of Work and Pension's Employers' Pension Provision survey 2015 shows that half of all employers with a stakeholder scheme had less than one per cent of their workers participating in the scheme [online]. Other sources also point to the low take-up of the stakeholder pension (e.g. see <http://www.moneyexpertise.co.uk/what-stakeholder-pension.html>)

at present, some firms charge disproportionate administration/collection fees in the event that a client chooses to terminate their contract and switch to another funeral service provider.

For example, an NAFD member firm recently reported that a member of the public was charged a £500 penalty for switching funeral service provider to carry out a direct burial. The funeral director had done nothing more than collect the deceased person and taken them into their care and the total service (including disposal), had it been carried out by the original funeral director, would have cost the customer only £1714.

We believe it is important that consumers feel empowered to voice concerns when they are dissatisfied and to act to change providers when appropriate. A cap on the charge a funeral director can demand for granting access to a deceased person would prevent consumers from being taken advantage of in these most difficult of circumstances.

Quality regulation

Irrespective of any action taken by the CMA to address any competition concerns identified by its investigation, the NAFD believes that the introduction of a system of proportionate and tailored statutory regulation of the funeral sector would be in the best interests of our members and the families they serve.

As the largest standards body for the UK funeral profession, the NAFD has always advocated for the effective scrutiny of all funeral directors. At present we are only able to scrutinise - and provide an independent complaints service to customers of - those 4,000 funeral homes that are in NAFD membership, as trade association membership is not currently compulsory.

In our view, it is unacceptable that some firms are currently able to escape scrutiny by refusing to join a trade association. We are aware of a perception that the regulatory function of the major trade associations is incompatible with our separate role as advocates for our members. In spite of the many safeguards we have put in place to ensure the independence of our complaints, disciplinary and quality assurance procedures, we recognise that more needs to be done to ensure public confidence in our ability to enforce standards is maintained.

We have supported Government-led regulation in Scotland and worked closely with the Scottish Government throughout the introduction of the Burial and Cremation Act, helping to ensure that regulation in Scotland will be proportionate, based on firm foundations and will work in the best interests of both the consumer and the funeral profession. Whether a similar model represents the best option for England, Wales and Northern Ireland is not yet clear, but the NAFD intends to lead this conversation and stands ready to play its part in finding a solution that is robust, proportionate and fit for purpose.

Whatever form statutory regulation takes, such a significant change will likely have implications for not only thousands of businesses across the UK, but also the bereaved families they care for and so it's vitally important to get it right.

National Association of Funeral Directors

9 May 2019