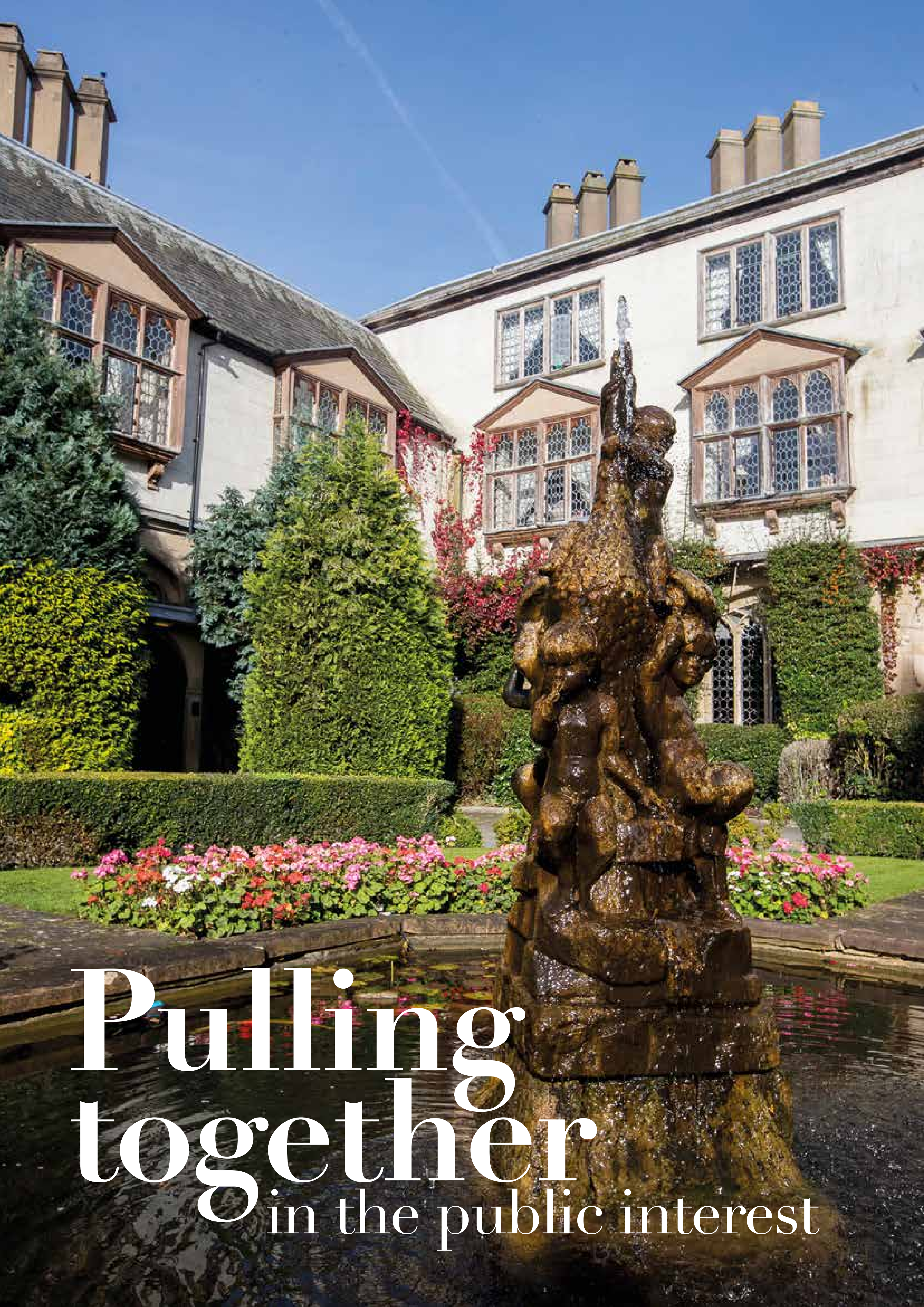

Pulling together in the public interest

A REVIEW of the NAFD Autumn Meeting 2017

In October, a bright and crisp autumn day dawned over medieval Coombe Abbey, in Warwickshire, for the 2017 NAFD Autumn Meeting and half year AGM. With one of the largest ever turnouts of members expected, a keynote from Funeral Planning Authority CEO Graeme McAusland to open, and a much-anticipated debate regarding the funeral plan market on the agenda, expectations were high for the event and it was, therefore, appropriate that the setting was as dramatic as the planned content.

Built in 1150, Coombe Abbey in Warwickshire started life as the largest and most influential monastery in Warwickshire. The Abbey remained in the hands of the monks up until the dissolution of the monasteries, in 1539, when the land was appropriated by King Henry VIII.

In 1603, Princess Elizabeth, daughter of King James I, came to the by-then privately owned Abbey to live and be educated. However, two years later, the infamous Guy Fawkes planned to kidnap Princess Elizabeth from Coombe Abbey, and put her on her father's throne following his assassination. Thankfully, Fawkes' plan was foiled.

The Abbey remained in private ownership until 1964 when Coventry City Council bought the site and opened the grounds to the public, before Coombe Abbey finally opened as a hotel in 1995.

"There is often an expectation that we hold greater powers, greater influence; people expect us to defend the industry. That's not what we're there to do."
Graeme McAusland

After coffee, NAFD President Alison Crake welcomed the assembled delegates to the meeting before asking First Vice President, Abi Pattenden to read the obituaries. Although no deaths of NAFD members had been reported to National Office since conference in May, Abi asked the room to stand for a moment of silence for "friend of the profession" Jon Underwood, who founded the Death Café movement.

The future of funeral planning regulation

After being introduced by Alison Crake, Graeme McAusland, Chief Executive of the Funeral Planning Authority (FPA), took to the stage for a speech that was amusing, highly informative – but provocative too. He took NAFD members through the FPA's mechanisms in place to provide consumer protection and the logic behind the exemption of funeral plans from regulation under the Financial Services and Markets Act 2000: "Although there is a financial dimension to a funeral plan, it is not a financial product. There is no expectation of financial return…it is, instead, the purchase of a future service."

Mr McAusland provided a detailed overview of how the FPA works and is structured, reminding delegates that the FPA is a compliance body and not a trade association and is, therefore, not there to deal with disputes between commercial funeral planning firms and funeral directors.

He said: "There is often an expectation that we hold greater powers, greater influence; people expect us to defend the industry. That's not what we're there to do."

Mr McAusland also offered further information on the recent change in structure from self-regulatory to Community Interest Company, with independent non-executive directors and a Stakeholder Group. He took on board the NAFD's request to be part of that group and promised to report back after the next meeting of the FPA board in November.

He explained that there was often confusion about FPA membership. "It's not a club. You can't pay money and join or be signed in by a friend. There's a process when you join and a process to go through every year after that." He took the delegates through the process for FPA registration, emphasising that the decisions were taken by the Compliance Committee having requested and considered information, including independence of trustees, financial structure, arrangements with funeral directors, complaints process and numbers, accounts, marketing literature, actuaries reports and much more.

Given the growth in third party sellers in the market, Mr McAusland stressed that he expected registered providers to ensure third party sellers are meeting FPA standards and must be actively checking call scripts, processes, complaints processes and termination rights among many other indicators.

In a direct challenge to the views held by some in the room, Mr McAusland stated that having funeral plans fall under the regulatory remit of the Financial Conduct Authority (FCA) was not the answer, and that funeral firms should perhaps be careful what they wish for, pointing out that the funeral planning market would simply get swallowed into a huge and diverse range of firms under FCA control. "Funeral plans don't fit within FCA rules," he said. "There would be less oversight until something goes wrong.

"The FPA talks to providers monthly, sometimes more frequently and, in my experience of working with FCA-regulated firms, this is a much greater level of involvement than the FCA. The FPA is actively involved with providers and they are changing what they do as a result of our intervention."

As part of the governance changes, Mr McAusland said that the FPA is reviewing both its rules and its Code of Practice to ensure they are fit for purpose.

Funeral Planning debate

Expectations and anticipation rode high in the room as the funeral planning debate commenced after the break.

Chaired by Nick Britten, of Wordsmith Communication, the panel comprised the panel comprised Graeme McAusland, Ronnie Wayte (Chief Executive of Golden Charter), Barry Floyd (Managing Director of Golden Leaves), Abi Pattenden (NAFD First Vice President and manager at Freeman Brothers, West Sussex), Nigel Lymn Rose (CEO of A W Lymn, The Family Funeral Service in Nottinghamshire) and Chris Clark (Managing Director of Ecclesiastical Planning Services Ltd).

The debate was introduced by NAFD President Alison Crake, who set the scene. She said: "As we all know, funeral plans have an important role to play in terms of helping people to plan for and off-set the cost of their funeral, and remove some of the uncertainty and distress for their families when the time comes. However, there are clearly a number of issues in relation to the way the market works at present. Some of these have been aired publicly through the media and in Parliament, others have been presented to us by NAFD members or in discussion with organisations in this room today.

"In planning for today's Autumn Meeting it was felt that, given that this is one of the most important issues facing the profession and we were already welcoming Graeme McAusland to the meeting as CEO of the Funeral Planning Authority, there was a real opportunity to move the discussion forward through a debate with all of the key players in the same room.

"There is a real opportunity to use this debate to forge a new consensus and closer working relationships between funeral planning firms and funeral directors – and between the trade associations that represent them."

Turning to the subject of recent media criticism of the market, Mr McAusland called into question the findings of the recent Fairer Finance Report. Although he felt the report made some valid points regarding sales practices, the bad practice related to non-FPA registered providers.

For this reason, he said, the FPA had asked the NAFD and Society of Allied and Independent Funeral Directors (SAIF) to require its members to only accept plans from FPA registered providers. NAFD members may recall that the Association surveyed members on this request and also sought legal advice, which suggested there were legal issues preventing the Association from taking this suggestion forward. Instead, said Mr McAusland, could there not be a strong recommendation?

"The NAFD Code of Practice has a clause saying members shouldn't bring the Association into disrepute. I interpret that as saying members shouldn't engage with funeral plan providers unless they've been subject to independent assessment." he continued.

"I am a bit fed up of people whinging about the market, then doing things that perpetuate bad behaviour by accepting plans from less reputable providers. Stop enabling the bad behaviour! Look at long term interests and not short term gain. Make your position known through your websites. Say who you will and not accept plans from."

For the FPA's part, Mr McAusland said, it needs to communicate more. Show it is an effective regulator, persuade public bodies to recommend using only FPA registered firms.

"If these steps don't work," Mr McAusland concluded, "we are looking at how the FPA could become a statutory regulator."

There followed a lively question and answer session with questions from the floor on how the FPA would regulate the management and funding of trusts in the future and whether the Fairer Finance Report would have surfaced if the FPA was more successful in addressing firms that aren't meeting Financial Services and Markets Act rules.

Mr McAusland responded: "Yes, FPA registered firms may well need to do things better. We can't trawl the whole market, we're doing what we can to address issues as we find them or they are brought to us. If a firm makes misleading claims, we get them to change it. We've upped our resources, but be very careful where you go with this (calls for FCA regulation). We could end up with a disproportionate response to the issues of a few firms."

After a vote of thanks to Mr McAusland, the meeting then broke for coffee to allow the stage to be reset for the debate.

“I am delighted that this debate has been so well supported, by not only those of you keen to ask questions, but by the panellists who are here to offer answers - and I would especially like to thank the panel for accepting our invitation.

“There is a real opportunity to use this debate to forge a new consensus and closer working relationships between funeral planning firms and funeral directors – and between the trade associations that represent them. Going forward, the themes arising from today’s debate will also form part of the NAFD’s work to develop an ongoing robust policy position on the best way to safeguard the needs of the funeral plan-buying public and the funeral directors who will carry out the plans they buy.”

After introductions to the panellists, Alison asked the first question on behalf of the membership: “Should funeral directors always be contacted during cooling off period/confirmation of plan to ensure they are given an opportunity to accept the plan and the basis of payment?

Giving their perspective in turn, all panellists agreed with this as a principle, emphasising that it was best for consumers to have the security of knowing their chosen funeral director had agreed to service the plan. Graeme McAusland added that there could be an argument for not informing, but that this would need to be reflected in a significant margin in the valuation of liabilities. He also noted that customers needed to be clear this was the case.

Barry Floyd from Golden Leaves noted that the majority of Golden Leaves plan buyers did not specify a funeral director but “we still allocate and notify the funeral director to agree rates.”

All three funeral plan providers also agreed that this should be included in their terms and conditions.

The second question to the panel was about the effect that direct regulation would have on funeral plan providers and funeral directors.

Chris Clark, from Ecclesiastical Planning Services responded that it depended upon what regulation looked like. “Raised standards and protected reputations would be a good outcome. How plans are sold, allocated and marketed would be more consistent and, while the number of new entrants to market would reduce in number, smaller existing plan providers may find it difficult to cope in a regulated environment. We need to be careful we don’t push the independents out of the market, something that happened to a number of businesses when financial services became regulated.”

Nigel Lymn Rose added: “We don’t want to see ourselves dogged by unnecessary regulation or mired in endless debate. However, I am concerned about issues such as high rates of commissions paid, which come out of funeral directors’ fees, which are currently undisclosed and unregulated. For me, regulation leads to higher hurdles – and, therefore, higher standards.”

Ronnie Wayte sounded a note of caution though: “I reject the hypothesis that we’ll have regulation in 10 years. We’ve been here talking about impending regulation for 10 years already and no event, in that time, has changed that. We’re a multi-channel business – we sell through funeral directors, through sales teams and through third party agents and the greatest number of complaints we have are for plans sold through funeral directors. So be careful what you wish for.”

Graeme McAusland echoed a theme mentioned by Chris Clark. “The greater the level of compliance, the harder it is for smaller providers. What troubles me is lack of understanding in relation to the Financial Conduct Authority as a solution. It won’t deal with some of the sales related issues that people are worried about and it will have massive unintended consequences.”

There was a long discussion about commission rates and whether these should be disclosed to the client. In response to a suggestion that planning companies should disclose what they pay to the funeral director, Graeme McAusland likened it to whether funeral directors should disclose both the wholesale and retail price of a coffin. He suggested that, in his view, the disclosure of the arrangement between the funeral director and the provider was simply an issue about how far each person involved in the process shows their mark up to the end customer.

Barry Floyd questioned whether not revealing commission was detrimental to clients. “If the plan is at reasonable market rate then how does the consumer suffer? This is really about what the funeral director receives – a commercial argument.”

Chris Clark disagreed. “Funeral Plan providers should be transparent about where every penny is going.” There was much agreement in the room to this point, with Nigel Lymn Rose adding: “The underlying issue here is about being transparent to funeral directors."

“No. It’s irrelevant to the consumer,” countered Ronnie Wayte, in one of the


National Association of Funeral Directors
Est 1905


Funeral Exhibition
2019

most contentious exchanges of the morning. "The tension is about the relative margin that the funeral director receives. Golden Charter is delivering to the demands of its shareholders and this won't include spelling out where every last penny goes. There's a level of hypocrisy here given the mark up some aspects of funeral service attract. Declare that to consumers before you lecture us."

The debate moved on at this point to a question asking how funeral plan providers could guard against incorrect information provided during the sales process.

Barry Floyd said: "If the plan is sold correctly (and we compliance check to ensure no mismatch of expectations), the funeral director has agreed to provide the services contractually for an agreed rate whilst the client has paid a competitive market price for the plan rather than an inflated one in order to house a high commission, then the client has received precisely what they wanted at outset and there is no client detriment whatsoever. Then this really just becomes an issue around what the funeral director receives as payment – and that is a commercial argument."

Barry explained how Golden Leaves had spent hundreds of thousands of pounds investing in compliance teams to check that the expectations of each customer was matched against what they were told at point of sale. Each customer went through a five minute, 20 point, compliance check to make sure what their plan delivered matched their expectations.

Abi Pattenden countered that she wasn't sure this would always solve the problem and errors might only show up years later when the plan purchaser died.

In one of the most riveting exchanges of the debate, the next question was on the topic of whether the panel believed that only funeral directors should sell funeral plans.

In response, Ronnie Wayte laid a challenge at the funeral profession's door: "I agree with you on one level. If funeral directors, as a group, were competent enough to dominate and grow their own market share I'd be delighted. If that happens Golden Charter will become a processing unit. It's the best model and outcome for us, commercially. However, the reality is, that's not what happens."

"The FPA needs significantly more powers, including the power to expel a member, and that the option of becoming a statutory body needs careful and serious consideration as the alternative, regulation by the Financial Conduct Authority, was not something to be called for lightly. "

The next question sought answers on what protection there was for funeral directors if the FPA did not take complaints regarding the sale of funeral plans. Graeme McAusland challenged the funeral directors present to provide evidence, without which the FPA was unable to even investigate.

Following an impassioned plea from an independent celebrant for the profession to respond to concerns about people feeling misled about what was in their plan, Graeme McAusland was quick to reassure that, of the 70 complaints handled by the FPA in 2016, only ten were about what was included in the plan. Ronnie Wayte agreed that he did not feel a wide number of people were reporting feeling misled. However, Abi Pattenden cautioned that the discrepancy was not always discovered until many years down the line and it was critically important that anyone selling a funeral plan checked that the person buying the plan understood what was and wasn't included to prevent issues, in the future.

Responding to a question about whether preferential terms should be given for exclusivity, there were very differing views expressed on the panel with Chris Clark rejecting the idea of preferential terms for Perfect Choice plans – but Ronnie Wayte happy to confirm that he was a "fan of exclusive arrangements." He said: I am owned by 720 funeral directors and it is important they get the greatest benefit from the business they own. This is an issue about commercial terms between plan provider and funeral director. Those who are non-sellers of Golden Charter funerals receive a lower rate and they can like it or lump it," he said.

The final subject covered in the debate, which followed from the discussions about preferential rates, were the difficulties experienced by funeral directors in being presented, by a newly bereaved family, with a plan that did not cover the full costs of servicing the plan.

NAFD Executive Committee member Barry Pritchard expressed a frustration shared by many funeral directors in the room when he explained: "It's my reputation on the line if I refuse the plan. I can't do it to a bereaved family, but here you are telling me I have to do it to stop funeral plan firms from being able to perpetuate the practice. Sometimes the costs are so far off it's not even going to cover the basic costs." In response, the panel all agreed that making sure everyone understood and agreed to the plan during the cooling off period would be a positive step in addressing this, even if it was not likely to resolve the issue entirely.

As the debate drew to a close each panellist summed up their thoughts on how the funeral planning providers and funeral directors, together with the Funeral Planning Authority, could work together to ensure the funeral planning sector worked well for consumers, for funeral directors and for plan providers. Key to getting this underway was the consensus that the funeral director should always be notified during the cooling off period to allow them to make an informed decision – and funeral directors for their part must become more robust at refusing to accept business from less reputable providers and better at providing evidence to the FPA of anything that concerned them.

Half Year Annual General Meeting

There was general agreement that the market had changed significantly since the Article 60 exemption was enacted and the FPA needed significantly more powers, including the power to expel a member, and that the option of becoming a statutory body required careful and serious consideration as the alternative, regulation by the Financial Conduct Authority, was not something to be called for lightly. Both Ronnie Wayte and Barry Floyd, as funeral plan providers, felt that expulsion would be reputationally huge and would be effective, but there was also acknowledgement of Graeme McAusland's earlier point that to be effective, the profile of the Funeral Planning Authority would need to be higher and there would need to be greater commitment to only using FPA-registered members – both by consumers and by funeral directors.

NAFD President Alison Crake thanked all of the panellists for their wholehearted contribution to the debate, the attendees for their questions – along with those members who submitted them in advance, and Nick Britten of Wordsmith Communication for acting as facilitator. She concluded by echoing the words of the panellists in saying: "We need to pull together as an industry and change is needed on both sides. On behalf of the NAFD, we look forward to closer working relationships that help to shape the future regulatory structure and working practices in this area of the profession."

After a lively and convivial lunch, during which the debate over the funeral planning market continued, the delegates reassembled for the Autumn Meeting.

Chaired by Alison Crake as President, she spoke for a new minutes to introduce her own Presidential report, covering her first six months in office, before inviting Chief Executive Officer, Mandie Lavin to present a summary of her report to the meeting. Mandie covered aspects such as how the Association supported its members, governance and finance updates, a tribute to Gill Anderson who was leaving the Association the following day and a vote of thanks to the whole NAFD team, including Standards and Quality Manager, Paul Harrison who would be retiring in February.

During her summary, Mandie highlighted the diverse range of challenges her first year in office had brought and drew members' attention to a number of strategic issues that had surfaced, gathering political interest and media momentum, which the Association was in the middle of tackling and, on which the Association may well need to seek the views of members, in due course.
She also looked back at the commercial success of the National Funeral Exhibition 2017 and plans for 2019. There was a new Organising Committee for the show and the Association had reviewed the contract for the venue at Stoneleigh, with some 72 exhibitors already signed up to key stand locations. She also highlighted plans to market the Exhibition more actively overseas and to a wider audience, particularly in light of the emergence of a competitor show which, said Mandie, "is being carefully monitored as we have received reports of overly aggressive sales tactics and potentially inaccurate information being given out about the success of NFE."

Following the Chief Executive's report, the following reports were presented to the meeting:-

- Churches Group on Funeral Services
- Committee for Professional Standards
- Education report including a report on the Board of Examiners
- FIAT-IFTA
- International Examinations Board of Embalmers
- Membership
- Policy & Communications Committee
- Council of British Funeral Services
- Regulatory update (Scotland)
- Legislation report

All were taken as read and accepted en bloc.

The Report of the Honorary Treasurer, Karen Petersen, was presented by Mandie Lavin as Karen was feeling unwell. Mandie presented the projections for 2017, together with the proposed budget and membership subscription rates for 2018, all of which were approved.

Whilst membership subscriptions form approximately 70% of the NAFD's total income, other sources of income included the sale of advertising in *Funeral Director Monthly*, rental income, professional development/examinations and commission income.

Mandie was able to reassure the delegates of the improving budget outturn, having shortened a planned deficit, set prior to her arrival, by 50% and promised the room that, "I don't plan my own budget at home on the basis of a deficit and I don't plan to do this for the NAFD either. As you will see, next year's budget works on the principle that we will live within our means, even accounting for the significantly increased workload and responsibilities the Association now bears."

Second Vice President, David Barrington, then presented a short video about the 2019 National Funeral Exhibition, which will take place during his Presidential year, before Alison, as NAFD President, invited NAFD members and guests to join her in Durham, from 17-20 May 2018, for NAFD Conference and revealed a few of the plans for the weekend, including a private tour of Durham Cathedral cloisters and evensong, as well as the traditional banquet and ball and a visit to the world famous Beamish Museum which brings to life the story of the north east of England during the 1820s, 1900s & 1940s.

These invitations brought a meeting full of lively debate, real passion and a determination to evolve, in both the public and professional interest, to a close - with delegates heading back to their businesses in all four corners of the United Kingdom, feeling inspired.