NAFD SETS OUT ITS PREFERRED REGULATORY SOLUTION FOR FUNERAL PLAN SALES

In late April, the NAFD welcomed the second Fairer Finance report into how the sale of funeral plans should be regulated, having been involved in shaping its findings, and set out the Association's preferred options for the future regulation of the sector.

In launching the report, which was sponsored by Co-op Funeralcare, Dignity, Ecclesiastical and Golden Charter, James Daly of Fairer Finance said: "There is not enough protection for customers buying pre-paid funeral plans. These products can cost several thousand pounds and, crucially, the customer won't be around to see whether the promises made to them have been kept.

"We're concerned that a small but significant minority of businesses in this sector are taking too much in commission and administration fees and may not be putting enough aside to keep the promises they have made to customers.

"We'd like to see the Government acting swiftly to introduce regulation so that consumers are properly protected when they buy a funeral plan. And, in the meantime, the Financial Conduct Authority needs to be doing much more to police those companies who do not meet the legal requirements to remain exempt from regulation."

In its response, the NAFD expressed its agreement with Fairer Finance's urgent call for tighter regulation of funeral plan sales, and its concern that agents acting for less scrupulous funeral plan companies were subjecting consumers to pressure selling tactics, leading to vulnerable people buying funeral plans that would not adequately cover the costs of their chosen funeral.

The NAFD has also said that it would also like to see:-

- a requirement for clearer communication with the consumer regarding where and how funeral plan funds are invested;
- complete transparency regarding the value of any fees and sales commissions attached to the plan. This must include ensuring the consumer understands how much | of their payment remains in the funeral plan after the deduction of commission and charges;
- a requirement for funeral directors to be informed by plan providers when a plan is being sold with their name against it as nominated funeral director. The funeral director must have an opportunity to agree the terms and their decision be confirmed to the family before the standard 'cooling off' period ends.

The NAFD shares Fairer Finance's view of the important role played by the Funeral Planning Authority (FPA) in setting standards for funeral plan companies and has noted the Funeral Planning Authority's considerable efforts to increase the number of funeral plan providers that are subject to FPA scrutiny and its willingness to use the significant powers that it already possesses to censure any plan provider that steps out of line.

The NAFD believes that the development of regulatory standards that are suitable and proportionate for funeral plans is the best way to ensure that consumers have access to expertise, guidance and choice when they wish to pre-arrange their funeral. The NAFD would, therefore, like to see introduction of statutory regulation to the funeral planning market and would like to see these new powers conferred upon the Funeral Planning Authority to add strength and weight to its current voluntary standards regime.

NAFD President, Alison Crake, said: "We believe the FPA is the right organisation to lead the regulation of the funeral plan market. The funeral plan market is tiny compared to other financial goods and services such as insurance, investments and savings, which the Financial Conduct Authority rightly focuses its regulatory attention upon.

"A more robust regulatory regime, operated by the FPA, would ensure that funeral plan providers can be regulated effectively and proportionately, by a focused and accountable regulatory body which already has extensive market experience, has reshaped its governance to enable it to add in a truly independent manner and has the buy-in of a significant percentage of funeral plan providers. By conferring statutory powers upon the FPA, all funeral plan providers, not just those who volunteer to abide by high standards, will be compelled to meet the high standards of operation and accountability that consumers have a right to expect."

Chris Clark, Managing Director of Ecclesiastical Planning Services added: "The Fairer Finance report urges the government to introduce regulation of funeral plans to protect customers. We share Fairer Finance's concerns around high commissions and charges that could encourage poor sales practices in a market that has limited barriers to entry and a potentially more vulnerable target customer group.

"Our priority has always been the financial security of the pre-payment funds and we use guaranteed whole of life policies to achieve this, ensuring funds are ring-fenced and secure until the time of the funeral. Ecclesiastical Planning Services is one of the only plan providers to hold the full amount of the customer's funeral pre-payment for the provision of the funeral.

"We fully support the concept of statutory regulation of funeral plans and the continued reform of the Funeral Planning Authority (FPA). We believe that the FPA can pave the way for statutory regulation by developing a regulatory rulebook that is tailored for funeral planning activity. The development of a suitable rulebook for funeral plans is crucial to ensure that customers can continue to visit their local funeral director to access expertise and guidance when setting up their funeral plans.

"Ecclesiastical Planning Services remains committed to financial probity and honest and ethical working

practices for the benefit of funeral directors and their customers."

The Fairer Finance Report concludes that it believes the Government should move to bring the industry into Financial Conduct Authority regulation, and this is a view that is shared by Co-op Funeralcare.

Matt Howells, MD for Co-op's life planning business, said in response: "Today's report highlights that the sales practices of a minority of providers are putting thousands of vulnerable consumers at risk financially. We believe this needs to be urgently dealt with, and we are supportive of statutory regulation under the FCA as the most comprehensive route for this being achieved. We recognise that statutory regulation will take time, and are engaging with the FPA and its other members regarding measures to improve the market in the interim."

Dignity has expressed a preference for FPA-led regulation but doesn't rule out an FCA solution. Simon Cox, Dignity's Head of Insight and External Communications, said: " Dignity reiterates its call on HM Treasury to launch further policy action to strengthen the market, and to consult on how regulation can most effectively improve outcomes for consumers.

"We have been calling for regulation for many years and recently conducted some research that showed that, whilst improvements are evident in the market, since our joint report with Fairer Finance last July misleading sales practices continue. Our advice and preference would be for a statutory FPA, with all firms compelled to register with the regulator but, if this is not feasible, FCA regulation would be preferable to the status quo."

Dignity has set out its plan for a stronger form of regulation in the funeral plan sector by publishing a White Paper, entitled 'Strengthening regulation in the funeral plan sector', which sets out its detailed vision for what stronger but proportionate regulation in the funeral planning market should look like. The paper follows the report Dignity conducted with Fairer Finance in July 2017, which highlighted misleading advertising and aggressive telesales methods.

Whilst the NAFD's preferred regulatory solution – in which statutory powers are conferred upon the Funeral Planning Authority – might differ from that which is ultimately recommended by Fairer Finance and others, it is clear that all parties are aligned in many aspects and are working towards the same overarching outcome - protecting vulnerable people from pressure selling and ensuring they can buy a funeral plan that is right for them.

The FPA, responding to the publication of the report, said: "We welcome the acknowledgement in today's report of the importance of the work the FPA is doing and that customers should be seeking an FPA registered provider if considering buying a funeral plan. As the regulator for the funeral plan sector, we are focused on protecting consumers, and our work to drive up standards in the industry is clearly recognised in this report. Fairer Finance has acknowledged that the conduct of the 24 firms registered with us (representing around 95% of the market) is good – which serves to further highlight the importance of customers only using FPA registered plan providers.

"We recognise that the sector is evolving, and we are currently closely reviewing our Rules to ensure they remain robust. We welcome the suggestions in this report on revisions to our Rules, and these will be considered as part of our current review process.

"Fairer Finance has repeated its previous opinion that the industry should fall under FCA regulation – we believe this a flawed viewpoint and that there is no substantial evidence in the report to support this view. The overwhelming view of the industry is that a solution based around the FPA with all providers being registered with the FPA is the best solution for customers in this market. We believe this view supports the significant changes we have made and the robust approach we take to regulating our registered providers.

"This report also does not define what Fairer Finance mean by FCA regulation; most likely because the process of setting out an FCA regulatory regime is unlikely to be straightforward. We have in depth knowledge of the market and we therefore understand what FCA regulation in any form might mean for all providers, in particular smaller organisations that were not sponsors of this report. The cost of compliance would impact them disproportionately with significant internal costs and the consequence would be reduced competition or increased costs for customers, which is not a desirable outcome.

"Our message has always been very clear. Customers and funeral directors should only be working with FPA registered providers. Doing so gives them the reassurance that the provider in question has voluntarily undergone additional scrutiny and is operating to a high standard in terms of their sales practices, investment practices, and in relation to how they treat their customers."