



The CMA sets out its recommendations on funeral sector regulation

- No price regulation - but CMA intends to monitor the sector closely.
- A new independent standards body with which funeral firms in England, Wales and Northern Ireland must register.
- Requirement for staff and leaders to be suitably qualified.
- Pricing and service information to be published online and in branch.
- Potential for CMA to revisit the sector again in a few years.

In August, the Competition and Markets Authority (CMA) released its Provisional Decision Report, following a two-year long investigation of the funeral sector.

It's a weighty tome and the NAFD is still poring over the detail to seek to understand precisely what is expected of funeral firms going forward.

On first reading, the NAFD was pleased to see that the CMA had reflected on the evidence, commissioned in June by the NAFD from Europe Economics, that highlighted the profound and

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enduring impact of the COVID-19 pandemic on the funeral sector. In response, the CMA had concluded that it was not possible to accurately assess the need or nature of price regulation in the sector at the current time.

Instead, the CMA intends to monitor pricing and competition in the sector over the next few years by requiring quarterly data from all funeral firms with more than five branches.

We are examining this requirement in detail as it has the potential to be costly for funeral firms to administer, is very narrowly focused on revenue and sales volume and it is not clear for what purpose the CMA wishes to undertake this data gathering, although it does refer to the possibility of a second 'supplementary' market investigation in the future.

The report also recommended to Government steps to shine 'sunlight' on the sector to help people make an informed choice of funeral director, with proposed steps to include publishing pricing online, requirements to display certain types of business

information and registration of funeral firms with a new independent standards body.

Again, we are working through the detail of these proposed remedies but, in principle, there is much in these proposed remedies to be welcomed and which are in line with the steps that NAFD and its members have already started to progress.

The work we have already undertaken, includes:-

- building a robust new Code of Practice – see page 26 for more details on when this comes into force;
- developing an online comparison portal, funeral-directory.co.uk, which can host pricing and service information from members - something that will soon become mandatory in the new Code of Practice; and
- initiating some detailed work collaborating with the wider sector, through the Funeral Services Consumer Standards Review, to develop a common set of standards for an even more robust, risk-based inspection and standards monitoring system and quality monitoring

Indeed, the NAFD's existing proposal to set up an independent body to monitor standards in the profession, which we have already shared with the CMA, is designed to meet the independence criteria sought by the CMA and will provide a straightforward option to Government to achieve the CMA's recommendation of an independent standards regulator for the profession.

NAFD Chief Executive Officer, Jon Levett, said: "While we have concerns on the detail of some of the remedies and are investigating these, the substance of the report is - on the whole - encouraging for the profession. We have work to do to convince the CMA that the sector is operating transparently and can properly ensure high standards of care by all funeral homes - but, equally, the CMA made it clear that there is no widespread or system issue with quality - it's more about ensuring funeral homes are operating to high standards so that issues do not crop up.

"Equally, on transparency, we have already taken huge steps forward and

will continue to do so once online pricing becomes mandatory in our Code of Practice. If any members are unconvinced of the need to put their prices online - either on their own website or on funeral-directory.co.uk - I hope the CMA's report provides all the incentive they need to put plans in place now.

"I have to say, though, we were disappointed with the overall tone of the report. Despite the focus on COVID in the report, the funeral sector's significant contribution to the COVID-19 response - supporting the Government as key workers in caring for deceased and bereaved people, with compassion and professionalism under extremely difficult circumstances - was completely overlooked by the CMA. Ours is a sector that stepped up and was not overwhelmed, as was seen in some other countries - and we feel this should have been recognised.

"We are extremely concerned that the CMA has slashed the timetable for no apparent reason and appears to have rushed the final and most crucial part of the process, by introducing brand new remedies and giving the sector less than four weeks to respond to these. During a global pandemic, this significantly increases the risk of unintended consequences and is, in our view, a reckless course of action."

The CMA's recommendation to Government that all funeral firms in England, Wales and Northern Ireland should be registered is pegged to training and education requirements to ensure that registered funeral firms have suitably trained, qualified and experienced members of staff to provide high standards of care.

The NAFD's recently launched Education Framework perfectly positions the Association to provide

training and qualifications at all levels - and with options achievable online and in-person - to funeral sector employees, enabling member firms to meet future Government requirements for continuous professional development (CPD).

Reflecting on the report's release, Alison Crane, Chair of the NAFD Board of Education, said: "In developing this framework, I believe that we have clearly identified the current, immediate needs of our profession and shown our commitment to a long term, sustainable programme of training and education delivery. We believe that education will be the foundation on which the future of our profession is built and, in the coming weeks, we will show how we can help and support you by providing comprehensive guidance and templates which will allow you to assess your business's training needs."

CMA Provisional Decision Report - Your questions answered

1. What has the CMA announced and how will it affect my business?

Following a two-year market investigation, the CMA has released its provisional decisions on how it would like to see funeral firms monitored more closely.

It has said it cannot pursue price regulation at the current time due to COVID-19, but would like to monitor the revenue of firms with more than five funeral homes more closely and recommend to Government steps to set up an independent standards regulator, force all firms to register and to take steps to improve communication, such as publishing pricing online.

These steps will apply in all four nations of the United Kingdom (with some exceptions in Scotland) and will affect more than 70 NAFD member firms.

2. I have more than five branches, what do I need to do?

You don't need to do anything just yet but the Investigation Team has

made some recommendations that, if accepted by the CMA Board, will affect your business.

In the future you may be required to provide quarterly information to the CMA. The CMA proposes that firms who have greater than five funeral homes will be required to provide information every quarter to the CMA on revenue and sales volumes. It recommends that they provide:-

- (a) the total number of funerals provided each quarter; and
- (b) the total revenue (excluding disbursements) during that quarter.

For funeral directors with ten or more branches, the CMA proposes that this information must be provided both in aggregate form and split by simple, standard and other funerals (based on the funeral director's definition of these types of funerals).

The CMA has suggested that this will not be costly for firms to undertake this requirement, which may last for several years. If you disagree, you are urged to

respond to the CMA by 10 September. See details below.

3. What pricing information will I be required to publish?

The CMA proposes to require funeral firms to provide customers with certain defined information, such as the price and details of their most commonly sold, standard and simple funeral packages and all local crematoria pricing options - and to publish these in their funeral home and on their website (where applicable).

We know that some members have no - or only a simple - website, and so we are seeking to ensure the publishing pricing on funeral-directory.co.uk will be an adequate option to meet this requirement.

4. What does a ban on inducements mean?

The CMA proposes to order the prohibition of certain arrangements between funeral directors and third parties.

We are reaching out to the CMA to seek clarity on this as it is similar to the previous Section 9.2 of the NAFD Code of Practice, which was removed following discussion with the CMA as to whether it was anti-competitive.

5. What else will funeral firms need to disclose in the future?

The CMA proposes to require funeral homes to disclose, on their website and in branch:-

- the ultimate owner of the business (this is already in the NAFD Code of Practice);
- interest in any price comparison website(s); and
- charitable donation/gratuity payments to third parties.

6. What does a ban on soliciting business mean?

The CMA is seeking to prohibit certain arrangements, payments and inducements made by funeral directors with/to third parties - such as care homes - as well as the solicitation of business through coroner and police contracts, in order to protect vulnerable customers from being channelled towards a given funeral director that may not fully meet their needs.

7. What does registering my funeral business mean?

The CMA proposes to recommend to the UK Government and the devolved administrations in Northern Ireland and Wales relating to the regulation of the quality provided by funeral directors. This would involve, in the first instance, the establishment of an independent inspection regime and registration of all funeral directors in England, Wales and Northern Ireland. As a process to put in place such a regime in Scotland is already underway, it is not proposing to make the same recommendation to the Scottish Government.

The CMA proposes that, in the future, funeral firms will need to demonstrate that their staff have the appropriate education and training, including continued professional development (CPD), the necessary accredited technical education and/or training for relevant staff and management training for those with management responsibility.

8. I am experienced, but not qualified – will that count?

The CMA has not specified what kind of qualifications will be required nor how/if sector experience will be assessed and recognised in lieu of qualifications.

However, this is already something the NAFD has recognised and is factoring into the new Education Framework that was revealed in August's edition of *Funeral Director Monthly*.

9. What will happen to inspections?

In the future, inspections could be undertaken by an independent inspector for England, Wales and Northern Ireland, who will monitor and enforce standards in relation to care, storage, preparation, transport and collection of deceased people.

The NAFD is proposing to set up an independent body to monitor standards in the profession, and has shared this plan with the CMA. This body will be designed to meet the independence criteria sought by the CMA and could provide a straightforward option to Government in England, Wales and Northern Ireland to achieve the CMA's recommendation of an independent standards regulator for the profession.

10. Can the CMA force me to comply with these recommendations?

Yes, some of the CMA's proposals can be enforced directly by the CMA if accepted by its Board. For example, the proposed requirement for certain funeral directors to regularly provide information to the CMA to support its monitoring would, if accepted by the CMA's Board, be implemented through an Order, which can be directly enforced.

However, some proposals, such as the setting up of a new registration and inspection regime, would require input from Government before becoming enforceable. These would take the form of a recommendation to Government. If accepted by Government, the recommendations will become law – although this will take time.

11. Could price regulation still happen?

Yes, the CMA has said that it wishes to monitor the sector for a few years, with the potential for a second market investigation when things have settled down again.

12. How will the NAFD support me with these changes?

The NAFD has sought to anticipate these requirements as much as possible, investing in funeral-directory.co.uk to provide members with a tool to publish pricing online, reshaping the Education Framework and qualifications to ensure there are accessible courses for a wide range of employees, helping set up the FSCSR review to define common standards across the sector and reshaping the Code of Practice in line with these.

We will provide help every step of the way as the CMA's recommendations become mandatory - to support you in the preparation, management and delivery of the new requirements.

13. When do these changes come into force?

The very earliest that any of the CMA remedies could be enacted is Spring 2021, but nothing is confirmed yet. The CMA is currently seeking to submit its final report to Government by the end of 2020, although the statutory deadline is not until the end of March 2021.

However, steps such as publishing pricing online will be part of the new NAFD Code of Practice, which is being launched on 15 October, and so members are advised to begin preparing for this as soon as possible.

Equally, the NAFD has already prepared plans for the establishment of an independent body to undertake inspections and will be making preparations to set this up, having already commissioned an independent review of inspections by former Inspector of Funeral Directors in Scotland, Natalie McKail.

14. I don't agree with the recommendations. What can I do?

Although we appreciate that the CMA has only provided a short window to review these documents, we suggest members read them as much as possible (go to <https://www.gov.uk/cma-cases/funerals-market-study>).

You have until 10 September to respond to the CMA with your concerns, by email, to funerals@cma.gov.uk. If it will not be possible for you to respond by that date due to holiday or work-related pressures, contact the CMA as it may be willing to provide an extension of up to a week.

