

# The Funerals Market Investigation Order 2021

Colin Garland and Dipesh Shah  
20 July 2021

# Contents

- **Background**
- **Order**
- **Explanatory Note**

# Background

- Market study launched on 1 June 2018
- Market investigation launched on 28 March 2019
- Final Report published on 18 December 2020
- Key findings
  - Low levels of customer engagement due to challenging circumstances when purchasing a funeral
  - Lack of easily accessible and comparable information on price and quality of products and services
  - Lack of visibility of quality of care of deceased

# Background

- Key findings
  - High barriers to entry and high levels of local concentration in supply of crematoria services
- Remedies
  - Requirements on funeral directors and crematorium operators to provide price and other information to customers (Order)
  - Prohibition on funeral directors from entering into or conducting certain arrangements and soliciting for business through coroner and police contracts (Order)

# Background

- Remedies

- Recommendation to UK government and devolved administrations in Northern Ireland and Wales to establish in England, Northern Ireland and Wales an inspection and registration regime
- Recommendation to CMA Board to monitor outcomes in the funerals sector, publish an annual review of outcomes in the funerals sector, and consider consulting on a future market investigation reference

# Background

- Remedies implementation
  - Informal consultation in March 2021
  - Formal consultation in April 2021
  - Final Order and Explanatory Note published on 16 June 2021

# Part 1 – Preliminary

- Part 1, Part 3, Part 5 and Part 6 of the Order came into force on 17 June 2021
- Part 2 and Part 4 of the Order come into force on 16 September 2021
- Order applies throughout the UK
- Defined terms

## Part 2 – Funeral Directors price and commercial information

- Comes into force on 16 September 2021
- Price information
  - Funeral Director must display Standardised Price List, Additional Options Price List and crematoria price information in Branch and on website
  - Standardised Price List must be displayed in Branch window and in Branch



## Part 2 – Funeral Directors price and commercial information

- Price information
  - Standardised Price List must be displayed using the terms and structure set out in Part A of Schedule 1 and must only be amended in accordance with Part B of Schedule 1
  - Funeral Director must offer the CMA Attended Funeral (unless it only offers Unattended Funerals)
  - Funeral Director who offers Unattended Funerals must offer the CMA Unattended Funeral

## Part 2 – Funeral Directors price and commercial information

- Commercial information
  - Funeral Director must display terms of business and disclosure of interests in Branch and on website
  - Terms of business covers size of deposit; times when deposit and final balance must be paid; payment options and interest charged; and any charges for late payment

## Part 2 – Funeral Directors price and commercial information

- Commercial information
  - Disclosure of interests:
    - Ultimate Owner – focus on capturing those instances where a larger Funeral Director acquires an independent Funeral Director
    - Business or material financial interest in a price comparison website comparing funeral services
    - Register of charitable donations, payments and contributions and gratuities

## Part 3 – Prohibited practices

- Came into force on 17 June 2021
- Funeral Director prohibited from entering into any arrangement with another party which could reasonably be understood to encourage, incentivise or require that party to refer Customers to the Funeral Director or give that Funeral Director preference over other Funeral Directors
- Funeral Director prohibited from soliciting potential Customers in the course of providing any services to a coroner or the police

## Part 3 – Prohibited practices

- Part 3 does not prohibit advertising, marketing and other promotional activity unless the activity could reasonably be understood to incentivise or require the third party involved to refer Customers or potential Customers to the Funeral Director or give that Funeral Director preference over other Funeral Directors
- Funeral Director must terminate any prohibited arrangements immediately

## Part 3 – Prohibited practices

- Funeral Director must ensure that any prohibited arrangements that cannot cease immediately on termination cease by 16 September 2021

## Part 4 – Crematoria price information

- Comes into force on 16 September 2021
- Crematorium Operator must supply local Funeral Directors with specified price information
- Crematorium Operator must supply specified price information to Customers upon request
- Crematorium Operator must display specified price information in crematorium and on website

## Part 5 – Information required by CMA

- Comes into force on 16 September 2021
- Funeral Directors with five or more Branches must provide the CMA with total number of funerals and total revenue gained from Funeral Director Services
- Funeral Directors with ten or more Branches must provide the same aggregated information and disaggregated into: (a) CMA Attended Funerals; (b) other Attended Funerals; (c) CMA Unattended Funerals; and (d) other Unattended Funerals



## Part 5 – Information required by CMA

- Information must be provided to the CMA every six months as set out in Part A and Part B of Schedule 2
- First submission due on 1 October 2021 to cover the period 17 June 2021 to 31 August 2021
- Crematorium Operators must also provide revenue and volume information to the CMA

## Part 6 – Enforcement

- Compliance

- Funeral Directors with ten or more branches must supply annual compliance statements to the CMA
- First compliance statement due on 29 April 2022 to cover the period from when each Article comes into force to 31 March 2022
- Funeral Directors with fewer than ten Branches must supply a compliance statement if requested by the CMA
- Funeral Director must report non-compliance to the CMA within 14 days

## Part 6 – Enforcement

- Directions
  - CMA can give directions to ensure compliance with the Order
  - If Funeral Directors fail to comply with the directions, the CMA can enforce these through the courts
- Supply of information to the CMA
  - Funeral Directors and Crematorium Operators are required to provide information to the CMA if required to do so

# Explanatory Note

- Permitted changes to the Standardised Price List – paragraphs 27 to 31
- Where to display information – paragraphs 35 to 39, 63 to 66 and 90 to 93
- Clear and prominent – paragraphs 42 to 52, 69 to 76 and 94 to 101
- What a Funeral Director must offer – paragraphs 53 to 58

# Explanatory Note

- Standardised Price List – paragraphs 151 to 184
- Minimum standards for Standardised Price List – Schedule A
- Funeral Directors with five or more Branches – Schedule B
- Funeral Directors with ten or more Branches – Schedule C
- Template compliance reporting form – Schedule D