

Standards consultation headline report

July 2020

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Introduction

In January 2020 The FSCSR published a consultation paper, seeking views on a number of questions and proposals about how the funeral sector should be regulated.

Among other things, we sought views on a proposed list of minimum standards for funeral directors and a proposal to bring the funeral sector under the remit of a mandatory regulator.

The consultation paper was shared with all members of the FSCSR Stakeholder Reference Group and was published on the FSCSR public website and promoted on social media.

This paper sets out some of the headline findings.

Overview

Respondents overwhelmingly supported the FSCSR proposal to recommend that an independent body be set up to regulate the funeral directing profession. There was also broad support for such regulation to be mandatory, risk-based and outcomes focussed, although some respondents felt that a more prescriptive set of requirements would be appropriate in relation to 'back of house' and 'care of the deceased' elements of a funeral director's facilities and role. There was also strong support for the suggestion that information about every business's compliance with regulatory standards should be published.

The suggestion that an interim regulator should be set up by industry bodies until such a time that a statutory regulator is created received cautious support from most of those who responded to this question. However, the clear message was that this interim step should be strictly time limited. A significant minority strongly disagreed and felt that setting up an interim regulator could be counter-productive.

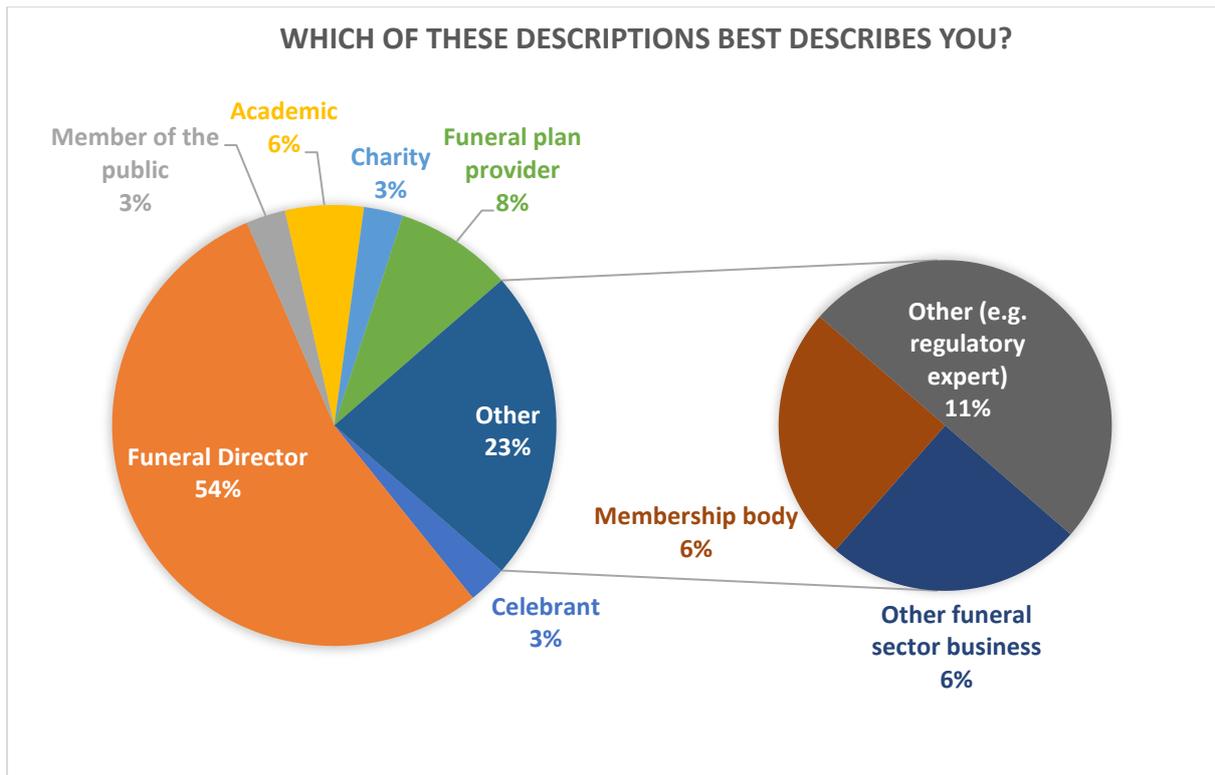
There were very mixed views on the extent to which a future regulator should be involved in supporting business to comply with regulatory requirements and helping to resolve consumer complaints.

Feedback on the Code itself tended to relate to specific provisions rather than its structure or form. The only exception to this was that respondents tended to view the non-mandatory provisions of the Code (the 'indicative behaviours') differently, with some appearing to interpret them as being quasi-mandatory and setting the tone for compliance rather than merely offering suggestions on how a funeral director could demonstrate that they have achieved the mandatory outcomes.

It has not been possible to reflect all of the suggested amendments to the Code in this document but some of the more significant suggestions have been outlined below.

Respondents

We received 35 responses to our consultation paper. Of these, more than half identified themselves as funeral directors.



Of those funeral directing businesses that responded to the consultation paper, the majority were members of the National Association of Funeral Directors (NAFD) and/or the National Society of Allied and Independent Funeral Directors (SAIF).

In order to capture the widest possible range of views, we also held a special stakeholder meeting to run through the consultation questions with a group of funeral directors who are not affiliated with any trade association. An overview of the feedback from this meeting is presented at Annex A.

Regulation of the funeral sector

The first part of the consultation document sought views on how the sector should be regulated.

Mandatory regulation of the funeral sector

Respondents overwhelmingly felt that the funeral directing profession should be subject to mandatory regulation. Of the comparatively small number who did not respond to this question, only one indicated that they worked within the funeral sector.

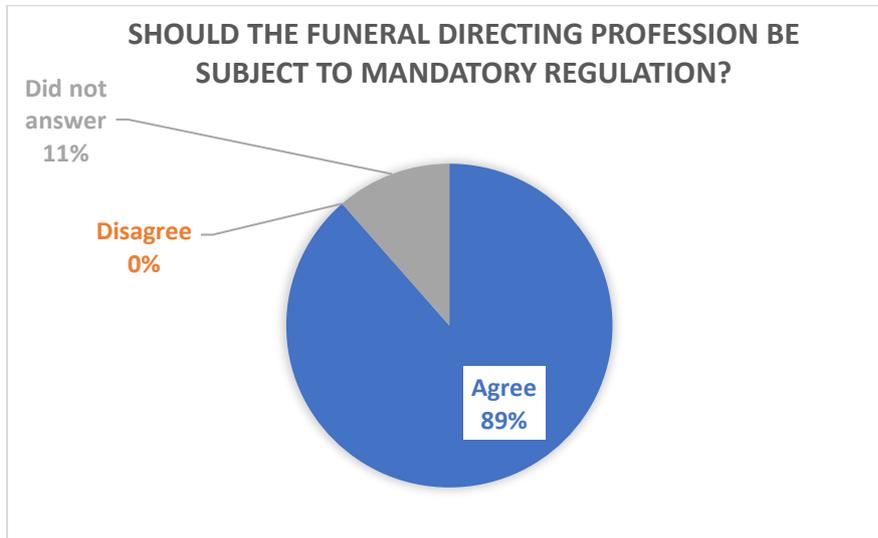
Those funeral directors that provided detailed reasons tended to feel that mandatory regulation would help to level the playing field and ensure fair competition between businesses. One funeral director respondent said:

“The public already believes that the funeral sector is regulated, because of this they believe that standards are similar in every provider. This is not the case and regulation would level the ground somewhat. Ensuring that operators demonstrated their standards and where inspected to them.”¹

¹ Respondent 4 (funeral director)

Other respondents expressed concern about the lack of protection for consumers. For example, a representative of a charitable organisation said:

“The CMA’s findings make it clear that regulation is needed to ensure adequate care of both the deceased and the bereaved. We have also submitted detailed responses to the CMA consultations that indicate why we feel this is necessary.”²



Some respondents did however caveat their support for regulation by stating how important they believe it is that any system of regulation allows funeral directors to continue to provide a sensitive and personal service:

“My fear is that over regulation may cause some of the ways we operate i.e. with care, patience and warmth to be taken away and replaced with rigid, impersonal, corporate ways of handling very sensitive situations.”³

The vast majority of respondents also agreed that an independent body should be set up to act as a regulator. Only one respondent articulated a different view: that firms should simply be required to join one of the two existing trade associations.⁴

Approach to regulation

Views on outcomes/principles-based regulation

The majority of respondents agreed with the FSCSR proposal to recommend that any future regulation of the sector should focus on ensuring good outcomes rather than prescribing rules. Where respondents provided reasons for preferring an outcomes/principles-based approach, they tended to cite a perception that a more prescriptive approach would be disproportionately costly to monitor and implement:

“I agree that this is the fairest approach to ensure that small businesses do not have to undertake a heavy financial burden. It is also important that costs remain as low as possible so the public do not have to pay more.”⁵

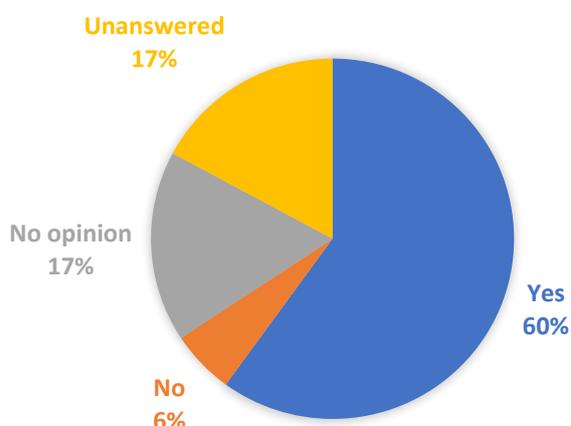
² Respondent 24 (charitable organisation)

³ Respondent 5 (funeral director)

⁴ Respondent 13 (funeral director)

⁵ Respondent 35 (other, member of the public)

DO YOU AGREE THAT ANY FUTURE STATUTORY REGULATOR SHOULD ADOPT AN OUTCOMES/ PRINCIPLES-BASED APPROACH TO REGULATION?



However, some respondents expressed concerns that an outcomes-focused approach could lead to inconsistencies in the way that adherence to standards is monitored and enforced. One funeral director respondent said:

*"I also own another business, not associated with the funeral industry. That business is currently regulated by a Government body with this more open outcomes-based approach to regulation. It has been the subject of several inspection officers over the last two decades of my ownership. There have been some seismic differences style, interpretation and expectation between these officers."*⁶

Another view expressed was that an outcomes-based approach might not be suitable for regulating certain aspects of funeral director services. One respondent felt that specified minimum standards were required in relation to some core unobservable elements of the funeral arranging process (e.g. clear rules on the use of refrigeration and safe embalming).⁷

Another large provider of funeral services made a similar point but felt that the success of an outcomes-based regulation would hinge on the ability of the regulator to engage with the sector and give clear published guidance on its expectations of what is needed to meet the required outcomes.

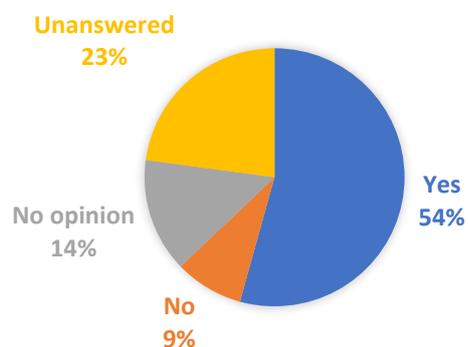
Views on risk-based regulation

A similar proportion of respondents agreed that the regulation of the sector should be set up in such a way that allows for resources to be targeted at businesses that represent the greatest risk to consumers (e.g. physically inspecting high-risk businesses more frequently).

⁶Respondent 11 (industry business representative)

⁷Respondent 8 (funeral director)

DO YOU AGREE THAT A FUTURE REGULATOR SHOULD ADOPT A RISK-BASED APPROACH TO MONITORING REGULATORY COMPLIANCE?



Those respondents who set out their reasons for disagreeing with this proposal appear to have interpreted the approach as completely excluding the use of regular inspections. For example, one funeral director respondent said:

“I think those that pose most risk should be inspected earlier, but a should be inspected regularly to apply pressure for upkeep of standards.”⁸

Similarly, many of those who set out their reasons for agreeing with the proposal added a caveat that a risk-based approach would only be effective if an element of regular inspection and monitoring was retained in order to alert the regulator to new risks. For example, one funeral director respondent said:

“We believe a risk-based approach to monitoring compliance makes sense in order to control the costs of oversight and to focus on those providers whose standards may have been determined to fall below an agreed level. However, we would note that all providers and all funeral home locations must at the same time be subject to certain minimum levels of oversight in a given timeframe, irrespective of the outcome of previous visits.”⁹

Another respondent warned against relying solely on consumers to alert the regulator to regulatory risks, particularly in relation to unseen aspects of funeral directors’ services:

“[Our] research into quality and standards found that at present it is hard for consumers to assess the quality of back of house facilities and make effective judgements. Consumers have neither the access nor knowledge to make a judgement on quality in many of these cases.”¹⁰

Mandatory registration with a regulator

All those who responded to this question agreed that funeral directing businesses should be required to register with a statutory regulator. The general consensus was that regulation of the sector would not be effective unless all funeral directors are required to make themselves known to a regulator.

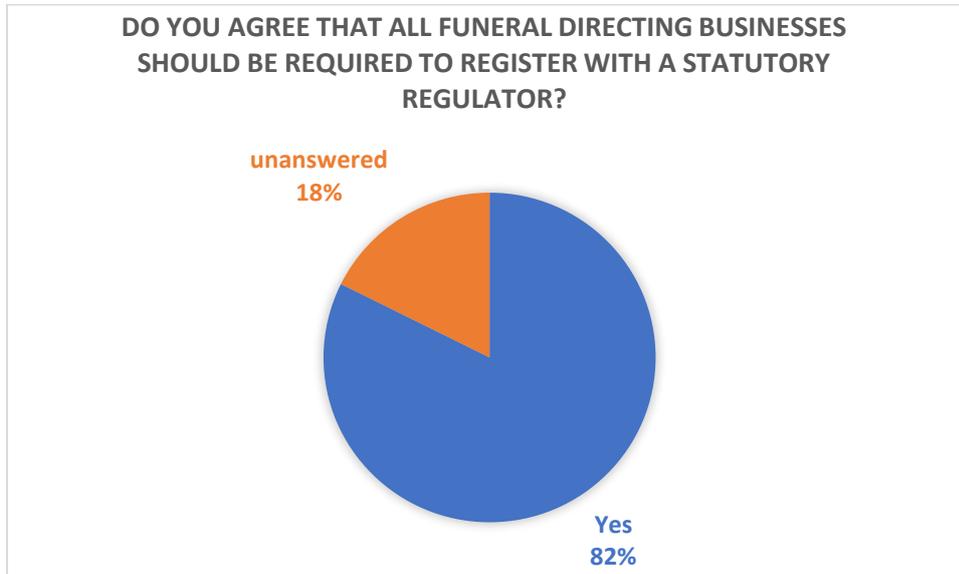
One funeral director provided this comment:

⁸ Respondent 10 (funeral director)

⁹ Respondent 19 (funeral director)

¹⁰ Respondent 8 (funeral director)

“Otherwise it makes a joke of the whole thing and is no different to the current situation. The public expect FDs to be regulated and don't understand that at the moment is it the firm's choice.”¹¹



Many respondents went further, making the case for the licensing of individuals working within the sector:

“All business should be required to register with a statutory regulator. Businesses as a whole should also be licensed to make sure the entire organisation is accountable for good governance, quality and transparency standards, complaints monitoring and other regulatory obligations. It may also be necessary to licence individuals at the appropriate level of seniority to ensure the accountability of senior staff and to ensure that small funeral businesses (including sole traders and partnerships) are also appropriately regulated.”¹²

One respondent felt that all premises where care of the deceased takes place should be held on a national register:

“All locations, not just branches, but Head Offices, garages, storage units - any location that is associated with the funeral business/es or the provision of funerals and all of these details should be held on a National Register which can be accessed by the general public”¹³

But other respondents were concerned about the cost of licensing and the effect this could have on the price of funeral services:

“Yes, and for a register of businesses to be available for consumers to access. We support funeral directors having to be licensed, though we are concerned that if there is a cost for licensing, funeral directors may pass this cost onto their customers, which would possibly raise funeral costs rather than lowering them. We are also concerned in case a high cost deters new funeral directors from entering the market, and therefore dampens competition further. We trust that a sensible approach to costing licenses would be taken, perhaps linking the cost to the size or profit of the business, so that smaller businesses pay less than larger ones.”¹⁴

¹¹ Respondent 10 (funeral director)

¹² Respondent 6 (funeral director)

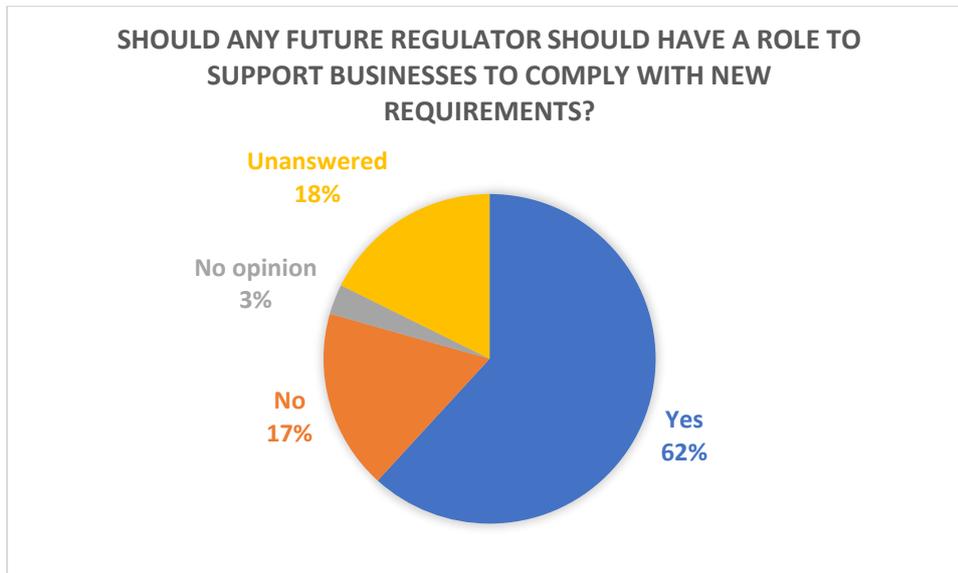
¹³ Respondent 6 (funeral director)

¹⁴ Respondent 24 (charitable organisation)

Some respondents provided additional thoughts on how a registration system could be introduced. One respondent suggested that new entrants could be required to register immediately, while existing operators could be given a set timeframe within which to register.

Should a regulator have a role to support businesses to comply with new requirements?

While the majority of those who responded to this question agreed that the role of a future regulator should extend to supporting businesses to help them comply with regulatory requirements, a significant minority did not.



Many of those who supported the proposal felt that businesses should be required to improve within set timeframes. A member of the public made the following comment, which was echoed by other respondents:

*"...the aim should be to support the sector and increase its effectiveness rather than drive good businesses to close down due to overly strict guidelines. A time period, up to 18 months seems reasonable and fair."*¹⁵

However, one respondent raised concerns that any flexibility in the regulator's approach to enforcing standards could lead to consumer detriment:

*"To allow flexibility in this regard would be distortive of competition to the extent that the funeral market operates locally, and flexibility in the applicability of certain standards may mean new entrants are placed at a competitive advantage over incumbent firms who already comply. Further, this may give rise to consumer detriment if certain consumers assume that the industry has certain minimum standards which are applicable nationwide, but yet certain new entrants are allowed to operate who may not yet be meeting the desired and required minimum standard."*¹⁶

One supportive respondent suggested that the regulator could mirror the approach adopted in Scotland, where the regulator supportively engaged with the sector for a period of time before being given enforcement powers:

"There may be a need for a specific period (for example 12 months) once the principles-based regulations have come into place for businesses to reach full compliance. During this time period, the regulator will provide practical support to those businesses that want to reach the required

¹⁵ Abigail Philips (member of the public)

¹⁶ Respondent 19 (funeral director)

standards. This follows a similar model used in Scotland following the appointment of the Scottish Inspector of Funerals, who began operating in the sector before statutory licensing was in place.”

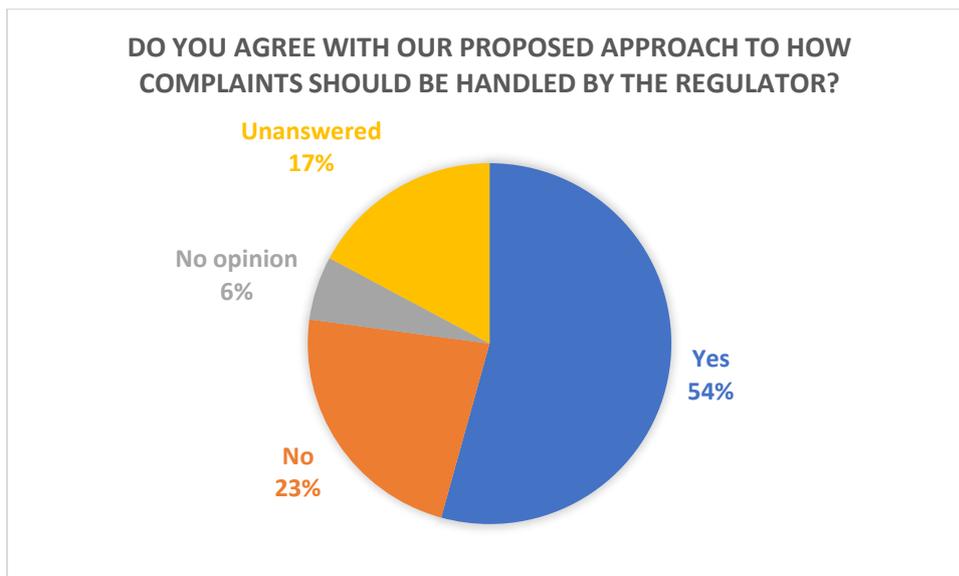
Several respondents felt the role of supporting businesses to comply with regulatory requirements should fall to the trade associations, rather than an independent regulator:

“The regulator should provide clear and easy to follow guidelines to ensure that businesses are able to comply with the requirements, however the responsibility to educate the sector should lie with the trade bodies.”¹⁷

Complaint handling

The consultation paper proposed that a future regulator should accept complaints from members of the public for regulatory purposes only (i.e. to monitor risks and take action against the business where necessary), on the understanding that responsibility for resolving the matter, and preferably providing the complainant with access to an independent complaint resolution scheme, sits firmly with the funeral business.

The majority of those who responded to this question agreed with our proposal but a significant minority did not.



Some respondents who disagreed with the proposal felt strongly that the regulator should have a role as an independent complaint handler:

“Customers should be able to complain easily to an independent authority on any issue, not just those related to regulatory issues. Some clients feel unable to complain directly because the funeral director is known to them or a member of their community, and it is difficult to remain anonymous, or they feel if they make a complaint there will be repercussions, particularly if they are still paying a bill. We have seen cases that show that the existing complaints systems are not always robust or independent. If the funeral director about whom the complaint is made happens to be on the committee that investigates complaints then this would clearly create a conflict of interest...”¹⁸

¹⁷ Respondent 4 (funeral director)

¹⁸ Respondent 24 (charitable organisation)

Whereas others felt that the proposal would lead to the regulatory becoming too involved in complaint handling:

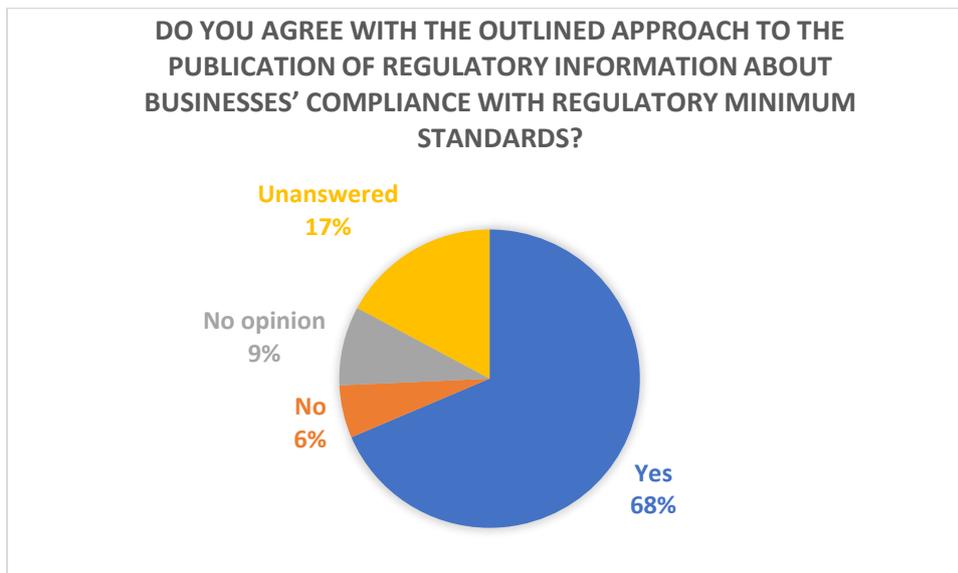
We believe complaints handling should be completely independent of the regulator in order to allow for true independence when it comes complaints resolution and to avoid any conflict of interest.¹⁹

A number of supportive respondents commented that the proposed approach would need to be supported by clear regulatory requirements for every funeral directing business to have a suitable and clear complaint procedure:

“...any sector regulator should have a role in setting out a uniform set of principles for handling and resolving customer complaints in the funeral sector. For example, [we] would support a Code of Practice that sets out an obligation on funeral directors to have a customer complaints and resolutions policy.²⁰

Publication of regulatory compliance information

The vast majority of those who responded to this question agreed with the FSCSR proposal to recommend that information about businesses’ compliance with regulatory standards should be made publicly available.



Those who disagreed tended to have concerns about the format and detail of information that would be published, rather than the proposal itself:

“You haven’t given an example of how that would look but if the publication is in detail all it will do is damage businesses that have failed some aspects. A more blunt instrument like the food hygiene rating standards would be fine.”

Many of those who supported the proposal also felt that businesses should have the opportunity to appeal before any data was published:

“We think it is of value to consumers to be able to access the information about a business’s compliance with regulatory minimum standards. In addition, we support and would expect an

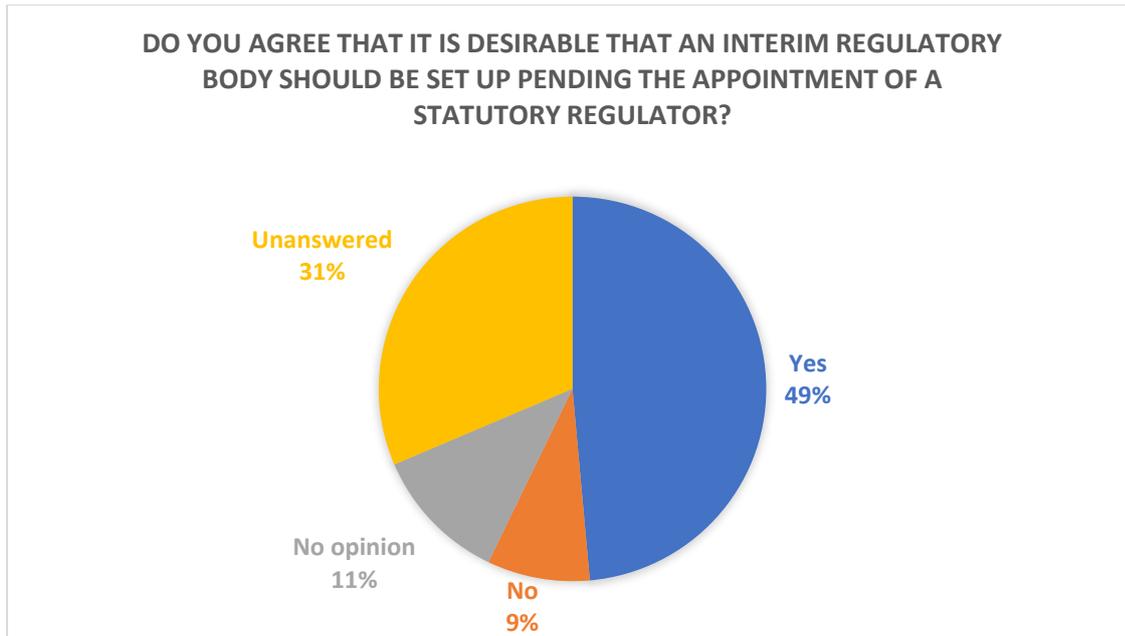
¹⁹ Respondent 19 (funeral director)

²⁰ Respondent 29 (funeral plan provider)

appeal process to be in place before publication of any material, in the event that a provider had sufficient grounds to question any particular finding.”²¹

Others highlighted that publishing compliance data would only be useful to consumers if presented in a way that is clear and easy to understand:

“... the findings of inspections must be presented in a way that is a useful source of information to the community, and help families make better choices. This may mean, for example, that 'easy read' versions of reports are produced, so that the findings are accessible to those with learning disabilities, or that reports are published in alternative languages in areas with significant linguistic diversity.”²²



The majority of those who answered this question agreed that an interim regulatory body should be set up, pending the appointment of a statutory regulator. However, it is noteworthy that almost as many respondents either chose not to answer the question or said they had no opinion.

Those who supported the idea tended to view it as a helpful and necessary stepping stone on the path towards statutory regulation:

“We need to get the process of regulation under way and we have the basis of the mechanism with NAFD and SAIF already so why not? We can learn from it so that a statutory full time regulator will be implemented more easily without so many 'teething problems' as there always are.”²³

However, some respondents were reluctant to support the proposal without there first being a clear roadmap towards this end:

“If there is to be an interim regulator it should only be short-term, with the intention for an independent statutory regulator to be in place within 12 months and should be monitored by an independent body such as the suggested Chartered Institute of Trading Standards.”²⁴

²¹ Respondent 19 (funeral director)

²² Respondent 29 (funeral plan provider)

²³ Respondent 31 (trade association or other membership organisation)

²⁴ Respondent 20 (funeral director)

One respondent raised concerns that the creation of an interim regulator could serve as a distraction from the longer-term aim of establishing a statutory body:

“...the focus should be on developing a long-term and sustainable form of regulation...[we are] concerned that an interim regulatory body, without statutory backing to improve outcomes for consumers, may detract from efforts to deliver genuine long-term protection and a viable minimum set of standards for consumers... We believe that, as has happened in Scotland, there would be value in using the time before a long-term statutory system of regulation is introduced to drive up standards across the industry and prepare the sector for higher standards. This could be done through early publication of the Code, and by the CMA and/or the proposed regulator working with the industry to raise awareness of these new requirements and provide practical support for those committed to transition to these new standards.”²⁵

When asked whether any additional measures should be put in place to help ensure the independence of an interim regulatory body, some respondents highlighted the need for robust governance, separate from the existing trade bodies:

“Our view is that ultimately there is a need for a formal and independent statutory body operating within clear guidelines and parameters. We believe that it will be challenging for the NAFD/SAIF to take on this very different kind of role and to reconcile it with its position as a trade body. Any involvement of NAFD / SAIF would be strictly to bridge an interim gap... Any interim body needs to have an Independent Board without industry / Funeral Director representation. The involvement of the NAFD and SAIF would need to be at arm’s length from the regulatory body and act an advisory stakeholder body only.”²⁶

Others felt it would be important for any interim body to be monitored by an independent external body:

“... once an interim regulator is in place, the FSCSR should ask the Chartered Institute of Trading Standards to monitor operations, to ensure impartiality until the government establishes a statutory regulator.”²⁷

Feedback on the draft FSCSR Code

Parties to whom the Code should apply

It was proposed that the Code should apply to:

“A person or organisation whose primary activities consist of, or includes the arrangement and conduct of funerals.

For the avoidance of doubt, this definition includes all of the following:

- *Funeral businesses, including sole traders and partnerships*
- *Funeral business owners*
- *Funeral business staff who routinely come into direct contact with bereaved families*
- *Embalmers*
- *Funeral business staff responsible for arranging funerals*
- *Funeral business staff responsible for the care or transport of deceased people*
- *Managers of funeral business staff*
- *Funeral business managers*

²⁵ Respondent 8 (funeral director)

²⁶ Respondent 6 (funeral director)

²⁷ Respondent 29 (funeral plan provider)

- *Anyone who sells funerals*

Many respondents felt the envisaged remit of the code should be expanded or clarified. One funeral director felt that the Code should cover *“anyone else who is linked with / working in or supplying the funeral profession / industry or dealing with client families.”*²⁸

One respondent raised concerns that those whose primary business activity is not the provision of funerals might not be covered by Code, as currently drafted:

*“The definition of funeral director is vague and narrow and requires further consideration. Those whose primary activity consists of or includes the arrangement of funeral would not cover the rural joiner / builder whose secondary activity might be as a Funeral Director undertaking 20 funerals per annum.”*²⁹

We also received specific suggestions for how the scope of the code could be expanded. For example, several respondents were concerned that the definition, as currently drafted, could be interpreted as excluding businesses that provide direct cremation services. For example, one funeral director commented that:

*“The Code must be clear on the role of direct cremation as part of the Code and either clearly include or exclude it. Increasingly funeral directors are providing direct cremation services, and so the definition of a funeral should be widened to include disposal, or it should be noted that the Code does not cover this.”*³⁰

Another suggestion that was made by one respondent was that celebrants should fall within the remit of the Code. Their answer was accompanied by the following comment:

*“They charge for a service associated with funerals & are normally chosen by the funeral arranger/company, not the bereaved.”*³¹

However, a larger number of respondents expressed the opposite view, with one funeral director commenting that:

*“They do not directly care for the deceased. The role of the funeral director is varied plus they are directly appointed by the client. Third parties ie celebrant are appointed by the funeral director and their role is regarding the day of the funeral rather than the whole process.”*³²

One respondent felt that, while celebrants should not be subject to the Code, the actions of funeral directors in relation to the selection and recommendation of their services to families should:

*“In relation to civil celebrants, ministers, humanist etc clients need to have information made available in a clear and easily understandable manner so as to be able to make an informed decision, for example – (i) experience (ii), qualifications (iii) formal training (iv) are they member of an association with a code of conduct (v) are they listed (vi) are they covered by indemnity insurance and DBS (Disclosure and barring service)? The code should cover recommendations made by FDs and consider what proportionate checks FDs should have make on third parties before promoting the provision of third-party service to their clients.”*³³

²⁸ Respondent 6 (funeral director)

²⁹ Respondent 6 (funeral director)

³⁰ Respondent 8 (funeral director)

³¹ Respondent 31 (membership organisation)

³² Respondent 34 (Other, NAFD SQM)

³³ Respondent 6 (funeral director)

Other suggestions included:

- clarifying that repatriation companies who transport deceased around the county or internationally are intended to be included within the Code's remit;³⁴
- expressly stating that not for profit and other (e.g. religious/community group) models are intended to be included in the Code's remit;³⁵and
- adding an additional definition of "funeral business", wide enough to cover all funeral service operators (e.g. businesses that operate exclusively online)³⁶

The Code Principles

The Draft FSCSR Code is based on the following 11 Principles:

Funeral directors must:

1. act in the best interests of each client, prospective client and customer;
2. provide the best possible level of care to the bereaved, keeping in mind the specific needs of each client and family;
3. respect and maintain the dignity of deceased people in their care at all times;
4. act with honesty and integrity;
5. provide clients with full and fair information about services, products and associated costs;
6. behave in a way that promotes and maintains public trust in their business, the funeral directing profession and related trades;
7. comply with all legal and regulatory obligations and deal with their regulators in an open, timely and cooperative manner;
8. run their business effectively and in accordance with proper governance and sound risk management principles;
9. run their business in a way that encourages equality of opportunity and respect for diversity;
10. run their business in a way that encourages a culture that values and welcomes complaints as a way of putting things right and improving service; and
11. conduct appropriate due diligence in relation to all third-party relationships that have the potential to negatively impact their clients.

Very few respondents said that they strongly disagreed with any of these principles and those who said they did disagree tended to offer minor constructive suggestions for improvement.

One respondent suggested modifying Principle one to make compliance easier to assess:

*"We would suggest that a minor amendment to principle 1 should be considered. Whilst we accept the intent of the principle, we believe that acting in the 'best interest' of each client, prospective client and customer is hard to quantify and open to interpretation and dispute. We believe that it should instead refer to 'good faith' which is likely to be easier to apply."*³⁷

One respondent suggested that Principle 5 should be amended as set out below:

³⁴ Respondent 4 (funeral director)

³⁵ Respondent 25 (industry business representative)

³⁶ Respondent 19 (funeral director)

³⁷ Respondent 8 (funeral director)

1. provide clients with full, clear and fair information about services, products and associated costs,³⁸

Other respondents suggested making clear reference to price transparency³⁹ and vulnerable consumers⁴⁰ within the Code's principles.

One respondent did suggest that Principle 10 should be removed:

*"I have seen and had to put this into practice in the past and it just creates a tool for creating distrust and setting an expectation of 'Please complain, we'll give you money back'. If a business chooses not to recognise complaints and improve their business accordingly, they will keep making the same mistake and that's idiotic but not something that needs covering by this Code."*⁴¹

Structure of the Code

Only a small number of respondents offered general feedback on the proposed structure of the Code. One respondent raised concerns about taking an approach that was not consistent with that being progressed by the Scottish Government:

*This code and guidance is not as specific in some areas as the Scottish Code of Practice but appears to cover a broader spectrum of standards affecting client choice. The Scottish Code is not as comprehensive focusing on 6 principles compared to the proposed 11 here. The Scottish Code is silent on a number of points around the level of care for the client, acting with honesty and integrity and legal compliance. In terms of regulation of Quality/back of house, there should be a consistent UK wide approach that ensures consistency of approach to provision of funeral services and quality of funerals across the market place as a whole ie across the whole of the UK.*⁴²

Another respondent felt questioned whether setting out non-mandatory indicative behaviours in relation to certain aspects of caring for deceased people was a suitable approach:

"We recognise that the approach of having 'indicative behaviours' has been chosen consciously and is intended to reflect the diversity of the sector. We agree that in principle it is an appropriate approach, and will support compliance with the Code by businesses of very different sizes and types.

*However, we believe that there are some areas where adopting a principles-based approach results in the Code being too broad and vague. We would suggest that there should be mandatory and much more specific requirements in a circumscribed set of areas, specifically in relation to back of house facilities, where they are currently only indicative. Refrigeration and embalming are two specific areas which should be covered. For example, the code should mandate that embalming is carried out by a qualified embalmer, or under the supervision and training of a qualified embalmer."*⁴³

³⁸ Respondent 28 (funeral plan provider)

³⁹ Respondent 19 (funeral director)

⁴⁰ Respondent 6 (funeral director)

⁴¹ Malcolm Jones (funeral director)

⁴² Respondent 6 (funeral director)

⁴³ Respondent 8 (funeral director)

Should funeral directing businesses with a web presence be required to make their pricing information available online?

All those who responded to this question agreed that the Code should require funeral directors to make their pricing information available to consumers online.

Some respondents felt that even those funeral directors who do not have a web presence should be required to make their pricing information available using another online platform:

“Yes – it should be required to display prices for all products and services on their websites, or other online presence, and in branch.”⁴⁴

Some respondents offered comments on the format in which pricing information should be displayed. One respondent felt a very comprehensive price list would be most beneficial to consumers:

“The price list should be comprehensive, it should give details of essential and optional items, it should cover basic and direct services where these are offered, it should also be clear that there will be disbursements and examples of what the total cost might be. Also things that may be required at a later stage that has an overall impact on the total cost, such as grave memorials.”⁴⁵

While other’s felt it was most important that the information could be easily compared with the offerings of other businesses:

“In a way that is easily comparable to other businesses.”⁴⁶

One respondent suggested that the Code should be more flexible in relation to the listing a ‘price from’ (this is currently discouraged by Indicative Behaviour 1.25). They felt that listing a price in this way was appropriate for certain services:

“There are some unique services, for example where a service type is not frequently used, that a ‘price from’ cost would be most appropriate on a website... the draft Code should clarify these circumstances to cover businesses acting in good faith.”⁴⁷

Part 1: Caring for your clients

We received a great many helpful suggestions on how the Code might be improved for the benefit of consumers. It is not possible to reflect all of these in this paper but we will have regard to them when updating the draft Code.

A number of respondents felt that greater detail was required to help funeral directors and consumers understand exactly what standard is required/can be expected. For example, one respondent commented that the requirement for service to be delivered in a “timely manner” was unhelpful and should be clarified:

“What is timely for a funeral to take place in London may differ significantly to that in Dublin therefore we need to add a definition”⁴⁸

⁴⁴ Respondent 24 (Charitable organisation)

⁴⁵ Respondent 25 (industry business representative)

⁴⁶ Respondent 4 (funeral director)

⁴⁷ Respondent 8 (funeral director)

⁴⁸ Respondent 3 (funeral director)

Similarly, another funeral director felt that further guidance on what constitutes “fair treatment” should be provided and suggested...

“...clarifying outcome (1.1) to provide guidance on what in practice clients and prospective clients can reasonably expect from fair treatment. Currently the outcome is too ambiguous and open to interpretation such that consumers will be unclear on what they can and should expect from businesses in the funeral sector.”⁴⁹

The same respondent felt that Outcome 1.7 (requiring funeral directors to make their client aware of their personal responsibility to ensure they are legally entitled to make the funeral arrangements) placed too heavy a burden on funeral directors and should be amended:

“...it is unclear that funeral directors and other businesses in the funeral sector are best placed to make prospective clients aware of their personal responsibilities to ensure they are legally entitled to make funeral arrangements or to mediate and resolve family differences... a clearer outcome, that does not overstate the expectations of the industry, would require business to take clear instructions from designated family decision makers only.”

Another respondent felt that the Code should go further in relation to price transparency, requiring funeral director to volunteer set pricing information at the earliest possible stage:

“We welcome the inclusion of O(1.6) that states “clients receive full and clear information, both at the time of engagement and when appropriate as their matter progresses, about the likely overall cost of their matter”, but believe it should also include conversations that take place prior to ‘the time of engagement’ e.g. any preliminary conversations/enquiries, whether they be over the phone, by email or in branch. We are also slightly concerned about the phrase ‘likely overall cost’ as this could be taken to mean that a rough figure could be given as opposed to an accurate quote. We would welcome the use of stronger language than this.”⁵⁰

The same respondent felt that the Code would better protect the interests of consumers if it required (rather than suggested) funeral directors to actively encourage all consumers to reflect on their purchasing decision before entering into a contract with them and to provide full clear details of payment terms in advance:

“Due to the inherent vulnerability of bereaved people, the importance of the decisions made, the amounts of money involved and the difficulties clients experience in shopping around we believe this [Indicative Behaviour 1.9] should be contained in the mandatory outcomes.... We are very disappointed and concerned that there is no mention of payment terms anywhere in the Code... If terms are clear from the outset it may also help customers avoid unmanageable debt. Therefore we believe a mandatory outcome should be added that covers a requirement to provide payment information on websites/online profiles, price lists and in conversations, including in preliminary enquiries by phone, in person and by email. Information should include, as a minimum, the size of deposit; by when that and the balance have to be paid; and any available options for paying it, i.e. instalments and any associated interest.”⁵¹

We also received feedback that the Code should specifically deal with conduct issues related to doorstep selling.⁵²

⁴⁹ Respondent 8 (funeral director)

⁵⁰ Respondent 24 (charitable organisation)

⁵¹ Respondent 24 (charitable organisation)

⁵² Respondent 6 (funeral director)

Should having access to refrigerated mortuary facilities be a mandatory requirement of the Code?

The overwhelming majority of respondents agreed that all funeral directors (as defined by the Code) should have access to refrigerated mortuary facilities.

The majority of supportive comments were brief, for example:

“It is awful to think that there are businesses out there who do not see this as an important tool in the provision of funeral services. It should be a minimum requirement.”⁵³

Some respondents offered views on minimum standards for refrigeration:

“We believe the fundamental requirement is that all deceased are stored within an enclosed cabinet or open cold room, where each deceased is covered and stored on its own tray, trolley, stretcher or coffin.”⁵⁴

Several respondents emphasised that relying on access to publicly funded refrigeration should not be permitted by the Code:

“The Code of Practice should give clear guidance on utilisation of state provided mortuary facilities, such as those operated by NHS Trusts, by funeral directors. A crucial element of quality and standards is to have a high level of oversight and care and this cannot be achieved at non-specialised facilities, such as with an NHS trust. For example, if refrigeration facilities fail over a weekend, there would be questions as to who would be accountable for the implications of this. Business should not rely on publicly funded facilities to provide an essential element of modern funeral services.”⁵⁵

Some respondents felt that the Code should require funeral directors to have written service level agreements in place with all third-parties whom they rely on for mortuary facilities:

“All third party refrigeration providers should provide evidence of robust disease control and management processes to ensure correct identification of the deceased throughout their journey in care. We suggest that there is a requirement within the Code for a written agreement to be put in place between the Funeral Director and any third party refrigeration provider incorporating SLAs”⁵⁶

Not all respondents agreed that refrigeration should be mandatory. One respondent commented that refrigeration is often unnecessary when embalming takes place promptly:

“Depending on the business model, if short timescales are involved or embalming is carried out on the same day the deceased is taken into the funeral director’s care (which may only be possible for hospital deaths) this may not be necessary.”⁵⁷

However, other respondents felt that the code should not allow funeral directors to rely on the process of embalming as an alternative to refrigeration in all circumstances:

“...we do feel refrigeration is generally necessary for the appropriate care of the deceased, though we acknowledge comments by others with more experience that refrigeration may not

⁵³ Respondent 7 (other, NAFD SQM)

⁵⁴ Respondent 19 (funeral director)

⁵⁵ Respondent 8 (funeral director)

⁵⁶ Respondent 6 (funeral director)

⁵⁷ Respondent 25 (industry business representative)

*be necessary when embalming has taken place. However, embalming should not be relied on to avoid refrigeration as not everyone wishes this to be carried out.*⁵⁸

Part 2: Your operational facilities

A relatively small number of respondents offered additional views on this section of the Code. The views we did receive tended to be that requirements relating to back of house facilities should be more detailed and prescriptive.

For example, one respondent said:

*"...Currently, the outcomes only refer to 'suitable facilities' and we believe that greater specificity is required by consumers to understand the level of quality they should expect from funeral directors. For outcome (2.1) it would be worth defining specifics e.g. refrigeration or mortuary facilities. For outcome (2.3) providing a definition of what a 'suitable refrigerated mortuary facility' would be.*⁵⁹

First offices

We asked respondents whether they agreed that, unless otherwise instructed, first offices should be carried out on every deceased person taken into a funeral director's care. The vast majority agreed without providing further comments.

A supportive comment provided by a funeral director argued that first offices was often required for hygienic reasons:

*"...we agree that first offices should be carried out on every deceased person taken into a funeral director's care. It is important to note that the focus should not be just on ensuring that they are in a respectful and presentable state for family, but that this is undertaken in hygienic and sanitary conditions.*⁶⁰

One respondent argued that the Code should be strengthened on this point, to ensure first offices are carried out "as soon as practicably possible".⁶¹

However, another respondent felt that delay would sometimes be inevitable:

*"But .. it depends on the time and location of the deceased. For instance, it is not always practical for a deceased to have first offices carried out at a nursing or residential home as the priority is to have the deceased taken in to the care of the funeral director. The deceased may then be transferred to a care centre outside of normal office / operating hours and the person responsible for the first offices (perhaps the embalmer) will not be in to carry out the first offices until the next working day.*⁶²

One respondent said they supported the proposal but felt it should be made clear that certain irreversible cosmetic acts should never be carried out without the consent of the client:

"We agree with the basics of 'first offices' being carried out, however we are aware that the NHS 'Guidance for Staff Responsible for Care after Death (last offices)' includes mention of things

⁵⁸ Respondent 24 (charitable organisation)

⁵⁹ Respondent 8 (funeral director)

⁶⁰ Respondent 8 (funeral director)

⁶¹ Respondent 6 (funeral director)

⁶² Respondent 6 (funeral director)

such as tidying the hair and shaving the deceased. If these could be considered by funeral directors as part of 'first offices' then we believe it is important procedures are in place to ensure these kind of 'cosmetic' elements are checked with families before carrying them out..."⁶³

A smaller number of respondents felt strongly that the Code should not require funeral directors to conduct first offices on an 'opt out' basis. Their concerns tended to be that some clients might not want the procedure carried out on the deceased person. One respondent said:

"Clients may not like the idea of the process used during first offices. Especially if they don't want to view the deceased."⁶⁴

A funeral director also expressed concerns that the language used in the Code could give bereaved people the false impression that every deceased person can be adequately prepared for viewing:

"100% no! this should only be with the express permission of the client. By having this in the code it misleads bereaved families that every body can be made viewable."⁶⁵

Part 3: Caring for deceased people

The proposed requirement for funeral directors to retain records of every deceased person taken into their care for 50 years attracted several comments. Some respondents felt that a requirement to hold all records relating to deceased people for 50 years was excessive and could put firms under pressure:

"Requiring funeral directors to retain extensive records on invoices, advice provided, and training of staff will likely result in additional logistical pressure. To provide security for the industry, consideration should be given to how this information should be stored and whether digital records are acceptable, and any requirement should be compliant with GDPR. Longer requirements will put greater administrative and logistical burdens on all businesses within the industry and, if taken forward, government should give thought to the role central bodies can play in supporting funeral directors to meet this requirement. One possible solution would be for trade associations to provide a facility for storing these records, provided the process met requirements under GDPR."⁶⁶

Another respondent felt the Code should also deal with record retention in the event that a business ceases to trade:

"There should be information on what will happen to records less than 50 years old where the company has ceased trading. As the deceased person also includes their cremated remains, there should be processes in place to actively seek instructions for remains that have been left in the funeral director's care, who can give instruction in the event that the applicant is deceased or cannot be contacted within a reasonable timescale."⁶⁷

One respondent felt the Code should be more prescriptive in relation to the funeral director's responsibility to explain embalming and other care procedures to clients in advance of carrying them out:

⁶³ Respondent 24 (charitable organisation)

⁶⁴ Respondent 9 (funeral director)

⁶⁵ Respondent 25 (industry business representative)

⁶⁶ Respondent 8 (funeral director)

⁶⁷ Respondent 25 (industry business representative)

“...we believe a client should be consulted, and their consent sought, not just for invasive procedures but also for some other aspects of care... We suggest that a mandatory outcome be added for funeral directors to show that they hold staff guidance on how embalming and other care services are explained to the bereaved to ensure they can clearly understand not only the process, but also the impact it will have on the body. Plus, to ensure that it is delivered in as sensitive a way as possible.”⁶⁸

The same respondent also felt the Code should expressly prohibit funeral directors from retaining ashes (cremated remains) in lieu of payment:

“We believe it should be a mandatory outcome that cremated remains/ashes should not be withheld until the outstanding bill is paid. It should not simply be an indicative behaviour (IB(3.12)) that shows an outcome hasn’t been achieved.”⁶⁹

A funeral director respondent felt that the Code should provide guidance to funeral directors on when they should engage with families in order to gather information about the faith of the deceased person. However, they did not offer their view on what this guidance should be:

“...this section of the Code should give consideration to the role of faith and the implications for specific faith groups. At present the Code does not provide guidance on when a funeral director should seek information on the faith of the deceased and preferences for preservation, burial and ceremony based on this. Honouring the faith of the deceased and the bereaved is an important role of the funeral director and, to ensure effective care for both, the Code should give specific guidance on when such information should be gathered.”⁷⁰

Professional indemnity insurance

We asked respondents whether they agreed that funeral directing businesses should be required to take out professional indemnity insurance. No one who responded to this question disagreed.

Part 4: Management of your business

We only received a small number of comments out this section of the Code. These tended to relate to training and CPD requirements, which are dealt with in greater detail in the discussion of the ‘Education and Professional Development’ section of the Code. below.

Part 5: Publicity and ethical procurement of business

Again, we only received a small number of comments about this Section of the Code, many of which were simply indications of support.

Some more detailed comments included a suggestion that the Code should require funeral directors to treat all contracts with coroners, care homes and hospices as if being subject to a detailed non-solicitation clause:

“...should include a positive indicative behaviour relating to non-solicitation on collecting the deceased when appointed by coroners, care homes or hospices. Funeral directors should not be allowed to exploit their contact with the bereaved at this time... We note that the CMA

⁶⁸ Respondent 24 (charitable organisation)

⁶⁹ Respondent 24 (charitable organisation)

⁷⁰ Respondent 8 (funeral director)

reported, in their Role of Intermediaries working paper, that “many contracts have non-solicitation clauses”, but that “There were also some contracts where the providers did not mention any restrictions.” We believe all contracts should be required to contain these clauses and that more needs to be done to enforce them. In light of this we feel it would be appropriate for this to be included in the Code.”⁷¹

The same respondent also felt that the Code should require businesses that acquire smaller businesses to proactively bring this to the attention of potential clients. In support of this suggestion they said:

“Our experience fits with the CMA’s findings noted in their ‘Funeral director sales practices and transparency’ paper that “most [consumers] will choose a local funeral director based on recommendation or previous experience”. In doing so they assume that the company is the same, especially when the name does not appear to have changed. Non-disclosure of the fact they are part of a larger company can result in the whole reason for the customer’s choice essentially no longer existing. Besides the potential impact on the customer experience and sense of trust in the industry, if that funeral director is more expensive than others in the area, they will have paid more without receiving the ‘benefit’ they intended. If they were fully informed there would be more scope for making a different decision that may also be less expensive.”⁷²

Other comments included a suggestion that the Code should specifically identify price comparison websites and funeral plan providers as relevant third parties:

“[Outcome] 5.4 should include price comparison websites. There is a need to address the reward for recommendation issue here, there should be full disclosure and transparency of referral fees.”⁷³

“Currently it is unclear if the Code covers these [funeral plans]... Given the growth in popularity of funeral plans in recent years, we believe there is a need to expand this outcome to include them.”⁷⁴

Part 6: Training and professional development

The vast majority of those who responded to this question disagreed with our proposal not to require funeral directors to attain formal qualifications or accredited training. Many simply indicated their disapproval of the proposal without providing their reasoning. Others simply restated their position:

“There should be a requirement for formal and accredited training and qualifications to a specific level should be mandatory.”⁷⁵

Others felt the Code should provide for a mixture of informal training and formal qualifications:

⁷¹ Respondent 24 (charitable organisation)

⁷² Respondent 24 (charitable organisation)

⁷³ Respondent 6 (funeral director)

⁷⁴ Respondent 8 (funeral director)

⁷⁵ Respondent 6 (funeral director)

*"I think there is both a place and a need for formal qualifications and in-house training to be an expectation / requirement of regulation."*⁷⁶

*"At least one staff member should have some sort of accredited training and formal qualifications."*⁷⁷

One respondent felt that any training requirements that did not include mandatory qualifications would be difficult for a regulator to enforce:

*"I don't know how this would be enforced if the staff are not assessed by somebody independent. I believe accredited training is desirable."*⁷⁸

One suggestion made was that each premises should be required to have at least one person who is qualified on site:

*"Each premises should have a nominated "certificated" or "licensed" funeral director. There should be mandatory CPD for those who are qualified, similar to organisations that have a chartered status."*⁷⁹

One funeral director respondent who supported our proposal felt that requiring businesses to attain formal qualifications could place unnecessary burdens on smaller firms:

*"Our view is that training requirements should be an 'outcome based model' with a requirement for there to be some form of training and the mind-set to have a trained workforce but not a mandatory prescription in terms of minimum qualifications for every individual in the sector."*⁸⁰

This view was echoed by another respondent, representing a charitable organisation:

*"We do not have the relevant expertise to comment on whether or not qualifications should be formal or training accredited, however we do believe there should be some form of training that is mandatory, for example on public health funerals, the Children's Funeral Fund and in the DWP's processes, particularly the Social Fund Funeral Expenses Payment, which funeral directors often do not understand and provide incorrect information and advice on."*⁸¹

However, one respondent expressed the view that experience should be taken into consideration as part of any regulatory assessment of an individual's fitness to work in the industry:

*"Where an individual has worked in the industry for a period of time, it is important that consideration is given to this experience and that it is recognised... a flexible approach, which does not require specific training to be undertaken but calls for professional development, is the right approach for the funeral industry."*⁸²

⁷⁶ Respondent 3 (funeral director)

⁷⁷ Respondent 14 (funeral director)

⁷⁸ Respondent 4 (funeral director)

⁷⁹ Respondent 25 (industry business representative)

⁸⁰ Respondent 8 (funeral director)

⁸¹ Respondent 24 (charitable organisation)

⁸² Respondent 8 (funeral director)

Part 7: Equality and diversity

The equality and diversity section of the Code does little more than set out existing legal obligations. For this reason, we asked respondents whether they felt there was value in keeping it in the Code.

The overwhelming response was that it should remain as part of the Code. Only one respondent said they thought it should be removed due to their concern about separating conduct obligations from obligations under law.

A significant number of respondents felt the Equality and Diversity section served as a useful reminder to businesses of their obligations under statute:

“Yes – it is a very important part of how any business is run and, despite its position in law, there is still much progress to be made in terms of ensuring that it is actually adhered to, so inclusion in the Code will strengthen its importance.”⁸³

“Helps businesses know what is needed of them when it comes to diversity. The fact it is all in one place can only be a good thing.”⁸⁴

One respondent felt that the Code should be stronger in terms of discouraging funeral directors to unlawfully discriminate on behalf of their clients:

“It may be helpful to extend the outcomes section to state that funeral directors should not discriminate on behalf of their clients e.g. to act on specific client wishes, as opposed to stating this in [non-mandatory] IB(7.6).”⁸⁵

One respondent suggested that the Code should also expressly cover other legal obligations:

“...consideration should be given to other legal obligations that funeral directors should be reminded of ie Anti Bribery and Anti-Trust legislation/Competition Law.”⁸⁶

One respondent felt that the Scope of the Quality and Diversity section of the code should extend beyond characteristics currently protected by statute:

“We suggest that the Code could go further than the law and offer true equality by including at least an indicative behaviour related to whether or not funeral directors offer services to people claiming the Social Fund Funeral Expenses Payment and its equivalents in Scotland and Northern Ireland. As we have evidenced to the CMA, we already witness quite a bit of distrust towards, and discrimination against, people claiming the Social Fund Funeral Expenses Payment, including demanding a higher deposit and simply refusing to provide services. If a funeral director’s payment terms are that they require a deposit or the all the money upfront before a funeral takes place then those are their terms, but the source of funds someone uses to meet those terms (e.g. credit card, official and unofficial loans, own money, deceased’s estate, DWP funds etc.) should not be relevant. If action is not taken on this issue, either by the government or by the industry, then the market available to people claiming these benefits, will continue to be

⁸³ Respondent 24 (charitable organisation)

⁸⁴ Respondent 30 (other, NAFD SQM)

⁸⁵ Respondent 19 (funeral director)

⁸⁶ Respondent 6 (funeral director)

reduced and may become more so, disadvantaging them further when they are already disproportionately affected by funeral costs.”

Part 8: Confidentiality and data protection

Aside from some minor textual amendment suggestions, we did not receive any comments of note in relation to this section of the Code.

Part 9: Complaint handling

We asked respondents whether they agreed that funeral directors should be required to make their clients aware of their complaint procedure at the outset of every matter. The overwhelming majority of those who answered this question agreed that they should.

Some respondents felt this measure would improve transparency and consumer outcomes:

“[we] supports draft outcome (9.1) as a way of ensuring consumers are aware of their rights when purchasing and know how to raise any frustrations or complaints with the service that is provided.”⁸⁷

“Yes, we agree with this as it is key that clients feel they are able to complain at any point and know how to do so.”⁸⁸

Others felt it would improve public confidence in regulated businesses:

“It should instil confidence in the business from the client, that there is a process should things go wrong.”⁸⁹

However, some felt that a requirement to verbally inform the client of their complaints procedure at the outset would be unnecessary:

“Yes [we agree]. However, by “informed [...] at the time of engagement” we would assume this does not need to be verbally informed, and could instead be through the provision of in-house literature regarding complaints processes or through Ts & Cs, along with provision of information online.”⁹⁰

Other feedback included:

- a) a suggestion that the Code should set out acceptable service levels for acknowledging complaints and for managing customer expectations on when they will be dealt with;⁹¹
- b) a suggestion that funeral directors should be required to point consumers to an independent dispute resolution service in the event that they cannot resolve a complaint;⁹² and
- c) the suggested insertion of a mandatory requirement for funeral directors’ complaints processes not to involve any charges to clients for handling their complaints.⁹³

⁸⁷ Respondent 8 (funeral director)

⁸⁸ Respondent 24 (charitable organisation)

⁸⁹ Respondent 7 (other, NAFD SQM)

⁹⁰ Respondent 19 (funeral director)

⁹¹ Respondent 28 (funeral plan provider)

⁹² Respondent 20 (funeral director)

⁹³ Respondent 24 (charitable organisation)

Part 10: Working with your regulators

Several respondents raised concerns about the usefulness of this part of the Code until such a time that the sector is subject to mandatory regulation. One respondent felt that the inclusion of this section could alienate funeral directors that are not members of trade associations:

“What is the point requiring them to comply with any trade association they belong to if they could simply choose not to belong to one? So if an interim regulation is going to be introduced until the official regulator can be set up, who is going to regulate those businesses that do not belong to any trade association?”⁹⁴

Another respondent proposed that part 10 of the Code should be deferred until a long-term regulatory framework is developed, and then reissued for consultation as part of a standalone process that can be added to the Code at a later date. They felt that this would ensure the positive changes made by the rest of the Code can be delivered as soon as practicably possible, whilst also reflecting that statutory regulation is not currently in place:

“While we support efforts to future-proof the Code, we would suggest that it is difficult to define the relationship with the regulator until there is greater clarity on the structure of the long-term regulatory framework covering the sector, and the implications for this Code. It is important that any Code developed be fit for purpose for how funeral businesses operate now.”⁹⁵

⁹⁴ Respondent 25 (industry business representative)

⁹⁵ Respondent 8 (funeral director)

Annex A -Summary of focus group meeting with independent funeral directors who responded to FSCSR call for input

NOTE – THE PARTICIPANTS OF THIS FOCUS GROUP HAVE NOT YET AGREED ITS ACCURACY OR GIVEN CONSENT FOR IT TO BE PUBLISHED. IT MAY PROVIDE USEFUL CONTEXT TO THE STEERING COMMITTEE BUT UNLESS CONSENT IS OBTAINED THIS DOCUMENT MUST NOT BE PUBLISHED.

Meeting details

Date of focus group meeting: Thursday 27 February

FSCSR Attendees:

Morgan Harris, FSCSR Project Manager

Deborah Smith, NAFD Communications Lead (providing support)

Focus group attendees:

[REDACTED]

[REDACTED]

[REDACTED]

General comments about the FSCSR Project

The group questioned the extent to which the FSCSR project is independent of the funeral sector and the trade associations in particular. They pointed to the fact that the National Association of Funeral Directors (NAFD) and the Society of Allied and Independent Funeral Directors (SAIF) are both well represented on all of the project's committees and working groups. The group felt that this could have the negative impact of reducing discussion about death and funeral planning before the time of need.

In spite of their misgivings about the extent of trade association influence, the group expressed a willingness to help inform the work that is being carried out by the FSCSR for the benefit of consumers.

Key points on regulation

None of the focus group members were opposed to the mandatory regulation of funeral directors. However, they did question whether there might be more effective and sustainable ways to address the problems that have been identified by the Competition and Markets Authority.

For example, one focus group member suggested a more effective strategy could be to allocate the resources that would be required to set up and maintain a new regulator to instead educating the public about the options available.

They described their experience of how consumers of different age groups engage differently with the process of purchasing funeral services, with younger consumers tending to be far more likely to research their options online and make informed decisions. It was suggested that an effective education drive would help accelerate this trend towards consumers becoming better informed, which could negate the need for regulation.

The group were sceptical about the value that would be added by creating an interim regulator and questioned whether this would do little more than serve to increase the likelihood of a long-term regulatory body being set up by the government.

The group clarified that they were not opposed to the idea of regulation but had concerns that the sector could be talking itself into regulation when education and transparency might be a better strategy.

Key points on the FSCSR Code

The group raised concerns that [Outcome 5.3](#) of the Code (“you do not make unsolicited approaches in person, by telephone or through a third-party agent to members of the public in order to publicise your business or another business”) could have the unintended consequence of preventing businesses from taking part in public events aimed at raising funeral planning awareness, such as death festivals. One group member suggested that the language could be changed to make it clearer that “targeting the recently bereaved to directly secure business” is the prohibited conduct, not promoting a business generally.

The group felt strongly that the Equality and Diversity section of the draft Code should be retained, despite the fact that it merely sets out legal obligations. The group expressed the view that many funeral directing businesses operate in a way that is inconsistent with their responsibilities under Equality Act 2010 and felt that the section would act as a useful reminder of these.

The group expressed unease at the trade associations (NAFD and SAIF) being specifically listed as regulators in a code that is intended to be applied to the entire sector.

Feedback on Code Glossary

“First offices” – The group accepted that this term was probably required but highlighted that it is not currently an agreed or well-defined term. They explained the meaning varies, not only from business to business, but also from individual deceased person to deceased person (dependent upon circumstances of death and post-death care).

The group broadly agreed that the simple closing of eyes, including the insertion of eye caps, should be covered by the definition.

“Invasive procedure” – One group member felt that the definition of invasive procedure could be too wide as it would require the funeral director to seek express consent to perform some procedures that they would normally carry out as a matter of course (e.g. the closing of the mouth). They expressed concern that some families could be needlessly upset if the details of this procedure had to be explained in detail for the purposes of gaining consent.

The group discussed the possibility of using a standard consent form regardless of whether the procedure was necessary. The advantage of this would be that the client would always have the opportunity to withhold consent but it could turn the process into a box-ticking exercise, which is of limited benefit to consumers.

“Introducer” – The group felt that this definition should be clarified to avoid confusion about legitimate recommendation/referral/communication.

Not all working group members had been able to access the full draft Code Guidance, which is only available via the FSCSR website. It was agreed that they would consider this in greater detail and let the project team know if they have any comments or suggestions.

Feedback on the FSCSR transparency proposals

All focus group members were supportive, in principle, of measures to improve transparency of information (about pricing and service options). However, they emphasised the need to do so in ways that:

- do not stifle innovation; or
- reduce the opportunity for funerals to be designed around needs of families.

The group felt that the Steering Committee should carefully consider ways in which consumer access information about pricing and service options could be improved without negatively impacting on the level of choice available. The group again felt that education of the public was likely the best and most sustainable way to do this. The group's preference was for the FSCSR to recommend that the Government should adopt a clear funeral education strategy, including the inclusion of bereavement and funeral planning on the Personal, Social and Health Education (PSHE) curriculum.

However, the working group agreed that a standardised format for displaying basic pricing information, such as the FSCSR Key Information Form (KIF), would provide a useful point of reference to some consumers. However, the group were concerned that the KIF could point consumers towards a traditional funeral package, which may not be in everyone's best interests.

The group acknowledged that the KIF referred to two sets of minimum criteria, rather than defined packages but felt that, in practice, the end result (reinforcing the traditional funeral model) was likely to be the same.

The group suggested that the FSCSR Steering Committee should consider whether some aspects of the KIF Entry Funeral Criteria (this is very similar to the Scottish Government Simple Funeral definition) should be removed or adapted. In particular:

- It should be clearer whether or not the price includes disbursements.
- Transport of the deceased person – one member felt that more should be done to ensure the consumer is aware that a wide range of alternative options are available.
- Provision of an appropriate coffin – one member felt that more should be done to ensure the consumer is aware that a wide range of alternative options are available, including not using a coffin at all in some instances.
- The group felt that the 'Direct Criteria' (direct cremation or burial) should be amended to make it clear whether the option to attend the cremation/burial is a minimum requirement. They explained that different funeral service providers use the term 'direct cremation' to mean different things.
- The group felt that the word 'funeral' should be removed from the KIF as it reinforces the view that a funeral is a set package. They suggested placing greater emphasis on the component service aspects rather than the package as a whole.