

## **Meeting with Peter Poulos, Minister Kean's senior policy officer**

**Mr Michael Mackay, President of the NSW Funeral Directors Association**

**Mr Tony Cividin, Executive Officer of the NSW Funeral Directors Association**

**Mr Brendan Nugent, CEO of Harris McDonald Pty Ltd, member of the NSW Funeral Directors Association**

### **Background:**

Minister Matt Kean has released a public consultation paper at the end of July 2018 titled 'Easy and Transparent Trading – Empowering Consumers and Small Businesses'. The consultation calls for submissions by 27 August 2018.

The paper was allegedly developed in consultation with over 100 industry and stakeholders. None of the Funeral Industry associations were contacted or consulted regarding the paper, its policy proposition or its development of proposals. We have contacted the Australian Funeral Director's Association, The National Funeral Directors Association and the Association of Independent Funeral Directors.

### **Policy issue:**

This is purported to resolve a policy issue of increasing transparency in pricing across the sector.

On page 45 of the consultation paper there are proposed changes to regulation being proposed to either maintain the status quo – which is described as having to publish lowest price prices for a basic package, or to establish a funeral service check like fuel check.

### **Points on the policy:**

There is no existing requirement to publish basic service prices – just to provide them to families if the service is provided and in written form. So the norm described in the policy paper doesn't currently exist. Many funeral homes do not provide a basic service and therefore do not provide a price.

Price checking with quotes does happen with families making enquiries before coming to see a selected funeral home. There are also price check and price quote websites available to the public, provided by third party providers.

There is already a requirement to provide a written quote to families on the service fees and costs of a funeral. This is delivered as part of the funeral arrangement process and are explained to family members as part of the

business end of the arrangement process. Any funeral provider not providing the quote in writing can be reported to Fair Trading.

### **Impacts of the policy:**

The majority of our members state that the majority of people using their funeral homes are doing so through their relationship with the funeral home, like previous history, family recommendation or knowing someone in the business, rather than through market searches of the internet.

The policy suggests that isn't already an existing market transparency where families can't find information on funeral costs. Many families do conduct due diligence through calling for quotes, particularly in the urban areas. Any person wanting to shop around can certainly do so, and quotes are provided over the phone by all funeral homes, however when this happens funeral directors let families know that you are sometimes not comparing apples and apples, making any on line comparison difficult.

Services provided by funeral directors vary to such an extent that there is little value in describing a basic service and costing. Some cultures and traditions have extravagant and lavish funerals and some pride themselves on spending as little on the funeral as possible, to spend more on community wakes and other ways of memorialising a loved one. Unless all types of services are detailed, and this would require developing packages for all eventualities, then there is little value in describing the basic package.

It is like a car dealer; if you required them to publicly describe the basic model of vehicle (a A class Mercedes), for the sake of transparency, you would actually create unrealistic expectations in the consumers mind, as basic vehicle comes with multiple options that can further inflate the price.

We believe that this service being extended to all competitive service industries is the natural extension of the policy. I think that people are potentially being price gouged in wedding. It seems the government is willing intervene and do price checks for all service industries. The wedding industry being where a price check for venues, catering, flowers, advertising/invitations, celebrants, vehicles etc. just like a funeral director has to provide as part of their professional services in organising a funeral.

The complication of the logistics of having a complete price check is also highlighted by the above example. Does the transparency extend to all our supplier services, including advertising, councils or cemetery trusts for plots, crematoriums for cremations, florist, venues. With GST operations that allow for charging for services provided through third parties would this need to be spelled out for our clients.

### **Market failure:**

There is no evidence of any market failure or call for increased transparency in relation to funeral pricing in any of the documentation provided generally, or as part of the discussion paper.

Satisfaction surveys conducted by members show improved customer satisfaction, including with whether the price of the funeral matched their expectations. Disputes that arise about pricing usually do not involve those that made the actual arrangement for the funeral, as the pricing and quote are discussed in details and written confirmation provided to the family prior to the services being delivered.

The association does not have any evidence of the nature of complaints, the quantum or whether the policy objectives would be effective in reducing those complaints. Even the evidence base of the proportion of complaints is lacking, if there are 200 complaints over a four-year period then how does this rate. There are over 50,000 funerals done in NSW a year?

The market is also changing for the funeral industry with larger numbers of families opting for no service delivery only cremations. Further reducing the margins and services being provided by funeral homes. While this is a natural disrupter to the market and the industry is focusing on service provision, event management and increasing efficiencies the evidence would show that average funeral costs are reducing, rather than increasing.

Where there is a market for this information, then third party providers have stepped in to fill the gap. There are existing market providers that do cross check and quote checking for any consumer that wishes to use the service. Funeral directors can subscribe to those services to provide quotes with a view to winning businesses. Examples include: [www.gatheredhere.com.au](http://www.gatheredhere.com.au) ; [www.funeral-arrangements.com.au](http://www.funeral-arrangements.com.au) ; [www.comparefunerals.com.au](http://www.comparefunerals.com.au)

### **Distorting the market:**

This sort of regulation would benefit the large publicly listed companies (Invocare and Propel Funeral Partners) that have multiple funeral homes with differentiated brands. Take Invocare which has White Ladies (premium brand), Guardian (medium brand) and Simplicity (basic brand) – price variations between these services are significant, however the back end processes are being run out of mortuary factories and shopfronts, which minimises their capital outlay and maximises their profits.

Family businesses cannot compete with these outfits, particularly where a centralised price comparison site is produced. It becomes a race to the bottom, where their large capital reserves could be used to run at a loss just to remove competitors. Invocare or Propel can also cross market with their cheapest brand

winning a bidding process on the internet and still enable them to shift the client to another brand, where additional services are provided.

Consolidation in the funeral industry is currently the norm, with large publicly listed companies, and family businesses with the resources, buying funeral homes across Australia and New Zealand. These acquisitions are used to create economies of scale and to grow the bottom line of publicly listed companies as margins in funerals are being reduced.

There are other market disrupters that will also impact on the ability of our industry in the future. We see this from other countries where not for profit and community funeral companies are increasing, death doulas and religious based funeral directors run by the Catholic Church, the Salvation Army and the Assemblies of God, already existing in Australia, reducing the costs of funerals.

### **Regional impacts:**

This disproportionately affects mum and dad family businesses that run many funeral homes in New South Wales. Some funeral homes do not have websites and this would be a cost burden to them. This is particularly true in small regional locations where there are sometimes only one business in town, and so pricing comparisons are not useful.

This policy would unfairly impact on businesses that operate on the border of other jurisdictions. For example the ACT, Victoria and Queensland. Any business that is in NSW and bound by pricing transparency would have to deal with competitors who are not obliged to have that transparency. Further distorting the market and the competitiveness of NSW businesses.

The regulation also allows multinationals and interstate competitors to compete in a market where an online presence is all that is needed, they could conduct a funeral for a remote or regional area but at the expense of those jobs, community engagement and further risk to service provision in regional areas.

If increased competition and consolidation of the market has a negative affect, it could be on centralising funeral services in large urban hubs, reducing services, jobs and connectivity in local communities.

### **Consultation:**

The NSW Department of Fair Trading and the Minister have not contacted the NSW Funeral Directors Association about the proposed changes, nor have they raised the issue of the number of complaints that they have received around funerals with the association. The association is self regulating with complaints being dealt with internally between the complainant, the members and the association. Where it is not appropriate for the association to deal with a complaint they refer it to the department.

The association also contacted other associations that represent NSW businesses and none of them had heard of the suggested changes, or had been consulted.

### **NSW Funeral Directors Association**

Represents approximately 40% of funeral homes in NSW performing thousands of funerals a year. The largest funeral provider in the State Invocare are not members of the association.

Membership requires funeral directors to adhere to standards set by the association and compliance checks are done in relation to health regulation compliance for mortuary conditions and other aspects, like transfer vehicles.

The success of the self-regulating approach shows through the lack of complaints through the association with only a handful of complaints being made during the course of a year.

The association, if it were to seek regulation to increase compliance and standards would like to see that a funeral director be required to be a member of one of the four industry associations. This is a cost to the business, based on the number of funerals they conduct, but less than the potential costs associated with the suggested regulations. The reason being that the association provide a level of governance and oversight for their members, while providing advice, networks and training and development.

People are not clambering to become funeral directors, and while there is currently no formal qualifications requirements there are significant barriers to entry, if you wish to establish your own mortuary, transfer vehicles etc. Further regulation that disincentives the funeral industry will only serve to further dissuade entrants and increase the costs of doing business, in an already change and competitive market.

The association has an agenda to try to increase the professional development and engagement of its members in the industry. Licencing of funeral directors, accreditation to be able to conduct a funeral business are suggestions for future regulation to assists in the integrity of funeral operators. However, the association has relied on the benefits of membership and self regulation as key tenets of the profession.

Funeral directors work with NSW Health and the Department of Justice in providing contract services for funeral for people without means, and for the removal of deceased for the Coroner. These services are integral to the efficient running of government services, but they are part of the public service that funeral directors do for their communities. These are provided by family businesses across the State, where the effects of this policy would be felt more significantly than in urban areas. Adding regulatory pressure to these businesses may impact on their willingness to provide these services.

**Recommendations:**

That the Minister and Department provide an evidence base for the policy recommendations to the Association, together with details of who has been consulted in coming to the recommendations in the community consultation process.

That a working group with members from the associations meet with Departmental representatives to discuss improved communications and sharing of information to ascertain whether a policy issue exists, and strategies for remedying any issues that do exist.