



Government of Western Australia
Department of Mines, Industry Regulation and Safety



Funeral Pricing Code Consultation

Policy response to industry feedback report

November 2022

Fair Trading (Funeral Pricing Code of Practice) Regulations 2022 – Consumer Protection response to issues raised in industry feedback

Code Requirement	Issue raised	Consumer Protection (CP) response
<p>General comment: The desire to retain consistency with similar regulation in other jurisdictions (New South Wales (NSW) and Queensland) underlies the consultation outcome on the draft Fair Trading (Funeral Pricing Code of Practice) Regulations 2022 (Funeral Pricing Code). Amendments that would not significantly change the regulation and which could address some of the key concerns have been made. It is intended that the other issues raised will be addressed through industry guidance to be made available before the commencement of the Funeral Pricing Code.</p> <p>Issues raised may be a summary or modified extract of the submission received.</p>		
<p>FUNERAL DIRECTOR</p>		
<p>Definition of 'funeral director'.</p>	<p>Funeral director should also mean a person who provides funeral services.</p>	<p>The definition of 'funeral director' has been drafted to be consistent with the definition used in the Fair Trading (Prepaid Funerals Code of Practice) Regulations 2020 (WA). This ensures consistency in regulatory requirements for the sector in Western Australia (WA).</p>
<p>FUNERAL INFORMATION</p>		
<p>Provision of the price of each of the following funeral goods and services:</p> <ul style="list-style-type: none"> a) the transport of the body prior to burial or cremation; b) the storage of the body at a mortuary or holding room; c) the hire of a refrigeration plate; d) each type of coffin, casket or shroud supplied (or the price range of all coffins, caskets or shrouds supplied); e) the care and preparation of the body prior to burial or cremation; f) viewing of the body prior to burial or cremation; g) the arrangement and conduct of a funeral service (including hire of the venue); and h) the burial or cremation of the body. 	<p>Difficulty in providing definitive prices for services supplied by third parties as there are too many variables and different fees.</p> <p>Several of these items listed should appear as disbursements as they are supplied by a third party.</p> <p>The price of the storage of the body should be qualified, i.e. a set rate is included in the quotation for an average storage time with a disclaimer that an additional charge may apply for storage time greater than the average.</p> <p>The next of kin will not know which venue they would like the funeral services to be held at or what they would like included in the package when they first contact a funeral director.</p> <p>There are no refrigeration plates in WA.</p> <p>Regarding the term 'preparation', does it also refer to embalming or just essential preparation?</p>	<p>The intent of clause 2 is to provide information to consumers to understand the pricing used by the funeral directors before they make a decision to engage a director. Clause 2 only requires funeral directors to display their own fees on websites and at their place of business, not fees charged by third parties.</p> <p>Funeral directors may display fees and charges by third parties as a method of calculation, e.g. a charge per kilometre, or a range of cost, or as a reasonable estimate.</p> <p>For example: <i>"transport fees at \$X within 30km and \$X for every km over 30km";</i> <i>"as charged by supplier" or "will be charged at cost as a disbursement".</i></p> <p>Some funeral directors may supply some of these goods and services themselves, whereas other funeral directors may use third parties. Therefore, these items are appropriate to include as 'funeral information' rather than as disbursements.</p> <p>Clause 2(a) only requires funeral directors to display their own fees on websites and at their place of business, not fees charged by third parties.</p> <p>Funeral directors may display fees and charges by third parties as a method of calculation, e.g. a charge per kilometre, or a range of cost, or as a reasonable estimate. They may also refer to the supplier's pricing if it is not possible to estimate.</p> <p>For example: <i>"transport fees at \$X within 30km and \$X for every km over 30km";</i> <i>"as charged by supplier" or "will be charged at cost as a disbursement".</i></p> <p>The suggested wording can be used by a funeral director when displaying their price. The funeral directors can publish the prices as a price range and indicate the disclaimer.</p> <p>The location of the venue is relevant in determining price and should be retained as required funeral information.</p> <p>For the purpose of meeting the requirements of clause 2 relating to the display of funeral information, the funeral directors can record <i>"as charged by the supplier"</i>.</p> <p>However, prior to signing a funeral agreement, clause 3 requires that the funeral director supplies the consumer with itemised prices for the hire of a venue.</p> <p>As there is a possibility of funeral directors hiring refrigeration plates in the future, this item has been retained, however, it has been made clear that funeral directors are only required to provide pricing for goods and services that they supply.</p> <p>If embalming services are offered by the funeral director, then prices should be published (as prescribed under clause 2). Due to multiple variables with this service, the prices can be published as either a price range or as <i>"based on individual basis"</i>.</p> <p>If embalming services are to be undertaken, these should appear as a separately itemised service in the agreement and/or on the invoice as per the requirements of clause 3.</p>

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	<p>The term 'shroud' either requires a definition or should be removed as it has two different purposes. Shrouds are not generally used in WA.</p>	<p>Clause 2 requires funeral directors to display prices for goods and services they provide. As with refrigeration plates, if funeral directors do not provide such items under clause 2(1)(a), they are not required to publish this information.</p> <p>If funeral directors do provide shrouds, they should display prices and can provide an explanation. Industry guidance will assist funeral directors on how to display prices for such goods and services.</p>
	<p>Price lists should include reviewing and <u>identification</u> of the body.</p>	<p>Clause 2(1)(a)(vi) requires a price to be published for a viewing of the body. This may include identification. If a separate fee is charged for identification of the body, the funeral directors may also wish to list this.</p> <p>All fees included in the agreement with the consumer will need to be itemised and provided to the consumer prior to entering the agreement (as prescribed under clause 3).</p>
<p>Funeral information about the location of the mortuary or crematorium used by the funeral director.</p>	<p>The term "used" should be changed to "booked" because it is not unusual for the location of the mortuary or crematorium to be different from one booked by the funeral director for reasons outside the funeral directors' control.</p>	<p>The location of the mortuary or crematorium <i>used</i> by the funeral director is the correct term. It is intended to provide a consumer with information about the choices available prior to making a decision.</p> <p>Clause 3 requires that the location of the mortuary or crematorium actually booked to be disclosed before entering into the agreement.</p>
<p>Provision of the name of the owner or manager of a mortuary or crematorium if it is not owned or managed by the funeral director.</p>	<p>In addition to the location of the mortuary or storage facility, the company that will undertake these services should be identified, i.e. the funeral home, mortuary facility, subcontracted company etc.</p>	<p>Clause 2(1)(c) requires the funeral directors to specify the mortuary or crematorium and the name of the owner or manager of the mortuary or crematorium used.</p>
<p>Provision of a reasonable estimate of the disbursements.</p>	<p>Do the costs of obtaining any certificates required under the <i>Births, Deaths and Marriages Registration Act 1998 (WA)</i> in relation to the body also include cremation permits and certificates, or are these covered under the <i>Public Health Act 2016 (WA)</i>?</p> <p>It is not possible to display all fees charged by a cemetery or crematorium because there are too many variables. Funeral directors work with a number of shires, each of which may have more than one cemetery that has its own schedule of fees.</p> <p>The listing of any or all fees charged by a cemetery could run up to 15 pages, particularly for regional areas in different shires.</p> <p>Additionally, the Metropolitan Cemetery Board's (MCB) price list alone is over six pages long with over 300 different fees and charges. Listing all these on the funeral director's price list is not practical and may confuse customers.</p>	<p>Clause 2(1)(d)(iii) requires the funeral directors to publish the costs of all permits/certificates ordinarily required for a funeral (burial or cremation).</p> <p>The intent of this clause is to provide information to consumers to understand the pricing used by the funeral directors before they make a decision to engage a funeral director. This clause only requires funeral directors to display their own fees on websites and at their place of business, not fees charged by third parties.</p> <p>Funeral directors may display fees and charges by third parties as a method of calculation, e.g. a charge per kilometre, or a range of cost, or as a reasonable estimate. Or funeral directors can refer consumers to MCB's website for prices.</p> <p>For example: <i>"transport fees at \$X within 30km and \$X for every km over 30km";</i> <i>"as charged by supplier" or "will be charged at cost as a disbursement".</i></p>
<p>Funeral information to include the price of the least expensive package.</p>	<p>Where there is a requirement to disclose the least expensive package, it should also contain information on the minimum legal requirements in order to conduct a funeral service.</p> <p>It is not clear what the least expensive package includes.</p>	<p>The Funeral Pricing Code has been amended to include a definition of a 'basic package'. NSW Independent Pricing and Regulatory Tribunal's (IPART) 'Review of competition, costs and pricing in the NSW Funeral Industry' Report of June 2021 recommended the inclusion of a definition of "the least expensive funeral package" to clarify that it is an estimate of the total minimum price for the least expensive combination of products a funeral director offers to customers (whether or not the funeral provider defines that combination of products as a 'package').</p> <p>Educational material will be developed for both industry stakeholders and consumers. It will provide guidance for funeral directors on how to comply with this requirement and also educate consumers on what the minimum legal requirements are in order to conduct a funeral service.</p>
<p>Provision of funeral information about how a body is transported prior to burial or cremation.</p>	<p>Regarding the term "how", it needs to be defined, i.e. what vehicle is used for transfer, equipment or preparation of the body (e.g. encasement in a body bag) or does it mean something else?</p>	<p>Clause 2(1)(f) is intended to cover the method of transportation of the body such as the vehicle used for transferring (transporting) the body, and identifying those transport costs. It is not intended to refer to public health requirements that apply for preparing a body for transportation.</p>

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DISPLAY AND PROVISION OF FUNERAL INFORMATION TO PROSPECTIVE CONSUMERS		
Displaying and provision of funeral information.	The survey feedback indicated some confusion between the requirements of clauses 2 and 3. In particular, some funeral directors understood clause 2 required an itemised invoice to be produced within 48 hours.	<p>Clause 2 only requires funeral directors to provide consumers with the general funeral pricing information displayed at their place of business and/or on their website and not an itemised quote. In response to concerns about this timeframe being too short, the Funeral Pricing Code has been amended to require the information to be provided within two business days, or within another period agreed between the consumer and funeral director. To assist the sector with compliance and understanding the requirements, industry guidance materials will be developed and distributed to funeral directors.</p> <p>Additionally, the clause 3 heading has been amended to overcome the confusions between the operation of clause 2 and 3, which now reads 'Provision of specific information to consumers before entering into agreement for provision of funeral services'.</p>
Requirement to prominently display the funeral information in relation to the supply of goods and services supplied by the funeral director.	Does not agree with listing the prices of services provided by third parties.	<p>The intent of this clause is to provide information to consumers to understand the pricing used by the funeral directors before they make a decision to engage a director. This clause only requires funeral directors to display their own fees on websites and at their place of business, not fees charged by third parties.</p> <p>Funeral directors may display fees and charges by third parties as a method of calculation, e.g. a charge per kilometre, or a range of cost, or as a reasonable estimate.</p> <p>For example:</p> <p><i>“transport fees at \$X within 30km and \$X for every km over 30km”;</i> <i>“as charged by supplier” or “will be charged at cost as a disbursement”.</i></p>
Timeframe of providing funeral information to consumers.	<p>Concerned that 48 hours is not sufficient time as some funeral directors do not work on weekends or public holidays and therefore may not be able to provide quotes within 48 hours.</p> <p>The next of kin impacted by grief often change their minds about what they want, making quotes defunct.</p> <p>Suggested two business days.</p>	<p>Clause 2(3)(a) does not require a funeral director to prepare an itemised quote in 48 hours. This clause requires the 'funeral information' which is required to be published on a website and at a place of business to be provided within 48 hours.</p> <p>Given concerns expressed about the 48 hour timeframe, particularly if a funeral director is contacted during the weekend, this requirement has been changed to allow this information to be provided within two business days.</p>
	How should the funeral information be provided to consumers?	The funeral information may be provided in writing or orally. A template will be developed to assist funeral directors with presenting this information and will be available on Consumer Protection's website.

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PROVISION OF SPECIFIC INFORMATION TO CONSUMERS BEFORE ENTERING INTO AGREEMENT FOR PROVISION OF FUNERAL SERVICES		
Requirement to provide an itemised quote to consumers before entering into an agreement.	Itemised quote of services so that consumers can determine if those services are fit for requirements and/or have been requested.	Clause 3 requires funeral directors to provide the consumer with itemised pricing information for each of the particular goods and services that will be supplied to the person under the agreement prior to entering into an agreement.
	The survey feedback indicated some confusion between the requirements of clause 2 and 3. In particular, some funeral directors understood clause 3 required an itemised invoice to be produced within 48 hours.	Whilst clause 3 does require funeral directors to provide itemised invoices to consumers prior to entering into an agreement, there is no timeframe to do this as long as this is prior to entering into the agreement.
	There should be clarity in package and bundle descriptions on what constitutes “professional service fees”, as funeral directors have differing services included in this fee.	Clause 2(1)(e) requires funeral directors to publish an estimate of the price of a basic funeral package which includes a list of goods and services included. If funeral directors includes a professional service fee in the package, this must be published in the list. Additionally, if a professional service fee is charged, it must be provided to the consumer before entering into a funeral agreement (as prescribed under clause 3).
	Actual subcontracting service fees should be itemised so that the client is aware of any associated costs applied by the funeral director who is not performing those services.	Clause 3 requires funeral directors to provide the consumer with itemised pricing information for each of the particular goods and services that will be supplied to the person under the agreement prior to entering into an agreement.
	Include the actual costs and proper description of government services on the itemised invoice.	Clause 3 requires funeral directors to provide itemised pricing information to consumers of all disbursements payable under the agreement prior to entering into an agreement.
COMMENCEMENT		
How long funeral directors have to comply with the Funeral Pricing Code.	To make the necessary changes to ensure compliance with the new requirements of the Funeral Pricing Code, the majority of funeral directors submitted that six months would be required.	There will be a six month transition period for funeral directors to make any necessary changes to business practices to comply with the Funeral Pricing Code. Industry guidance material will be published during this time to assist industry with compliance.

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Department of Mines, Industry Regulation and Safety

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