



## **Citizens Advice Scotland response Pre-paid funeral plans: call for evidence**

*Citizens Advice Scotland (CAS), our 60 member Citizen Advice Bureaux (CAB), the Citizen Advice consumer helpline, and the Extra Help Unit, form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone.*

*In 2017-18 the Citizens Advice Service network helped over 295,100 clients and dealt with almost 800,000 advice issues for clients living in Scotland. With support from the network clients had financial gains of almost £142.2 million and our self-help website Advice in Scotland received approximately 3.2 million page views.*

Citizens Advice Scotland welcomes the opportunity to provide evidence to HM Treasury. This response is largely based on the CAS 2016 report 'Funeral Poverty in Scotland: A Review for the Scottish Government'<sup>1</sup> and our ongoing work. CAS has worked over a number of years to raise concerns related to funeral poverty, an issue which continues to impact on clients seeking advice both within Citizens Advice Bureaux and from our national Citizens Advice Consumer Service.<sup>2</sup> CAS is pleased to see that the regulation of pre-paid funeral plans is being consulted on. We have chosen to respond to the questions in the call for evidence where we feel CAS has the most evidence.

Question 5: How, and through what channels, do funeral plan providers communicate with consumers for the purposes of distributing information, promoting and selling funeral plans?

CAS is aware of consumers who have been contacted by those selling funeral plans over the telephone and face to face in their homes.

Information being available, accurate and useful is one of the Consumer Principles<sup>3</sup>. As part of our work on the CAS 'Funeral Poverty in Scotland' report, we heard that some communications from funeral plan providers, particularly literature, do not make clear to consumers what is and what is not included in the funeral plan. In some cases consumers are not provided with documentation regarding their funeral plans. Therefore, it appears in some cases that the information consumers require to make an informed choice and to be confident in their decision is either not available or is inaccurate.

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<sup>1</sup> [https://www.cas.org.uk/system/files/publications/funeral\\_poverty\\_in\\_scotland\\_0.pdf](https://www.cas.org.uk/system/files/publications/funeral_poverty_in_scotland_0.pdf)

<sup>2</sup> This is a national phone line operated jointly by Citizens Advice Scotland and Citizens Advice (England & Wales) which allows GB residents to obtain advice over the phone. Scottish consumers contacted the helpline on more than 34,000 occasions during 2016/17. Any cases included in this response are from consumers calling from within Scotland.

<sup>3</sup> These principles originate with John F Kennedy's 'Kennedy's Principles' speech to the US Congress in 1962 and have been further developed by the European Union and the United Nations. This particular version is drawing on the work of Consumer Focus Scotland, and [recent research by the CAS' Consumer Futures Unit](#)

This can lead to cases where consumers have to pay an additional balance when they thought the whole funeral was covered by a funeral plan. This may cause financial difficulties for those taking responsibility for the funeral of a loved one, when the deceased had intended to prevent these difficulties by purchasing a funeral plan. The below cases highlight these issues.

*"A client was helping to organise her mother's funeral. In spite of a funeral plan being in place there was a shortfall of £2,145 between what the plan would cover and the cost of the funeral. There were no savings nor income available to pay for the funeral."*

*"A client was organising his wife's funeral and she had had a funeral plan to pay for this. He was therefore surprised to receive a bill for £570 from the undertakers. He had thought that everything would be covered."*

*"A consumer was helping to organise their grandmother's funeral. She had had a funeral plan so the consumer was surprised when they were told there was a shortfall between the plan and the cost of the funeral of £600. Their grandmother's paperwork suggested that everything would be covered. If there were to be any increases in costs then she should have been informed by the trader, and this would have subsequently been reflected in the paperwork.* There are also instances where clients are not provided with information regarding what is and what isn't covered by their funeral plans, leaving them unaware of issues that may arise following their demise. CAS has concerns regarding a lack of openness and transparency by some funeral plan providers. This issue is demonstrated in the below case.

*"A client took out a funeral plan and never received any information regarding it. After investigation he found that unbeknown to him this plan had been lodged with an undertaker. He was concerned that if he had passed away without this knowledge it is unlikely anyone arranging his funeral could have known these details and it would have been difficult for them to access this plan."*

It has also been reported that in some cases funeral plans are mis-sold and there are some concerns about the behaviour of some sales staff. See the below case which demonstrates detriment to a consumer who ended up unknowingly paying for life insurance alongside a funeral plan.

*"A client agreed to take out a funeral plan after two representatives came to her door. It wasn't until a few months later than she became aware that she had also been paying into a life insurance policy. Additionally, she had not been given any paperwork related to this life insurance policy."*

Question 6: What are your views on the scale and nature of consumer detriment at the point of sale? Please provide evidence where possible.

As highlighted in our response to Question 5 the consumer could face detriment if they believe that all costs of their funeral will be covered and subsequently their loved one has to unexpectedly find money to cover the difference, at an already difficult time. Additionally, the consumer may be unaware of certain detriment if they are not provided with the full information regarding a funeral plan at the point of sale, as illustrated above.

A particular concern which CAS has highlighted repeatedly relates to what would happen if a funeral plan provider went out of business, and what the consequences could be for consumers who had a funeral plan with those providers. At present, unlike other financial products, funeral plans are not covered by the Financial Services Compensation Scheme which protects against insolvency events. If the proposal to amend the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 allowed for additional regulation of the funeral plan sector by the Financial Conduct Authority (FCA) this issue could be resolved.

Whilst undertaking research for the 'Funeral Poverty in Scotland' report some in the funeral industry raised concerns with CAS about the robustness of some operators' trusts and their lack of funds to pay out on all the plans held. This inconsistency within the funeral plans market could lead to detriment to consumers, depending on which firm they purchase a plan with.

Question 7: To what extent is cold calling present within the funeral plan sector and does this present an additional or specific risk to consumers?

Through evidence from our network CAS is aware that cold calling is present within the funeral plan sector. CAS has particular concerns as, at times, this practice appears to target older people, some of whom may be more vulnerable.

It is also important that at the point of sale a consumer is made aware of their rights if they change their mind. CAS has examples of money being taken from a consumer when they have changed their mind, as in the case below.

*"A consumer received a call regarding funeral plans and agreed to take this product out. She subsequently changed her mind and contacted her bank to cancel the payments. She then noticed she had been charged a deposit of £250".*

Question: 9: What protections are currently in place for consumers (for example, complaints procedures) and how effective are these protections? How can complaints and claims be brought against funeral plan providers after the death of the customer?

CAS recognises that the Financial Planning Authority (FPA) currently regulate funeral plan providers and that 95% of the funeral plan sector are regulated with them. Moreover, at this point the FPA have never used their power to levy a fine of up to £5,000 if a funeral plan provider does not adhere to their Code of Practice. Despite this Code of Practice concerns about funeral plans have still been raised with the citizens advice network in Scotland.

At present consumers are able to access independent conciliation and arbitration services if they feel their complaint has not been resolved with the provider. If the proposal to amend the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 allowed for additional regulation of the funeral plan sector by the Financial Conduct Authority (FCA) consumers with a complaint would be protected by the Financial Ombudsman Service which provides an independent complaints and adjudication service free to the consumer.

Question 11: What is your experience of the scale and nature of consumer detriment (if any) that arises once a funeral plan has been entered into? Does this vary for different types of plans?

The 'Funeral Poverty in Scotland' report found that what was offered and the level of service provided in funeral plans varied between companies. Some plans would cover all the costs of a funeral including a set amount of money for third party disbursements such as burial or cremation fees. Other plans might only provide for basic funeral director costs. As highlighted in our answer to Question 5, this may lead to the family of the deceased, who took out the funeral plan, facing a shortfall between what is and what is not covered by the funeral plan.

A further concern CAS has relates to hidden fees being charged by plan providers. A question was asked in the House of Commons in autumn 2015 about instances where undeclared fees are deducted from contributions paid into funeral plans following the funeral plan purchaser passing away<sup>4</sup>. These fees could cause detriment to consumers who were unaware of these fees.

Question 12: What are your views on the proposal to bring the sector within the scope of the FOS and/or the FSCS? What are most common types of complaints against funeral providers?

CAS would support the proposal to bring the sector within the scope of the FOS and/or the FSCS. This has the potential to increase protection for consumers.

The most common types of cases which the citizens advice network in Scotland sees regarding funeral plans tend to be:

- not being aware of the conditions of the funeral plan they have purchased;
- thinking all aspects of a funeral would be covered by a funeral and then being asked to pay additional costs;
- not being provided with information regarding a funeral plan which has been purchased; and
- not being made aware of all offers which were available.

Question 14: What are your views on the government's proposal for FCA regulation of all funeral plan contracts and whether such a proposal will meet the government's stated objectives (as set out above)? Do you consider that an alternative proposal could better meet these objectives?

In CAS' 'Funeral Poverty in Scotland' report we recommended that:

*"the UK Government and Financial Conduct Authority (FCA) review the current self-regulation environment for funeral plan providers, including the exemption under the Financial Services & Markets Act 2000 for funeral plans to ensure that plan providers are robustly protecting client funds and sales practices do not take advantage of vulnerable consumers."*

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<sup>4</sup> [House of Commons Parliamentary Question 8623 9 September 2015](#)

CAS would support the proposal for FCA regulation of all funeral plan contracts and think that this could help reduce potential detriment for both funeral plan holders and vulnerable consumers.

Question 15: How should the regulatory framework apply in relation to funeral plans that consumers have already entered into?

As mentioned previously, one of CAS' concerns is the current inconsistency in the funeral plans market where a number of funeral plan providers behave in a way which may cause detriment to consumers. Moreover, CAS is aware of consumers who have experienced difficulties and detriment from their existing funeral plan provider. Therefore, in order to ensure consistency, CAS would support the proposed regulatory framework being applied in relation to funeral plans that consumers have already entered into. This would also ensure consistency where all consumers who purchase a funeral plan would be protected to the same degree.