



Funeral Planning Authority response to the HM Treasury consultation 'Pre-paid funeral plans: call for evidence'

July 2018

About the Funeral Planning Authority

The Funeral Planning Authority (FPA) is an organisation set up by the industry to regulate providers in the UK pre-paid funeral plan industry. The FPA is independent from the industry and our aim is to ensure that providers who are registered with the FPA are operating in a manner that will result in customers getting the funeral they have paid for when it is needed. We do this by checking that all registered providers abide by a set of Rules and a Code of Practice, which exceed the statutory requirements.

We also help customers who have a complaint about a plan or a provider by attempting to resolve matters with the provider. If resolution is not possible we will provide access to our independent dispute resolution process. In addition, we provide a free facility for those seeking to trace a funeral plan. In the first half of 2018 we assisted with approximately 1500 such tracing enquiries.

The FPA is not a trade or membership body that providers can just pay a fee to join. Providers become FPA registered by submitting an initial application to check that providers comply with our high standards as set out in our Rules and Code of Practice. There is then an annual re-registration process, assessed by the Compliance Committee, to check that they continue to comply and meet the required high standards. This involves the provider submitting detailed information to the FPA on the key aspects of how they run their plans.

Funeral plan providers can choose not to register with the FPA, and there are a small number that have not done so, representing approximately 5% of the new plans sold in the market. We recommend that customers choose a provider registered with the FPA and have actively encouraged others in and around the market to do likewise.

The FPA Board comprises the Chair, Chief Executive, Chair of Compliance Committee and two Non-Executive Directors. The Board is responsible for setting the FPA's strategic direction and agrees amendments to the Rules and Code of Practice, in response to changes in the industry and customer needs. The Compliance Committee members come from legal, actuarial and regulatory backgrounds and are focussed on ensuring that providers comply with the Rules and Code of Practice. The Directors and Compliance Committee members have no association or connection with any provider.

Though the FPA is funded by fees paid by registered providers, which vary according to the level of plans that they sell, the FPA does not represent the interests of the industry. These fees are designed not to be a barrier to any provider seeking registration and are capped so that we are never over reliant on any one individual provider to cover our operating costs.

Our closeness to the market means we have sound market intelligence and we have used that to support the FCA activities in policing compliance with the Regulated Activities Order (RAO). We believe that most (if not all) activity undertaken by the FCA in this area has stemmed from FPA interaction.

Since our formation in 2002 we have overseen the operation of the vast majority of providers in the market. Through this period no FPA registered firm has failed and the FPA has worked with providers to improve standards across the industry – in turn delivering an improved service to the thousands of customers each year who purchase prepaid funeral plans.

Executive summary

The FPA welcomes the opportunity to respond to this consultation to help identify the key issues in the market, and to consider potential solutions to them. We also wish to use this as an opportunity to dispel certain myths about providers, plans and detriment within the market.

The most appropriate, cost effective and readily achievable solution to the issues in the market would be to make the FPA the statutory regulator for the pre-paid funeral planning market in the UK. The FPA has taken legal advice on how this could be achieved and whilst we understand it would require legislation, we also believe it would significantly reduce transition challenges that would arise from other options and lead to a proportionate solution. The FPA has been demonstrated to work through challenging economic times with no FPA registered firm failing. It continues to be effective in changing provider behaviour and providing a robust process for consumers to pursue complaints against providers.

The overall market size of £4bn of assets, 1.3m customers and 200-220,000 new plans per year is relatively small. The FPA agree that there are some problems in the market, but these are limited, and caused by a very small number of providers who are not FPA registered, constituting approximately 5% of the market for new plans. New FCA regulation, however defined and enacted would be a disproportionate, less effective, more expensive and less consumer-focused solution to these problems than making FPA regulation compulsory for all providers. The evidence does not exist to support the costs associated with the creation and imposition of a new FCA regime to deal with a small proportion of a relatively small market.

The basic premise for proposing FCA regulation is that the FCA regulates similar products. This is also a false premise that fails to recognise that funeral plans are a pre-payment for a service rather than a financial investment. The FCA do not regulate any similar products.

There is also an underlying view in the consultation document that FCA regulation will eradicate all problems within the market. The FCA's own words show this to be false – *“we do not operate a zero-failure regime. To prevent all firm failure or harm to consumers would be unachievable; it would also be undesirable as it would stifle innovation and competition”* (Speech by Sarah Rapson FCA Director Authorisations, 14 March 2018).

Our key themes in response to the specific consultation questions are as follows:

- Our analysis shows that the problems highlighted in relation in the funeral planning market are largely related to the small number of providers who are not regulated by the FPA.
- We question the appropriateness and efficacy of FCA regulation, for several reasons:
 - Funeral plans are not like any other financial product because they are a pre-payment for a service, and there is no expectation or offer of returns or proceeds, etc.

- As such, they provide a service that is outside of most of what FCA regulation concerns and there is no obvious existing model within the FCA for the regulation of the funeral planning industry.
 - None of the advocates for FCA regulation have attempted to define the scope and mechanisms of FCA regulation in relation to the funeral planning market, so it is difficult to determine exactly what the costs and potential benefits might be for particular forms of FCA regulation.
 - However, it is possible to make some assessment of the costs of FCA regulation, given the compliance requirements of existing FCA regulatory regimes.
 - Given the small size of many funeral plan providers, we believe that the costs of FCA regulatory compliance would be disproportionate and so make many of them withdraw from the market.
 - This would diminish competition in the funeral planning market and for funeral directors, as many funeral directors rely on the smaller funeral plan providers for a significant portion of their pre-paid business (as some larger, integrated plan providers restrict customers to purchasing funeral services from their own companies.)
 - As we explain in our answer to Question 14, we have significant concerns about the robustness of the external analysis that is quoted in the Consultation Paper.
- The Government should also consider the relationship between the pricing of funerals and funeral plans. Funerals paid for by funeral plans are typically at or around the current price for an equivalent funeral purchased at the point of need. This is of crucial importance of understanding potential consumer detriment, as consumers are essentially getting a discounted price by paying for the service in advance.
 - Funeral plans grant consumers far greater market power and choice than they have when making decisions close to the point of need. They allow consumers to make a rational rather than emotional purchase and facilitate tidying up of individual's affairs. We believe, any regulation that made this more difficult would be unhelpful in terms of consumer choice. We expand on this point in our answer to Question 10 below.
 - Funeral plans have helped control the costs of funerals in so far as they relate to the costs of services provided by funeral directors. They continue to help drive longer term planning and greater choice in the market for funeral services.
 - Any change in the regulation of the market needs to be consistent with the Government's stated objective to reduce the burden of regulation. Clearly, the proposal of FCA regulation would not meet that objective.
 - The Government needs to be mindful of the transition challenges of moving to any new regulatory regime. These would be significantly lower in a move to statutory FPA regulation than for any other option.

Response

Question 1: Are there any other common ways to structure funeral plans, not outlined in this call for evidence?

No. The most common structures are outlined in this document.

We are also aware of religious-based schemes which do assist in the provision of funerals. Our understanding is that these are not funeral plans as defined in the RAO.

Question 2: Are funeral plan providers always the policyholder of underlying insurance policies? Are you aware of any examples of insurance intermediation within the funeral plan sector?

In general, the funeral plan provider is the policyholder of the underlying insurance policy. However, the FPA is also aware of limited examples where the plan holder/consumer is the policyholder.

We are not aware of any examples of insurance intermediation within the funeral plan sector, with plan providers usually having an arrangement with a single regulated insurance company.

Question 3: Where providers engage with third parties (e.g. funeral directors, charities, external companies), in what capacity do these third parties act and what is their relationship to the funeral plan provider? How are market participants remunerated and do any conflicts of interest arise?

Third parties generally act as agents of the funeral plan provider. There are situations where third parties are the adviser to the planholder (e.g. Independent financial advisers or solicitors).

Funeral directors can have a range of third party relationships. They can introduce a provider's plan to customers and receive a sale commission. They can also deliver the funeral. They may also work with the plan provider on a white label basis to promote their own funeral plan. In this instance, they set the price, take an administration fee and carry out the funeral when needed.

Charities and other third parties may also act as introducers / agents of plan providers and receive a commission for the introduction.

In all circumstances there is a potential for a conflict of interest - most notably where a third party has access to a high commission. It is for this reason that the FPA has specific requirements relating to the behaviour of third parties including the registered provider having responsibility for checking they are appropriate market participants, providing training, monitoring their behaviour and ultimately ceasing activity if they are found not to be operating in a compliant manner. These requirements have been successful in providing oversight of third parties though our requirements continue to be developed and are part of our current review of our Rules and Code of Practice.

Question 4: Are there any additional issues you think the government should be aware of in relation to the way in which funeral plan products are structured or sold?

The Government should also consider pricing. Most funeral plans are priced close to the price of the underlying services' current retail price (sometimes even cheaper than this). This suggests that the risk associated with the plan, together with any distribution costs, are being met from the retail margin that would otherwise be taken by the funeral director at point of need. This is an important when considering whether there is any consumer detriment in the market. In summary, consumers are being offered protection from future retail price inflation which is funded by the margins in the current retail price. Although funeral director margins are typically low, when a funeral plan is used, some funeral directors value the certainty of future business over the unpredictability of higher margins of funerals at the point of need. This obviously benefits consumers too.

A further factor that FPA is focussing attention on is the provision of guarantees and who provides that guarantee in the case of provider failure. We are currently reviewing our Rules and Code of Practice and we expect that there will be further requirements on providers to demonstrate how guarantees will be met.

It is important that funeral directors continue to play a role in helping some consumers think about what they want for their funeral. Any regulation that restricts or eliminates that process would be detrimental to consumers.

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?

Plans may be sold via a funeral director's branches, online, face to face, by telephone or by a mix of all of these methods.

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

The FPA considers, based on its experience, that the extent of consumer detriment at the point of sale has been greatly exaggerated. However, there have undoubtedly been some issues around the following:

- Comparison sites acting as lead generators. The FPA believes that existing Data Protection regulations could have been used to eliminate many of these sites. The new GDPR rules are likely to reduce the prevalence of these sites. The FPA would also deem it unacceptable for an FPA-registered firm to use such leads sourced from one of these sites.

- Potential customers being called repeatedly by third party agents. The FPA has seen some evidence of this but it is largely limited to a small number of non-FPA registered providers. The viability of these models is coming under pressure and the use of them is decreasing.
- Customers being misled as to the extent of services or coverage provided by a plan. Once again, our evidence suggests there is limited evidence of this happening and primarily in relation to a small number of non-FPA registered firms. The FPA has little evidence of it in relation to FPA registered firms. We believe the market literature has improved significantly around this issue in recent years.

We are confident that any consumer detriment around selling is limited to a small number of non FPA registered providers and is limited to certain aspects of their operations. Our engagement with those providers in the last 12 months has shown real improvement in their behaviour. Any suggestion of potential miss-selling by FPA registered providers is investigated robustly with a focus on ensuring that any consumer detriment is remedied quickly, and action is taken to prevent any recurrence.

There needs to be proper analysis of the scale of the issues faced by customers. This is not present in the research quoted by the consultation and indeed some of the media commentary has overstated the scale of the issues. In our view, understanding the scale of a market problem is important in assessing the cost benefit analysis of any regulatory proposal. If, as we believe, 95% of the market is broadly behaving and has prudential arrangements that are satisfactory, we should be focusing on solutions that address the 5%, rather than damage the properly functioning market through regulatory initiatives, that would significantly increase compliance costs (and reduce competition, as many providers could not absorb these costs).

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?

Cold calling is specifically prohibited under the FPA Code of Practice. For the 95% of the market covered by the FPA we do not believe this is a specific risk. Regarding non-FPA registered firms, we have not seen any strong evidence of cold calling. We have seen lead generation activity which we think falls below acceptable standards and would fall short of requirements under GDPR. We think GDPR (i.e. existing regulation) should be enforced in such situations.

Question 8: How much on average do consumers pay for funeral plans and in what circumstances would consumers pay money directly to funeral providers?

Customers normally pay a price that is around the cost of the equivalent at-need funeral. This may vary because the pre-paid plan provider company sets its plan prices on a national basis and there are geographical differences in pricing for at-need funerals. Our normal expectation is that customers would pay money directly to the trust (if one exists) or the insurance company to eliminate or reduce the risk of the provider becoming insolvent with assets from customers. In

some cases, a funeral director may take money from customers whilst selling their own plans or another provider's plans. Again, this money should then be invested in the relevant trust or insurance arrangement.

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?

All FPA-registered firms are required to have a complaints procedure, which is shared with us and kept on record. Firms are also required to comply with the FPA's own complaints procedure which provides an escalation route, should the provider and customer be unable to resolve matters. This has an independent dispute resolution process as the final step.

Our work with non-registered providers has shown that several firms have documented complaints procedures and the potential for a dispute resolution process. Occasionally, the FPA will assist customers of non-FPA registered providers and help the customer receive a satisfactory outcome.

Complaints following the death of the customer made by their family are dealt with on the same basis as if the customer were alive. We always review all interactions between the deceased planholder and the provider in our assessment of any complaint.

We provide some information on actual complaints in our answer to Question 11 below.

Question: 10: What protections are currently in place for consumers if a funeral plan provider were to have insufficient money to pay claims, and what is your view of their effectiveness?

Regarding the protection of customer money, the basic exemptions set out in the Regulated Activities Order (RAO) Article 60 provide a framework for ensuring there are sufficient assets to ensure funerals are carried out. Much of the current debate ignores the protections afforded by the RAO Article 60. All plan providers must set aside money to carry out the funeral either in an insurance policy (from an authorised insurer) or in a trust fund. Independent trustees are then subject to trust law, an auditor must carry out annual audits, there is an independent actuary who must follow professional guidance and an independent regulated fund manager. Suggestions in some reports that the market is akin to Farepak disregards these basic structural protections. The FPA Rules and Code of Practice currently go much further than the RAO requirements and provide a sound framework for consumer protection.

The actuarial valuation for a trust fund should be of great assistance and if there is any doubt how much is set aside in a trust or insurance policy with a potential contingent liability for the provider then we believe the existing accounting regulations would require that to be reflected in the provider's accounts.

From an FPA perspective we are focused in ensuring that whatever is set aside for any funeral reflects the arrangements that have been made for that funeral to be carried out. This usually refers to a legal agreement that has been made between the plan provider and the funeral director (or some form of internal arrangement where the provider is vertically integrated).

Much of the comment about what has been set aside being too little comes from the funeral director community. Our belief is that some funeral directors are unhappy that they receive less money than if they sold the funeral at the point of need. Funeral plans act as a disruptor to the funeral sector and are effectively 'chopping up' the value chain. We would therefore caution that care is needed to separate out the arguments about those that are genuinely about consumer protection and those that are about the commercial success of funeral directors.

Funeral plans give consumers much greater market power than they would have when choosing a funeral closer to the point of need, as they have more time to shop around and decide on what's right for them and are in a less vulnerable state. We believe that the future of the market lies in funeral directors ensuring that they offer tailored products to this market in a commercially viable way. Funeral plans have generated a longer term and more considered approach to choosing funerals.

The FPA does have a "pledge" which seeks to ensure that customers get their funerals delivered were an FPA registered provider to fail. While this is not a legal guarantee, but it does lead the FPA to focus on how much providers have set aside to provide for funerals – information that is collected quarterly from all registered providers.

We are investigating how this can be further enhanced to be a more comprehensive arrangement to provide consumer certainty that funerals will be delivered.

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 FPA can only comment on its complaint records, which covers 95% of the market. In 2017 there were a total of 87 complaints to the FPA about registered providers (in the context of 207k new plans, 90k plan redemptions and 1.3m outstanding plans). The key complaint categories were as follows, and a total of 42% were upheld:

1. Customer service (30%)
2. Sales Processes (28%) – just 24 in total
3. Additional Payments for Services (15%)
4. Cancellation terms (14%)

We have no strong evidence that one type of plan is more likely to result in a complaint than others.

Our annual registration process provides us with information on total number of complaints received by FPA registered providers. In 2017 there were a total of 1,639 complaints which equates to 1.25 per 1000 outstanding plans which is significantly less than any category recorded by the FCA (see <https://www.fca.org.uk/publication/data/complaints-data-analysis-2017-h2.pdf#page=8>).

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?

The suggested benefits of coverage under the Financial Ombudsman Service (FOS) and Financial Services Compensation Scheme (FSCS) run the risk of disappointing consumers.

Under the FOS the service would not be materially different from what is provided under the FPA complaints procedures. Our independent dispute process is legally enforceable and in 2017 our resolution time for complaints was on average around two weeks which is much less than the FOS reported average of three months. Given that the complaints concern funerals and bereaved families, this is both remarkably swift and helpful for grieving families, who do not want to be tied up in lengthy and bureaucratic complaints procedure.

Regarding FSCS, it is uncertain what is being suggested and indeed we note that the Fairer Finance second report acknowledges this. For FSCS to provide coverage we (and more importantly consumers) would expect it to provide the funeral. As we understand it this would be the first time the FSCS would be being asked to compensate for failure to provide a service rather than compensating for loss of invested funds. A return of contributions paid ten years from when the funeral plan was purchased is unlikely to cover the cost of the funeral. If the funeral is to be provided it is not clear how FSCS would administer this. It is also not clear in the trust situation whether the coverage would be for failure of the trust, the provider or both. We do not believe there has been due consideration on any of these issues to understand the impact and costs.

Question 13: What types of investment strategies are being adopted by trustees who are managing trusts on behalf of funeral plan providers and what is your view on the effectiveness of these strategies in securing the short and long-term interests of planholders? Are trust returns withdrawn by providers for revenue raising/profit purposes and, if so, what proportion of these returns are withdrawn in this way?

Investment strategies are chosen by the trustees and reflect the liabilities of the trust. For FPA registered providers we receive quarterly information on asset splits, which are generally a mix of asset classes appropriate to the liabilities. We are also aware of assets held by some non-FPA registered providers, which have not caused us undue concern. In general, the sort of investment objective being sought by the trustees is to achieve a return of some measure of inflation plus x% with various degrees of protection to downside market movements.

FPA registered trusts are required to have a Statement of Investment Principles (SoIP) that is considered by the Actuary when carrying out the annual actuarial valuation of the Trust. We receive copies of these SoIPs and raise queries with the Trustees if we have concerns with the intended asset mix.

Regarding returns being withdrawn by providers for revenue raising/profit purposes, as far as we are aware, in all cases this would need to be certified by the actuary and agreed by the trustees. Providers are unable to withdraw assets without proper checks and balances.

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?

Overall, the Government's objectives are that any regulation of this sector should seek to ensure that:

- all pre-paid funeral plan providers are subject to robust and enforceable conduct standards
- there is enhanced oversight of providers' prudential soundness
- consumers have access to appropriate dispute resolution mechanisms if things go wrong

These objectives would be best met by making the FPA a statutory regulator for the market. The FPA has been going through a process of change both in terms of its constitution and also our compliance requirements. We believe the significant majority of the industry and funeral director trade bodies supports these changes. Given that the Government has not attempted to define what FCA regulation would be for the funeral planning sector, no reasonable assessment can be made as to whether the proposal of FCA regulation would meet these objectives.

The Government will be aware there are many versions of what could be considered as FCA regulation including the fact that it is not the FCA that is the lead regulator for many businesses on prudential issues.

We note that those who have been promoting the idea of FCA regulation have consistently shied away from defining it. We believe this is because in practice it is difficult to define for this market.

As we understand it, one idea being considered by the Government would be to remove the exemptions under Article 60 of the RAO with the consequence that plans would then fall under FSMA. This would leave funeral plans in regulatory 'ether' as they do not fit into the FCA rules at present. Consequently, there would be a need for either a new handbook or other significant amendments to the existing handbooks.

Both routes are possible, but neither is trivial in terms of work. This is further complicated by the basic structure of such plans. At its simplest, in a trust-based model it is not clear whether the

regulation would apply to the provider, the trust, the distributor or to all organisations in the value chain. It would need to be all, but we have seen no evidence that these issues have been considered and they are clearly different from the models currently regulated by the FCA and PRA. It is fundamentally important when considering the proposal for FCA regulation to understand that there is no equivalent product to a funeral plan under the current regulatory remit of the FCA.

The cost of regulation is also an important consideration. This may cross over into the CMA review into funerals. The significantly increased costs likely to be incurred by firms would disproportionately impact smaller to medium independent firms, with the likely outcome of excluding perfectly FPA compliant businesses from the market. The likely beneficiaries of this change will either be the larger funeral planning companies and/or the larger funeral directors who will have as a consequence protected and enhanced their share of the at-need funeral market.

We are concerned about the various reports which have influenced Government thinking. We believe that these reports have strongly reflected the agenda of at least some of their sponsors and do not constitute independent assessments of the market, despite the authors' claims of independence. The exclusion of some providers from funding such reports support this view.

The consultation also refers to potential breaches of the RAO being looked at by the FCA. It is worth noting that we believe a significant proportion of such enquiries will have come from direct market intelligence the FPA has provided. We believe this would be lost in the "FCA regulation" model, with the potential for much greater customer detriment.

There is strong evidence that the FPA regime is working to protect consumers both from a firm conduct and prudential perspective. It is also clear that the sort of interaction the FPA is having with firms is significantly more than what would happen under FCA regulation. We believe there are several steps that could be made by Government that would achieve the stated objectives in a more timely and cost-effective manner:

- The Government could issue advice to consumers to only buy from FPA registered providers across all government websites / routes. This could happen immediately (for example by the Money Advice Service) and would have a very powerful impact on the willingness of those outside the FPA regime to seek registration. It could also encourage local government bodies and advisory services to do the same. This is a short term and immediate solution.
- The Government could also begin the process of making registration with the FPA mandatory for all market participants. This would provide an interim solution while statutory powers are provided to the FPA, as set out in the point below.
- We believe the Government should begin the process of making the FPA the statutory regulator for the market. We understand the market, have a proportionate model that

works, and we have the support of a significant majority of market participants, including most providers and funeral director trade bodies. We also believe the FCA understands the importance and effectiveness of the work we carry out. This could be achieved with much less new regulation than an alternative of requiring an entirely new FCA handbook.

While there are instances of poor practice by some non FPA regulated providers, they are a small minority and we believe the Government should legislate to bring non-registered providers under our code of practice. This would ensure that all pre-paid funeral plan providers are subject to the same set of robust and enforceable conduct standards; continue the enhanced oversight of providers' prudential soundness and continue to ensure consumers have access to appropriate dispute resolution mechanisms.

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

Applying a newly defined regulatory regime to the existing arrangements is complex. There is a danger that it could take a significant amount of time to ensure that consumer detriment is not caused by the imposition of a new regime. In contrast, applying an FPA based statutory regime could be achieved with limited adverse impact on existing consumers.

Question 16: Should regulation extend beyond funeral plan providers, and apply to intermediaries engaged within the sector? Should such intermediaries become regulated entities, or should they be overseen by funeral plan providers as appointed representatives?

The current FPA model provides a sound and proportionate basis to address these issues. We have made it very clear to plan providers that they are responsible for the behaviour of any third party they work with, and for ensuring appropriate oversight of such third parties. This model has been shown to work and there is a real danger that alternative models could result in smaller funeral directors being excluded from selling pre-paid funeral plans.

Question 17: What would be the overall impact on the market/your firm if all funeral plan contracts were subject to FCA regulation? Are there specific activities or businesses, such as SMEs, within the sector that would be particularly affected by strengthened regulation? What is your view of the potential costs and benefits of the government's proposal?

This is an impossible question to answer without any clear idea of what is intended by FCA regulation. However, we do not believe that FCA regulation would automatically strengthen the regulatory model for the market, by virtue of covering 100% of the market. FCA regulation, however defined or enacted, could create the following challenges:

- Smaller plan providers would be excluded from the market because the cost of compliance.

- The pre-paid market itself could thus shrink, reducing consumer choice and diminishing a useful tool in alleviating funeral poverty.
- A significant number of funeral directors could be excluded from selling funeral plans, leading to a lack of competition, which would be a negative outcome for consumers.
- It is likely that the proposal would lead to less intense oversight for most of the market, given that the FCA would have to allocate resources on a risk-based approach. As the whole market is roughly the size of a small to medium insurance company both in terms of customers and assets (and with limited evidence of customer detriment) oversight by the FCA would reflect that and is therefore unlikely to be scrutinised anywhere near what is currently happening through the FPA. In particular, the on-going oversight of those small, newer companies who are currently the key cause of concern, is likely to be virtually non-existent.
- The suggested benefits of FOS and FSCS under FCA regulation may not be as attractive in practice as they have been portrayed: for example, FOS timescales may extend families' distress, and FSCS coverage is unlikely to provide the purchased funeral.

Fundamentally, we believe that any rigorous cost benefit analysis by the Treasury will show that creating a new regime under the FCA for a market that is relatively small, will lead to huge costs and outweigh any benefit to consumers.

The latest Fairer Finance report suggests costs of £19m per annum for the industry. We may question the validity of these numbers but if even broadly correct this equates to nearly £100 per new plan. It seems clear to us that any such costs will have to be met by consumers.

Question 18: How long would the sector need to adapt to any new regulatory framework the government may seek to put in place?

Without the framework being defined it is extremely difficult to determine accurately how long it would take the sector to adapt. However, our estimate is that it would take several years. This is very important as there is a significant risk that the whole market could be without any form of regulation for this period as providers choose not to continue with FPA registration.

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