



NATIONAL
COUNCIL of the **FORUM on END of LIFE**
Bás in Éireann IN IRELAND

A Discussion Document

The Funeral Industry in Ireland:

The case for reform
and regulation

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Introduction

The National Council of the Forum on End of Life is calling for government regulation of funeral and cremation services, one of Ireland's least regulated businesses. This discussion paper will discuss the issues concerning the regulation of the industry under the following headings:

1. The case for reform
2. Proposal for change
3. A model for regulation
4. The Office for the Regulation of Funeral Services: Governance and legal framework

1. The case for reform

Submissions to the Forum on the End of Life revealed that there are major problems in Ireland with regard to sub-standard funeral care. There are currently no barriers to entry and no licensing in an industry responsible for the burial or cremation of up to 30,000 people a year.

The industry comprises of 600 funeral service providers (FSPs), with less than 100 of these full-time as many funeral directors are also operating other businesses. Not all part-time funeral directors are operating in compliance with public and professional insurance requirements and often do not have sufficient levels of staff to effect manual tasks.

Respondents to the Forum cited extreme variation in the services provided by FSPs, and reported instances of neglect and misconduct on the part of funeral directors and mortuary staff, due to the lack of regulation in the area. There is also a significant particular lack of regulations and standards in the area of embalming, often carried out by untrained personnel in inadequate hospital premises. The current low standards in practice and facilities have a negative impact on grieving families as facilities fail to take account of relatives' preferences and needs.

In addition, a shortfall in the area of transparency was identified, with many funeral directors issuing ambiguous or inappropriate invoices to families and anecdotal evidence of FSPs engaging in financial arrangements with hospital and hospice staff to ensure that they recommend certain firms.

As **cremation** becomes a popular option, it is important to note that cremation services in Ireland are not governed by any legislation. There are increasing concerns in a European



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context regarding the environmental sustainability of cremation, owing to mercury emissions which it produces as a result of dental amalgam waste in human remains. Annual emissions of mercury from crematoria in the EU are estimated at between two and five tonnes.¹

In many European countries, emissions from crematoria are now the major source of mercury emissions. Furthermore, the average number of fillings per person is increasing, indicating a subsequent increase in mercury emissions. While the treatment of dental amalgam waste is covered by European Community waste law, emissions from cremation are not, although they are regulated by some Member States.

Finally, it is also important to be cognisant of the newer approaches to dealing with human remains, which will likely initiate similar debates regarding their regulation. A recent article in *The Economist* refers to these new methods which include 'alkaline hydrolysis where bodies are dissolved into a liquid...that can be used as a fertiliser', and a process which freeze-dries bodies in nitrogen, removing any mercury deposits.²

2. Proposal for change

The National Council of the Forum on End of Life is calling for the reform and regulation of the funeral industry in the following areas:

1. **Official certification:** FSPs to be officially approved and subject to a Code of Practice and regulatory standards as set down by the newly proposed regulatory office;
2. **Model for regulation:** A model of official certification of FSPs requiring the payment of a levy into a central fund would enable the overall regulation of the industry, as called for in the following recommendations;
3. **Mandatory training:** FSPs to provide mandatory training for funeral staff in manual lifting and health and safety issues given by an appropriate and approved training authority;
4. **Inspection:** Official oversight and inspection of funeral homes. This role should be delegated to an appropriate government body such as the Office established under the new model (options discussed below);

¹ Karin Kindbom & John Munthe (IVL Swedish Environmental Research Institute Limited: 2007) *Product-related emissions of Mercury to Air in the European Union*, <http://www3.ivl.se/rapporter/pdf/B1739.pdf>

² *The Economist*, 'Exit strategies: Innovations for a conservative industry', <http://www.economist.com/node/17043348/print>



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5. **Embalming:** Training to be mandatory for embalmers and embalming facilities to be regularly inspected;
6. **Transparency:** Clients to be given written estimates of all funeral costs and bills that are itemised for all charges including embalming, flowers, music, clergy/officiant fees, gravedigging charges etc. Any unofficial payments to hospital mortuary staff should also be disclosed.

3. A model for regulation

A model of licensing for funeral directors requiring the payment of a levy into a central fund would enable the regulation of the industry called for above.

This self-financing model is similar to that applied in the state of Ontario, Canada, over the last thirty years, and centres around a levy to be paid by funeral directors in exchange for official certification and licensing. This levy would be paid into a fund which would finance the operation of a government office, the Office for the Regulation of Funeral Services, charged with the regulation of the funeral industry.

This levy would be paid for by funeral directors themselves depending on the number of funerals they provided in the previous year and would be seen as a professional levy as opposed to one borne by the consumer. It is important to note that the payment of this levy by funeral directors may result in the passing on of a small additional cost to individual funeral bills. This issue of passing on fees to the public would be a matter for discussion in the context of the introduction of any legislation arising from this proposal. With regard to the average number of funerals that are provided by FSPs, a large-scale urban city firm would typically provide 400 to 500 funerals, a medium-scale town firm between 80 and 100 funerals, and a part-time FSP would provide 80 funerals or less a year. This system would be similar to the regulation of other industries in Ireland, such as the banking and electricity industries.

In order to calculate the potential income of this fund, figures from the 2009 Census have been used, stating the total number of deaths for the year at 28, 898. The average cost of a funeral in the Greater Dublin Area is €5,000, slightly higher than the national average of €4,500. It is important to note that a large percentage of the cost of the funeral is spent on the grave. This cost is traditionally paid by FSPs on behalf of families and forms part of the overall cost of the funeral. Plots are considerably more expensive in Dublin, with prices ranging from €1,450 up to €5,000 for standard plots, compared with the rest of the country, where plots can be bought for as little as €200. There are also opening fees payable on plots



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which vary according to location and time of day. Opening fees in Dublin can be as high as €1,500. The average cost of cremations is €500.

The National Council is proposing a levy of €25 per funeral to be paid by FSPs to provide the basic costs of running the regulatory office, including the costs of carrying out inspections.

Levy	Registered deaths	Income
€25	28,898	€722,450



4. The Office for the Regulation of Funeral Services: Governance and legal framework

(a) Responsibilities

The Office for the Regulation of Funeral Services would have a small staff of 3 or 4 and would be responsible for:

- Ensuring that all FSP are officially approved and carry out regular inspections of FSP facilities to ensure their compliance with a Code of Practice;
- Recording information of all funeral service providers (FSP) and qualified embalmers;
- Ensuring that all FSP have appropriate insurance and indemnity cover;
- Enforcing the participation of all FSP in the industry-specific education and training programmes;
- Ensuring that all FSP have sufficient staff comprehensive with appropriate levels of training; enforcing the participation of all FSPs in the industry-specific education and training programmes such as the Irish Association of Funeral Directors (IAFD) sponsored FETAC level 5, Certificate in Funeral Practice (CFP).

(b) Legal infrastructure: International best practice

The Office for the Regulation of Funeral Services would ideally be supported by national legislation. Options include having a separate Funerals Act to cover the regulation of FSPs and cremation; or including this in existing draft legislation such as the Coroners Bill.

International examples of legal infrastructure include:

- **Canada:** In the state of Ontario, Canada, the Funeral Directors and Establishments Act established a self-governing body to administer the Act and regulate the practices of funeral directors, the Board of Funeral Services. The Act requires that the Board be composed of thirteen members, consisting of eight funeral directors and five public persons, and establishes five standing committees: Executive Committee, Licensing Committee, Complaints Committee, Discipline Committee and Compensation Fund Committee to compensate for breaches of contract.
- **US:** In the US, the Federal Trade Commission's Funeral Rule was enacted in 1984 and amended in 1994. The rule protects consumers by requiring that they receive



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adequate information concerning the goods and services purchased from a funeral service provider. Funeral homes in the US are also subject to other additional legislation such as the Occupational Safety and Health Act (OSHA) and the Federal Americans with Disabilities Act;

- **Australia:** In Australia, there are guidelines for the funeral industry that are based on the Public Health (Disposal of Bodies) Act 2002. The 2002 Act covers inspection of facilities, including premises and vehicles for the handling of bodies; Handling of bodies, including retention, embalming and preparation, coffins and body bags, viewing; burials and register of burials; exhumations; crematories; cremation; mortuaries. Funeral directors are also subject to Occupational Health and Safety Act 2000 and the Coroners Act 1980;
- **UK:** In the UK, the regulation of funeral services is carried out by articles 59 & 60 of The Financial Services & Markets Act 2000 (Regulated Activities) Order 2001 which ensure consumer protection regarding contracts for these services.

(c) **Governance**

(i) **International best practice**

International arrangements vary in terms of the location for the responsibility for the regulation of funeral services.

- **Canada:** In 1990, the responsibility for the aforementioned Board of Funeral Services was transferred from the Ministry of Health to the Ministry for Consumer Protection. The Board is subject to the oversight of the Ministry's Sector Liaison Branch which oversees regulating bodies;
- **US:** In the US, governance can vary from state to state. In Vermont, there is a Board of Funeral Service established within the Office of Professional Regulation;

(ii) **Options for Ireland**

Options for the location of the Office for the Regulation of Funeral Services include:



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- Establishing an office within the HSE, in the same manner that the Office for the Prevention of Suicide was created within the HSE's Population Health Directorate;
- Expanding the remit of the Health Information and Quality Authority (HIQA) to incorporate funeral services;
- Establishing an Office within the Office of the Director of Corporate Enforcement (ODCE) in the Department of Enterprise, Trade and Innovation (DETI), similar to the Board of Funeral Service in Vermont, US.