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2017

It's your funeral

An investigation of death
care and the funeral
industry in Australia



It's Your Funeral:

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Professor Sandra van der Laan and Associate Professor Lee Moerman

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This project was partly funded by a CPA Australia *Global Research Perspectives Program*. The researchers independently determined the research designed and analysis associated with this project.

This funding had no influence on the findings or recommendations arising from this research.

The authors would like to thank Jo Walker for her research assistance and Tina Huynh for her help with the data and analysis.

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Chapter 1: INTRODUCTION

1.1 Background

Benjamin Franklin's famous quote "in this world nothing can be said to be certain but death and taxes!" (Franklin, 1817, p. 266) reinforces the inevitability of death. As a consequence, death-care will touch everyone at some stage. This connection can be through funeral arrangements for a relative or friend; planning one's own 'send-off' through pre-need (pre-paid) funerals or bonds; or organising memorials.

Death-care involves at least four distinct aspects or services. First, is disposal of the body, most commonly through burial or cremation¹. This aspect is the only mandatory requirement for dealing with the deceased (see Chapter 3). Second, is the ceremonial aspect - the funeral service or the 'send-off'. Third, the memorialisation aspect including new age 'virtual' memorials or a headstone or plaque providing a sense of 'place' for the deceased. Finally, planning for funeral needs through various means including bonds, insurance and pre-need arrangements. In the funeral industry, financial value is largely created through the non-essential bundling of the first two or three aspects, mergers and acquisitions to exploit economies of scale, vertical integration of death-care services as well as the selling of pre-need funeral packages. On one hand, while the key revenue driver i.e. the number of deaths in Australia is rising, the death rate (number per thousand population) is falling (IBISWorld, 2016) and the industry may need to find innovative ways to value-add in the future. Since the provision of death-care is considered to be recession-proof, the risk to revenue streams comes mainly from competition for goods and services in an increasingly corporatised sector. And, in an 'Uber-style' environment of disruptive technologies providing innovative solutions, this competition may come in forms never dreamt of or imagined a decade ago.

Since funeral practices are culturally grounded there is an Australian 'way of death' that has, in turn, influenced the development of the death-care industry locally. Jalland (2006) asserts that two major factors, demography and religion, influenced death and bereavement in the 20th century. Demography, in terms of a shift from high infant mortality to death from old age; and, the influence from an influx of Catholic and Orthodox immigrants from southern Europe in the 1950s. These factors contributed to a gradual trend of distancing death from the living and the development of an industry of family and community owned funeral homes. By the 1970s, the entry of U.S.-based operators into the Australian market was the beginning of a change as local subsidiaries exploited regulatory gaps and weaknesses and eventually monopolised the death-care value chain on the profitable east coast of Australia (IBISWorld, 2016; Larkins, 2007).

According to IBISWorld (2016) the *Funeral Directors, Crematoria and Cemeteries* industry is a billion dollar industry in Australia with an expected 10% growth within the next five years. Currently InvoCare Limited² (InvoCare) a multinational corporation holds a 40% market share of this lucrative business while the remaining 60% is fragmented with small and family owned enterprises³.

1.2 Objectives of the Research

As noted earlier, the death-care encompasses at least four aspects, however for this report our primary focus is on the costs, pricing and transparency aspects of ceremony and disposal that is

¹ In recent years a technique known as alkaline hydrolysis or "flameless cremation" has been developed as another method of disposal (Olson, 2016, p.80)

² InvoCare Limited was floated on the ASX (IVC) in 2003 and is the largest operator in the Asia-Pacific Region.

³ For example, Tobin Brothers Pty Ltd is a family owned and run business with 23 enterprises in Victoria and enjoys a mere 2.5% market share (IBISWorld, 2016).

generally undertaken by funeral directors⁴. Disposal of the deceased in a dignified manner is regarded as an essential service in Australia and therefore should be available to all, regardless of income (CPSA, 2009). Therefore, the aim of this research is to develop a comprehensive understanding of the funeral industry in Australia and the drivers of costs and prices in the current regulatory environment. Given the recent corporatisation and increasing concentration of the industry (Cottle & Keys, 2004; IBISWorld, 2016), the study is designed to report on the following:

- the size and structure of the funeral industry in Australia,
- the social, cultural, regulatory frameworks and institutional impacts on the industry,
- the cost and price drivers in the industry,
- the price of a direct committal (cremation) and a basic or essential services funeral in Australia in 2016 provided by funeral directors, and,
- the scope and regulation other products that exist in the funeral industry (e.g. funeral insurance and funeral bonds).

Disclosures regarding pricing and costs of the various options for funerals and body disposal will enable consumers of these services to make more informed choices and address the concerns of predatory marketing and price gouging in the industry (see van der Laan and Moerman, 2014). And, while both independent funeral brokers (see www.comparefunerals.com.au) and InvoCare 'planning' websites (see www.funeralplanner.com) offer opportunities for consumers to compare packages among funeral directors, this report will provide recommendations for policy makers and regulators in terms of promoting consumer choice, protecting vulnerable consumers by contributing to efforts to increase price transparency.

1.3 Prior Research

The funeral industry has attracted the attention of the popular press and governments (e.g. CPSA, 1992; FCDC, 2005; NSW Parliament, 2005; Shelley, 2011) due to the social impact of its services and its size. Additionally, death-care in general and the funeral industry in particular is largely ignored as a research site in the accounting literature.

The market in which funeral directors operate is non-traditional and it is not surprising that complaints about pricing, over-servicing and consumer exploitation have arisen. Funeral pricing came to the attention of various governments in the 1970s following suggestions that consumers of funeral services were being exploited at their most vulnerable (Larkins, 2007). Around the same time, there was an expansion in the services offered by funeral directors to combat cut-price competition by offering simple or no-frills funerals (Jalland, 2006). In response to consumer complaints about overpricing and transparency by funeral directors, the Pricing Surveillance Authority (PSA) conducted an *Investigation into Funeral Prices* in 1991. It concluded that consumers need to be educated about funeral operations to prevent potential exploitation from the information and power asymmetry in the industry (PSA, 1992). Further inquiries into the industry were conducted by the NSW and the Victorian governments in 2005 focussing on pricing practices, industry conduct and transparency. Several recommendations were implemented including regulations regarding the disclosure of costs and the requirement for the service providers to offer a basic or essential services funeral to enable consumer comparison across providers. The NSW Fair Trading Act 1987 defines a basic funeral as:

'The supply of specified goods and services, including the arrangement and conduct of a funeral service to be held during ordinary business hours, limited transport of a body, and supply of the least expensive coffin that a supplier of a funeral goods and services has available (NSW Fair Trading, Explanatory Note, 2008).'

⁴ Recently, web-based enterprises offering direct committal services through the internet have emerged.

Following the announcement of this reform, in 2009 the Combined Pensioners & Superannuates Association of NSW Inc (CPSA) conducted a study to determine the cost of a basic funeral or the lowest price funeral on offer from a sample of undertakers (funeral directors) across NSW. The CPSA advocates on behalf of those on a low income and recommended that the NSW government introduce a statutory price for a basic funeral. Their study was conducted by cold-calling undertakers using an alias to elicit the total price and itemised prices for certain goods and services. The CPSA (2009) found a significant difference in the price of a basic funeral, a lack of transparency regarding discrete goods and services, non-compliance with the requirements of itemised quotes, incidences of up-selling and a lack of competition in the funeral industry.

1.4 Research Design

Due to the bespoke nature of funerals, the bundling of certain administrative and overhead costs and cross-subsidisation of costs makes it difficult and somewhat meaningless to establish the price of an 'average' funeral (FCDC 2005). Therefore, this research focuses on two distinct products that have standard features. First, the direct committal (cremation) or disposal of the body without a funeral service; and second, the basic or essential services funeral that includes cremation and a funeral service. While a basic funeral can include either burial or cremation, the costs of burial are so dependent on factors, such as geographical location and significant variation in cemetery fees, the study reports on cremation only.

To address the research objectives both quantitative and qualitative approaches to data collection and analysis were used to compare and report jurisdictional similarities and differences across states. Therefore, the approach to the study was as follows:

- We conducted a literature review to determine the social, cultural and historical features of death-care and the funeral industry.
- We identified the size and characteristics of the funeral industry in Australia and described the structure of pricing for goods and services.
- We compiled a database of state and federal legislation and regulation relating to death-care and the funeral industry.
- We conducted a survey of funeral directors to determine pricing of two 'standardised' products using both online information and direct contact (via telephone) and analysed the data.

The information was gathered from a variety of sources including: documents e.g. annual reports, federal and state legislation and regulations; prior scholarly research; direct enquiry from service providers and peak bodies (e.g. Australian Funeral Directors Association); electronic media such as websites; and, government and advocacy reports into the industry.

1.5 Structure of the Report

The following chapter discusses the social and cultural aspects of death-care and the funeral industry in Australia by providing a brief history to contextualise an Australian 'way of death' that provides a basis for current levels of transparency and accountability in the industry. Chapter 3 explores the regulatory environment for funeral services. A database of both of existing requirements for disposal of the deceased, pre-need or pre-paid funerals and financial products and professional standards in Australia is described. Since the scope of regulation is fragmented, we have also identified regulatory gaps that allow for the entrance of new business models and the do-it-yourself funeral. Chapter 4 presents the data and the results of the analysis. We conclude in Chapter 5 with recommendations and future directions for research.

Chapter 2: SOCIO-CULTURAL FACTORS

2.1 Overview

Death-care and funeral rituals are dependent on a range of social, cultural, regulatory and historical factors. Different cultures and societies express death and funerals in very different ways. For example, Hindu cremation rituals in parts of India require the chief mourner to break the skull of the corpse in the funeral pyre with a stick to release the soul (Firth, 1996). The traditions of death that predominate in countries such as Australia, New Zealand, United Kingdom and the United States are similar, albeit with some differentiation for cultural and ethnic groups. To study the funeral industry in its present form in Australia it is necessary to contextualise death within particular transformative changes.

2.2 Brief history of the funeral industry in Australia

In the 1800s, the demographic features of high infant mortality and the Christian religion were major influences on the rituals of death in Australia. In particular, spiritual belief afforded a model of acceptance and a language to express death and grief (Jalland, 2006). However, by the turn of the 20th century the infant mortality rate in Australia was in decline and there was a noticeable change in the practice of Christianity. From 1971 to 2001, the proportion of Australians identifying with a Christian religion fell from 86% to 68% (NSW Parliament, 2005). Catholicism and a preference for burial had come to dominate as a result of post-war European migration (Jalland, 2006; IBISWorld, 2016). However, since the substantial decline in Christian church attendance and the rise of other religious practices, cremation has grown as the preferred disposal option for two-thirds of deaths in Australia. With the trend to cremation the need for fixed physical placement of remains seems less important in the 21st century. Cremated remains (ashes or cremains) provide opportunities for innovative products such as the incorporation of ashes into keepsakes (teddy bears, vinyl records, pencils etc.), jewellery, fireworks and even tattoo ink.

During the 20th century, the traditional activities associated with death and mourning shifted from family control to institutions. This trend is highlighted in the current figures that confirm that in Australia only 14% of people die at home, 54% in hospital and 32% in residential care (nursing homes) (Swerissen and Duckett 2014). In the 19th and early 20th centuries women were involved at the death bed, preparing the body after death until the funeral (Jalland, 2006). However, by the outset of World War I, undertakers became prominent. Within the following 30 year period until the end of World War II (WWII) a shift to a culture of 'death denial' and the privatisation of grief had developed. A major contributor was the lack of a "survivors' capacity to cope in the face of such a massive overload of death and sorrow" (Jalland, 2006, p.14) – a state that did not change until the 1980s with the revival of "expressive grief" (Jalland, 2006, p.351) and the subsequent rise in the memorialisation aspect of death-care. The desire to hold on to a memento or object is an important factor in the memorialisation aspect of death-care.

In the current environment, memorialisation has moved from the traditional epitaph to a range of innovative technological and virtual 'solutions'. These new forms of ritualisation of death also coincide with the secularisation and individualisation of western society in the late 20th century (Schafer and McManus, 2016). Headstones and memorial plaques are being replaced by immortalisation through cloud-based memorial sites, for example Facebook and other technological solutions that provide virtual, interactive and flexible memorials. Now one can construct the post-self through cloud-based technology sites such as Qeep⁵. Some sites even go so far as to offer a post-death message service and it is not a huge leap to imagine an after death 'chat' function with a clever algorithm.

⁵ <http://www.qeep.com/>

Another significant impact comes from the decreasing death rate due to improvements in: health outcomes from advances in medical science; the drugs to treat disease and prolong life; and health awareness (e.g. the dangers of smoking) extending the average lifespan of males to 80.1 years and females to 84.3 years (IBISWorld, 2016).

The funeral industry in Australia has now reached maturity (IBISworld, 2016; FCDC, 2005) with the opportunities of merger and acquisition that reflect economies of scale and value-adding, as well as new products to boost revenue. However, new challenges from disruptive technologies, products and services and innovative business models such as those described above have arisen.

2.3 The funeral director in Australia

In the 19th century funerals were undertaken by a disparate group of professionals including builders and carpenters providing coffins with doctors and clergy performing other funeral work. This modest business model developed throughout the 20th century to the full service funeral and the professionalisation of the funeral director that is evident today. Professions are characterised by a set of criteria that includes a systemic body of knowledge, authority and credibility, community sanction, self-regulation and a code of ethics (Greenwood, 1957). For example, in the US, communities of practice have emerged from the specialised knowledge and techniques of embalming that create jurisdictional boundaries and control of the death-care market (Olson, 2016). While embalming is not popular in Australia, funeral directors still retain a monopoly over funerals and are therefore influential in the market and control prices (IBISWorld, 2016). Currently, 60% of funerals in Australia are undertaken by a member of the peak industry association, the Australian Funeral Directors Association (AFDA). While several options have been canvassed for the regulation of funeral directors, recommendations for an industry code of practice, rather than a licence to operate⁶, has reinforced the self-regulated status of funeral directors (FCDC, 2005; NSW Parliament, 2005).

Today, the funeral director is seen as relieving the bereaved of the burden of the practical aspects of disposal of the deceased (PSA, 1992). Indeed, navigating the legal requirements of disposal and engaging with crematoria or cemetery staff directly is a daunting and often near impossible task (Larkins, 2007; Munro, 2016; PSA, 1992). A funeral director may offer the following:

- Transferring the body to a mortuary or funeral premises;
- Provision of a coffin or a casket (or appropriate receptacle for transportation and/or disposal);
- Arranging the ceremony and committal;
- Organising notices and floral tributes including transportation from ceremony to committal;
- Obtaining medical certificates and registering death;
- Preparation and arrangement of a viewing;
- Transportation (hearse) to the ceremony and committal;
- Payment of disbursements e.g. clergy fees, flowers, notices and cemetery/crematoria fees;
- Organisation of memorials; and
- Grief counselling.

As mentioned earlier, during the period of death denial, the domain of the funeral director increased considerably to provide a 'package' or 'bundle' of goods and services to simplify the process of decision-making for consumers. Further, the overall decline in religious faith has meant that memorialisation, as a way of consolation and grief, has become increasingly secularised. For example, the presence of memorabilia, such as sporting equipment or other treasured objects of the deceased; and public testimonies rather the standard liturgy as a part of the funeral service (Jalland, 2006). A decline in church attendance has meant that funeral directors provide

⁶ Licensing is required in Western Australia.

a 'chapel' or other space for the ceremonial aspect of the funeral. Ethnic, religious and cultural groups bring unique requirements to the industry, although the customs and practices may also differ among groups depending on the length of time and the particular characteristics of the deceased and the family (NSW Parliament, 2005). For example, Buddhists communities come from a variety of ethnic backgrounds and practices and differ according to their background; Hindus and Buddhists prefer cremation; Muslims and Jews have ceremonial practices and prefer burial (IBISworld, 2016; NSW Parliament, 2005). More recently, there has been a shift to sustainability considerations and the advent of a 'green' funeral using more biodegradable burial options materials, reusable coffins and environmentally-friendly cremations (IBISworld, 2016; Olson, 2016).

In the 1970s, concern over pricing by funeral directors, the lack of public knowledge about the funeral industry along with the need for education to remove the 'mystique' arose (Jalland, 2006, p.291). In 1980, Simplicity Funerals was established in Australia to provide "quick, plain and unsentimental, but above all cheap" funerals (Jalland, 2006, p.292) as a challenge to both rising prices and the American-style of extravagance with expensive coffins or caskets and embalming.

By the 1980s, the business model had evolved from many small and/or family-owned firms to larger enterprises through takeover and amalgamation. In some states, market domination was also secured through the acquisition of cemeteries and crematoria (Jalland, 2006). Since the 1990s, the increasing monopolisation of funeral services prompted the Prices Surveillance Authority to investigate pricing and other practices. Complaints from consumers included concerns about: the wide range of quoted prices for the same goods and service; overpricing and unreasonable increases in pricing for funerals held less than a year apart; the provision of excessive non-optimal services; and importantly, customer confusion (PSA, 1992).

In the mid-1990s, two US multinational firms had entered the Australian market, introducing expensive memorialisation and aggressive marketing of pre-paid funerals (Jalland, 2006). By 2001, the largest of these firms, Service Corporation International (SCI) sold 80% of its ownership in the Australian funeral industry to a consortium led by the Macquarie Bank. This entity listed on the ASX in 2003 as InvoCare and currently enjoys an estimated 40% of total market share in Australia. Over the next five years industry consolidation with other mergers and acquisitions of small and medium size funeral homes is expected to create economies of scale necessary for industry growth by other conglomerates (IBISWorld, 2016).

Two important government reports were published in 2005, the NSW Parliament *Inquiry into the Funeral Industry* (NSW Parliament, 2005) and the Parliament of Victoria (FCDC, 2005) *Inquiry into Regulation of the Funeral Industry*. The outcome of both inquiries were recommendations for the introduction of a mandatory and comprehensive code of practice for the funeral industry that covered, among others, the provision of a basic or essential services funeral⁷ and the requirement to provide a standardised funeral quote and invoice. In particular, the recommendations emphasised the need for lower cost options including cremations, alternative options for manufacturing coffins⁸ and do-it-yourself funerals. Following the NSW Inquiry, the NSW government introduced reforms of the Fair Trading Act 1987 to promote low cost funerals (CPSA, 2009).

A basic funeral in NSW comprises the following:

- the arrangement and conduct of a funeral service, at either the premises of the funeral director or at the place of burial or cremation between the hours of 8am and 5pm on a weekday;
- transport of the deceased to any of the following places where no individual journey is more than 30 kilometres:

⁷ The cost and composition is regulated through the Product Information Standard for funerals developed by the Office of Fair Trading in NSW.

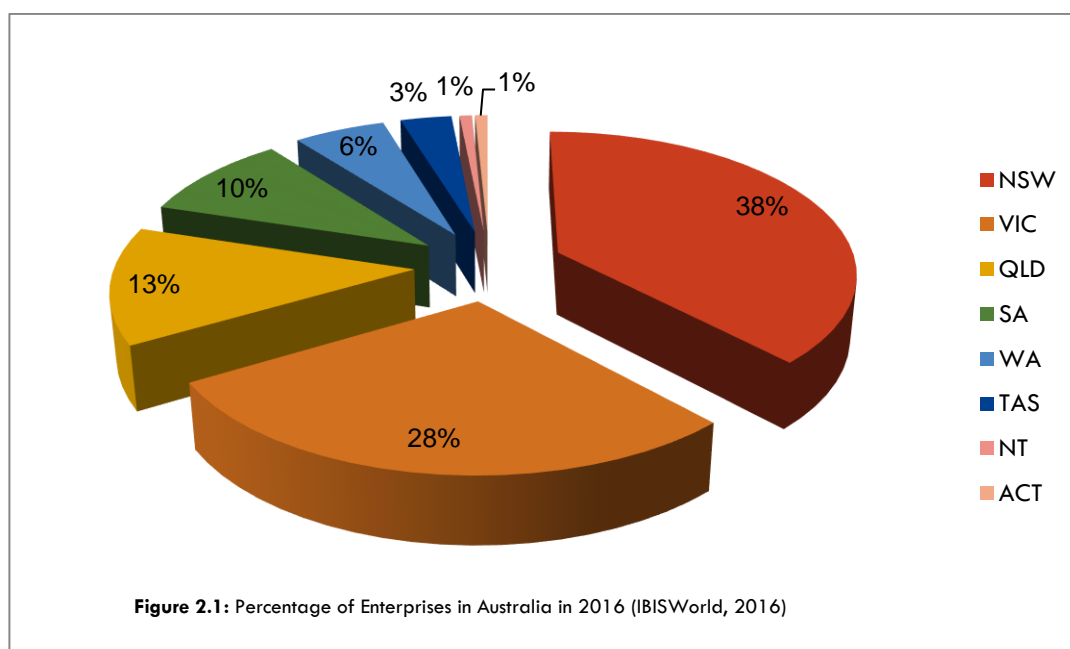
⁸ The NSW Parliament report indicated the need for coffins made from materials such as chipboard or cardboard to lower funeral costs.

- the premises of the funeral director,
- a mortuary, or
- the place at which the deceased is to be buried or cremated;
- storage of the deceased in a mortuary or holding room;
- the preparation of the deceased for burial or cremation (not including preparation for viewing or embalming);
- the least expensive coffin that the funeral director has available;
- collection of compulsory medical certificates or permits in relation to the deceased; and,
- burial or cremation (NSW Fair Trading, 2016, n.p.).

Funeral directors are not required to provide a basic funeral, however most offer some kind of simple but dignified funeral. If a basic funeral is provided, the consumer must be given a basic funeral notice prior to entering into a contract that itemises the price of the basic funeral goods and services and an estimation of disbursements (NSW Fair Trading, 2016).

2.4 Death and demographics in Australia

Demographic changes are drivers for both opportunities and challenges in the funeral industry. According to IBISWorld (2016), the key external drivers for the funeral industry include: number of deaths; attendance at Catholic Mass as a proxy for the preference for a burial; age of the population (> 70 years); and, real household disposable income. The largest demand determinant and revenue driver in the funeral industry is the number of deaths which has been constrained by advances in medicine and also higher living standards and approaches to health (IBISWorld, 2016). In Australia, 55% of funerals are for people aged 80 years and over and 32% for the 60 to 79 years age bracket (IBISWorld, 2016). The ageing population of the ‘baby boomers’ with their desire to retire to coastal regions in Australia is an example of a trend impacting the industry in terms of current and future demand and location of services (NSW Parliament, 2005). For example, just under 80% of all operators are located on the east coast of Australia (IBISWorld, 2016). Figure 2.1 below indicates the percentage of enterprises in the Funeral Director, Crematoria and Cemetery sector state-by-state in Australia in 2016.



As shown in Figure 2.1, NSW and Victoria have the highest number of enterprises with 66% of the national market. While information from all jurisdictions was collected for the study, due to the fragmented nature of regulation in the industry, NSW statistics and examples are often used in this study as a representative sample. While some states authorities are silent on certain aspects of funerals, NSW generally provides the most detailed and comprehensive legislation and regulations.

Packaging death-care by funeral directors has resulted in opacity of the industry. Recently, organisations providing a more transparent, democratic, open and responsible death-related practices have emerged. While internet sites such as *The Groundswell Project*⁹ and *Death Cafes*¹⁰ espouse empowerment, consumers still lack information about processes and operations, options and pricing.

2.5 Transparency in the Funeral Industry in Australia

The loss of a loved one is a time of grief and vulnerability often accompanied by an impaired ability to make informed decisions within a short period of time. If we consider the funeral industry as a provider of essential goods and services, the interface between consumer and funeral director is one where consumers are constrained from transacting in a rational manner in the marketplace (Gentry et al, 1994). Consumer choice is dependent upon the consumer knowing the options that exist. The PSA (1992) report and the NSW Parliamentary Inquiry (2005) both identified a need for increased community awareness and, more importantly, education with regard to the pricing of funerals and alternatives. Therefore, the provision of clear and transparent information is especially important for consumers of funeral industry products and services as the decision process involves a markedly different context than other or usual major purchases (Dobscha, 2016; Gentry et al, 1994; NSW Parliament, 2005; PSA, 1992).

Australia is characterised by large urban or metropolitan regions that significantly differ in size to rural or remote areas (non-urban). In non-urban areas pricing is impacted by several distinctive characteristics including: the lack of pressure on land for burials; the distances travelled for crematorium services; the lower number of funerals; as well as a lack of local competition leading to monopolistic practices (NSW Parliament, 2005). Included in the price of non-urban cremation, for example, is the higher allocation rate for overhead (fixed) costs. In areas where the distance is greater than 30km to the business premises, a local funeral director may not be able to provide a basic funeral service (NSW Office of Fair Trading, 2011).

Therefore, there is considerable scope for variation in the overall price for a funeral depending on consumer choice, options available, location of the funeral and the funeral directors' available goods and services. The itemised invoice from a funeral director generally differentiates three distinct components of the overall price of a funeral to the consumer. First, the professional fee for the services of the funeral director which includes items such as labour and salary costs, liaison with service providers, vehicles, overhead costs in maintaining premises and the opportunity cost of 24-hour availability. Second, the amount charged for a coffin (cost + mark-up); and, third, disbursements (fixed and variable costs paid for and transferred to customer) such as flowers, certificates or cemetery/crematoria fees (NSW Parliament, 2005).

⁹ <http://www.thegroundswellproject.com/new-blog/2014/6/9/death-cafe-conversation-with-jon-underwood>

¹⁰ <http://deathcafe.com/>

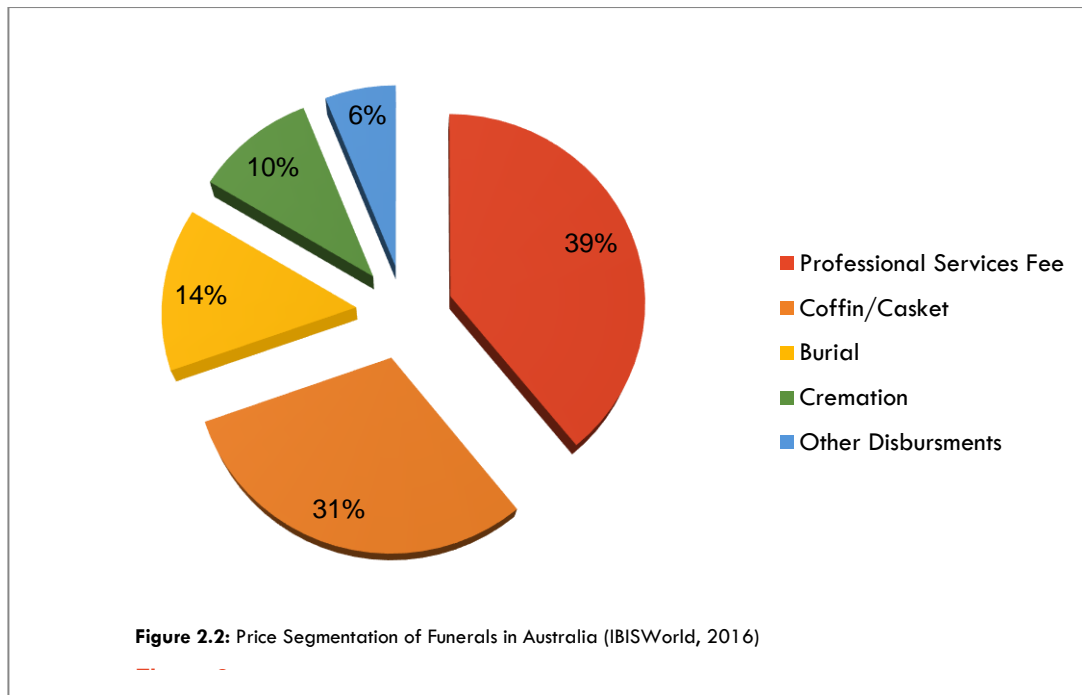


Figure 2.2 above highlights the scale of the professional service fee which accounts for the largest share of revenue in the industry (IBISWorld, 2016). The NSW Parliamentary Inquiry (2005) found that the professional fees component of a funeral director’s invoice was the least transparent item for vulnerable consumers. This fee includes labour which has been estimated at 24-40 hours per funeral¹¹ and is the largest cost for the funeral director. Overall, labour and purchases account for 66% of the total revenue while profit in the industry is 12% of revenue (IBISWorld, 2016). In total, for the 2015-16 financial year the 836 enterprises (1232 establishments) reported a combined profit of \$122.9 million (IBISWorld, 2016).

As demonstrated in Figure 2.2, coffins/caskets (cost + preparing the coffin with items such as lining, handles etc.) on average account for 31% of the price of a funeral. Therefore, it is not surprising that the mark-up on coffins/caskets sometimes exceeds 100%, often to cross subsidise other less profitable areas of operations (IBISWorld, 2016; PSA, 1992). The Victorian government inquiry (FCDC, 2005) recommended that any future regulations regarding the manufacture and use of coffins should not provide an opportunity for anti-competitive practices, such as excluding manufacturers to limit consumer choice or prevent innovation. Another significant cost driver for the funeral industry is burial especially in areas where the availability of cemetery space and land is diminishing, pushing prices up. The current trend for a cheaper cremation, despite relaxing the need for an expensive burial, usually generates less revenue per service and inhibits revenue growth.

While the introduction of a basic funeral or essential care funeral was one recommendation to increase transparency and lower costs, an increase in customisation and other value-added goods and services, such as webcasts of funerals and online memorialisation are expected due to the forecast for a mild growth in deaths combined with an increase in cremation (IBISWorld, 2016).

¹¹ In 1992, the PSA (1992) reported that the AFDA estimated the average number of labour hours in a funeral at 35-40 hours. Other sources indicated that the minimum labour content for a funeral was in the order of 20-25 hours.

2.6 Chapter Summary

All societies generally demonstrate unique arrangements for caring for the dead with social, historical, religious and cultural differences. These factors influence death-care in general and the funeral industry in particular. In Australia, changes brought by major wars fought in Europe, increases in medical science and altered religious practices have played a role in establishing an 'Australian way of death'. Currently the disposal and ceremonial aspects of death-care fall under the aegis of the funeral director. The funeral director in the 21st century is a self-regulated professional and provides goods and services to the general public.

Given the vulnerability of the consumers of funeral industry products and services, several government inquiries and consumer advocates have recommended changes to ensure transparency and competitiveness. Most importantly, the requirement to provide an itemised quote for goods and services, the introduction of a basic or essential services funeral and more stringent and comparable legislation across jurisdictions. The following chapter explores the various legislation and regulation on a state-by-state basis in Australia pertaining to the funeral industry.

Chapter 3: REGULATORY ENVIRONMENT

3.1 Overview

In Australian death-care products and services are subject to the overarching legal framework of the Competition and Consumer Act 2010 (*Cth*) which governs Australia-wide consumer rights. Industry participants however, are self-regulated with various facets of death-care/funeral industry regulated on a state-by-state basis. In terms of professional self-regulation for the funeral industry, multiple associations exist at national and state levels. Membership to one or more of these bodies is voluntary, therefore not all funeral directors and/or industry participants are subject to a professional code of conduct or sanctions for non-compliance of industry-based standards.

As noted previously, while consumer rights are regulated under the Competition and Consumer Act 2010 (*Cth*), there are six 'common' or traditional stages or activities undertaken in the funeral industry that may be specifically regulated in certain jurisdictions. Additionally, there are products such as pre-need funeral plans, funeral bonds and funeral insurance that are subject to discrete legislation.

Since the focus of the report is the funeral industry, only those practices or relevant regulation related to the provision of funeral products and services are outlined. This includes: the various legislative and self-regulatory requirements (e.g. professional associations and codes of conduct); and, statutory consumer protection regulation for specific funeral service products (pre-need funerals, funeral insurance and funeral bonds).

3.2 State Regulation of Death and Disposal

The enterprises in the funeral industry operate, manage and use funeral homes, cemeteries and crematoria. As such the specific regulatory requirements stem from the operation and management of the process which can be separated into six discrete stages. Where regulation exists, it tends to be independent of other stages and is therefore, fragmented and sometimes inconsistent between jurisdictions.

3.2.1 Confirmation of death

In all jurisdictions, it is illegal to dispose of a body before death has been confirmed. Depending on the circumstances and where the death has occurred, different arrangements exist. However, when someone dies, a medical doctor must sign a certificate that confirms the death - generally referred to as a Doctor's Certificate of Cause of Death. Since the majority of Australians die in an institution (approximately 86%) and, even those that die at home are generally under the care of a doctor, certification is straightforward. Following confirmation of death, the body then comes into the care of the person with authority to make arrangements for disposal. If the death occurs at home the attending doctor must be contacted within 12 hours of death. The doctor sends the original certificate to the State Registrar of Births, Deaths and Marriages.

The exception is when the death is considered reportable or notifiable, for example death from unknown causes, accidental death and suspicious death. In these cases the Coroner takes and remains in control of the body until the cause of death is established, which may require an autopsy. Once the cause of death is established the control of the body is transferred to the person with authority to make arrangements (Department of Human Services, 2016b; Larkins, 2007; Munro, 2016).

3.2.2 Authority to make arrangements

If the deceased has a Will, the executor of the Will has the authority to make arrangements, even if they are not consistent with the deceased wishes as expressed in the Will or a pre-need (pre-paid) funeral. Under common law the deceased does not have the final say over funeral arrangements (Larkins, 2007). However, in most Australian states the law upholds a person's articulated wishes in terms of disposal (desire for cremation or opposition to cremation) (Victorian Law Reform Commission, 2015).

If the deceased dies without a Will (intestate), the person who receives the majority of the deceased's estate normally has the final say in making arrangements and disposal of the body (Larkins, 2007; Victorian Law Reform Commission, 2015). If the estate is large, sometimes this complicates matters and an administrator is appointed through probate. This administrator then has the final say (Larkins, 2007; Victorian Law Reform Commission, 2015).

Taking possession of the body

It is legal for the person that has authority to control the body to take physical possession of the body as long as the death was not from an infectious disease. There is no requirement for the body to travel in a purpose built vehicle or to engage a funeral director to do this (Larkins, 2007; Munro, 2016).

The Vigil

A vigil is not to be confused with storage of a body prior to disposal. Home vigils are not prohibited by law and you could also hold a vigil in a hall or other suitable place. However, the timing¹² and place of a vigil is restricted by the regulatory requirements under state health and environmental legislation. For example, an appropriate space where the body can be kept or 'watched over' correctly (cool and dry).

3.2.3 Transportation of the body

Where state legislation regulates aspects of the transportation of a body it occurs at different levels of specificity. Table 3.1 below outlines the legislation that regulates transportation in each state.

¹² For example, in NSW under Public Health Regulation 2012 (NSW) a person who is not a funeral director must not retain a body for more than 5 days.

Table 3.1: Legislation/Regulations Governing the Transportation of Dead Bodies

NSW	Public Health Act 2010 and Public Health Regulation 2012
Victoria	No legislation or regulations
Queensland	Queensland Funeral Industry Code of Conduct (Version 1,2013) from the Office of Fair Trading
South Australia	Burials and Cremation Act 2013 and the Burial and Cremation Regulations 2014
Western Australia	No legislation or regulations except when the person dies on inter-hospital transfer
Tasmania	Burials and Cremations Act 2002 and Burial and Cremation (handling of human remains) Regulations 2005
ACT	No legislation or regulations
Northern Territory	No legislation or regulations

NSW has the most stringent regulations under the Public Health Act 2010 (NSW) and Public Health Regulation 2012 (NSW) which regulate the handling of the body by both funeral industry professionals and by members of the public. Other states largely rely on the general principles (practices, codes of conduct) of the funeral industry to appropriately govern the transport of bodies. Therefore the remainder of this section focuses on the NSW environment.

In NSW, regulations control: handling of bodies for embalming and viewing; the use of body bags and storage of bodies; as well as, the requirement and management of funeral director and mortuary vehicles used for the transport of bodies. In recent times specialised mortuary transport businesses that repatriate bodies nationally and internationally (e.g. Funeral Transfer Services of Australia) have emerged. While, the regulations do not prohibit the use of private vehicles, there are requirements to ensure that all vehicles are cleaned appropriately and that transportation is limited to 8 hours unless the vehicle is refrigerated. Regardless of the type of vehicle, including private transfers, all bodies must be appropriately secured in a bag or wrapping that prevents leakage and it is labelled indelibly on the surface to identify the deceased (see para 58, Public Health Regulation 2012 (NSW)).

In sum, there are few impediments to transport a body, however before moving a body there will likely be a requirement for the person wishing to transport the body to provide evidence they have a right to do so (e.g. Will, signed authority for the funeral director) to the institution where the body is being held (e.g. hospital) (Larkin, 2007).

3.2.4 Death notices

Australia-wide, death notices are optional however prior to publishing, newspapers will likely require proof of death. In an age of social media, state regulation around accounts of the deceased and virtual obituaries are non-existent except in the case of making false and misleading statements (ACCC, 2017).

Social media has become a vehicle for memorialisation with the development of innovative means of virtual memorialisation (e.g. digitalheritage.net.au). Funeral directors are increasingly offering memorial websites as a value-added service (e.g. heavenaddress.com – now owned by InvoCare).

3.2.5 Disposal

Regulatory instruments that directly govern disposal (cremation or burial) and indirectly cemeteries and crematoria, are summarised in Table 3.2 below. As the most regulated aspect of the funeral process, these regulations are detailed on a state by state basis as they exhibit distinctive jurisdictional differences. Much of this legislation and regulation focuses on the management of cemeteries and crematoria (which is outside the scope of this work) and run to several hundred pages (e.g. the Land Act 1994 (Qld) which regulates cemeteries and burials is nearly 600 pages) as well as interacting with other legislation (e.g. Crown Lands Act 1989 No. 6 (NSW), National Parks and Wildlife Act 1974 (NSW)). Therefore, NSW and Victoria (which cover approximately two-thirds of Australian disposals) are reviewed in some detail with the remainder of this section highlighting the key features/differences that apply to the particular jurisdictions only. Interestingly, different jurisdictions use different terms – sometimes interchangeably – for both the body of the deceased (e.g. human remains, bodily remains) and cremated remains (e.g. ashes).

Additionally, disposal by sea burial is covered by federal regulation and is briefly outlined in this section.

Table 3.2: State Legislation/Regulations Governing the Disposal of Dead Bodies

New South Wales	Cemeteries and Crematoria Act 2013, Cemeteries and Crematoria Regulations 2014, Public Health Act 2010 and Public Health Regulation 2012
Victoria	Cemeteries and Crematoria Act 2003 and Cemeteries and Crematoria Regulations 2015
Queensland	Land Act 1994, Land Regulation 2009, Cremations Act 2003 and Department of Natural Resources and Mines Policy (PUX/901/653) “Burial on land administered under the Lands Act 1994”
South Australia	Burials and Cremation Act 2013 and the Burial and Cremation Regulations 2014
Western Australia	Cemeteries Act 1986, Cremation Act 1929 and Cremation Regulations 1954
Tasmania	Burials and Cremations Act 2002 and Burial and Cremation Regulations 2015
ACT	Cemeteries and Crematoria Act 2003 and Cemeteries and Crematoria Regulations 2003
Northern Territory	Cemeteries Act 2013 and Cemeteries Regulations 2013

New South Wales (NSW)

In NSW burying a body is restricted to a grave or vault:

- in a public cemetery; or

- on private cemetery approved by the relevant local government authority;
- on private land greater than 5 hectares and approved by the relevant local government authority; or
- on land reserved for such purpose under the National Parks and Wildlife Act 1974; and,
- providing the site is not likely to contaminate the water supply.

Burying a body on private land affects zoning and may affect the future ability to sell the land. If burial is in a vault the body must be embalmed and hermetically enclosed as well as being placed in a coffin with the lid secured.

Further controversial regulations have recently been introduced in response to pressure on space in cemeteries – particularly in Sydney – where available plots will be exhausted by 2050 at the current rate of burial and anticipated death rates (Ryan and Steinmetz, 2017). For example in NSW, renewable interment rights have been introduced. While perpetual interment rights allowed for revocation of the right with appropriate compensation if not exercised within a 50 year period, under a renewable rights agreement cremated remains have interment rights that last 99 years from the date of the grant (human remains last 25 years) with an option for 5 yearly renewal (upon payment) up to a maximum of 99 years.

Renewable interment rights depend on whether the remains are cremated remains or human remains (body). Interment sites subject to renewable rights can be reused and any memorial removed 2 years after the expiration of the right. However, before any interment site can be reused any human remains must be placed in an ossuary box and re-interred at a greater depth (a practice known as ‘lift and deepen’) or placed in an ossuary house or similar. No site can be re-used unless human remains have been interred for at least 25 years. Cremated remains are returned to the holder of the right or scattered in the cemetery.

For cremation the regulations include the following:

- no more than one body in the crematory retort (chamber) at the one time;
- the body should not be cremated within 4 hours of delivery of the body;
- no cremation should take place if it against the written direction of the dead person¹³;
- no cremation should take place if the body is not identified; and
- the cremation authority must have (i) an application to cremate, (ii) a cremation permit, and (iii) a cremation certificate.

Cremated remains (sometimes referred to as cremains) must be:

- given to the cremation applicant; or
- disposed of in a burial ground or land adjoining the crematory reserved for that purpose; or
- otherwise, retained or disposed.

Victoria (VIC)

In Victoria, all cemeteries and crematoria are governed by Class A and Class B cemetery trusts. The classification system relates to the scale of operations, services provided and the communities served. Classification, therefore, can alter over time and councils may be appointed to manage a cemetery.

Burials are not permitted in Victoria outside public cemeteries without permission of the Secretary of the Department of Health. While burial in a religious or indigenous burial ground may be granted, burials on private property are not generally approved because of an inability to meet the requirements of legislation (e.g. maintenance, access and record keeping).

¹³ This is anomalous with the regulations about authority to make arrangements.

Interment rights for burial in Victoria are perpetual. However, the Act does grant power to the trust to subject a right of interment to specific conditions. Therefore it appears possible that a cemetery trust could impose time limits on rights. Interment rights may be for an allocated site or an unallocated site or a public grave (a grave where more than one person is interred, but the right is only for one individual). The holder of an interment right can request the remains can be 'lifted and re-positioned' in order to reuse the site, however the remains in that site must have been there for at least 10 years before permission is granted. Allocated places of interment must be maintained appropriately by the holder of the right. Interment rights can be transferred in Victoria as long as the consideration does not exceed the current fee payable for a current cemetery trust right (and transfer fees). Memorials must be approved by the cemetery trust (and fee paid).

Cremation regulations in Victoria provide that the cremated remains must be available two (2) days after cremation and must be held for at least 12 months. If cremated remains are not claimed within that time, then the cemetery trust may dispose of them in the grounds of the cemetery or otherwise. Interment rights for cremated remains may be either perpetual or for a fixed period of 25 years (and can be extended or converted to perpetual). At expiration of a right, a cemetery trust can remove cremated remains and any memorial and dispose of them within the cemetery grounds.

Some other unique features of the Victorian arrangements are:

- rules and responsibilities for interment of “poor people”¹⁴ by cemetery trusts;
- mausoleums are required to be designed for a service life of at least 100 years;
- specific prohibitions (without permission) regarding activities including playing sport, fishing, bathing, hunting and camping in cemeteries.

The other regulations (e.g. certification and approval requirements) across all states are similar to NSW, therefore only legislation or regulations that differ significantly are addressed for the following states.

Queensland (QLD)

In Queensland there is no legislation or regulation that specifically prohibits burying human remains outside a recognised burial place. Local government authorities may allow burials on private land. The Land Act 1994 reserves or grants land under a deed of trust for cemetery purposes and these cemeteries are generally managed by trusts or local government authorities.

Right of burial (interment rights) in a cemetery are irrevocable once they are exercised and unused rights of burial are subject to local authority conditions (may be returned to the authority with compensation or transferred). Memorials require approval from the cemetery operator/management.

Cremation rules are similar to other states except the authority has the right to bury unclaimed ashes after one (1) year. Additionally, in Queensland cremated remains may be divided between interested parties and disposed of in different ways.

South Australia (SA)

The South Australian legislation and regulations are relatively new (2013 and 2014 respectively). The specific characteristics of the SA environment are:

- cemeteries and burial grounds are to be fenced;
- bodily remains can be buried on private land with council permission outside metropolitan Adelaide (no land size restriction);
- interment rights are available both perpetuity or for a limited period (and renewable – no maximum period specified);

¹⁴ Cemeteries and Crematoria Act 2003 (Vic).

- lift and deepen or move to an ossuary permitted on expired interment rights;
- unclaimed memorials digitised;
- two (2) years notice for changes (e.g. renewal of interment right, re-use of burial ground);
- with approval of the relevant Minister, cemeteries or natural burial grounds can be closed as long as more than 50 years has passed since last interment. In the case of closure, bodily remains are not to be disturbed with the land dedicated to park lands.

Western Australia (WA)

In Western Australia the legislation and regulations surrounding burials and cremation are very dated (although regularly amended). Cemeteries in WA are run by Cemetery Boards and burials must be in a cemetery (unless permission is granted by the Minister where the primary consideration is remoteness). Funerals in WA must be conducted by a licensed funeral director or an individual granted a permit by the relevant cemetery board.

A right of burial comes with a right to erect a memorial (with appropriate permission) and the right of burial lasts for 25 years. Further renewals are possible for 25 years at a time. Unlike NSW, there appears to be no maximum limit on tenure.

Cremations have been conducted in WA since about 1900 at the crematorium at Woodman Point Quarantine Station. Regulations for cremation are similar to those in other states except disposing of the ashes, other than burial on site, is by exception. The Act stipulates that the ashes should be buried in the site of the crematorium unless the person who obtained the permit to cremate desires otherwise.

Tasmania (TAS)

In Tasmania, burial can occur in cemeteries or on private land. Cemeteries have both perpetual interment rights (grant in fee) or, since 2002 limited tenure of 25 years with terms on renewability, transferability and cancellation as specified with the right. All interment rights are granted until 5 years after all persons entitled under the right have been buried and if that occurs, the right is relinquished.

Disused cemeteries or portions of cemeteries can be laid out as a park or garden if they have had no interments for 30 years. Any rights not exercised are replaced either elsewhere in that cemetery or another cemetery at no charge. If land where a cemetery has previously existed is disposed, then any remains must be removed and any interment rights replaced.

Interment is allowed on land other than a cemetery with permission of the land holder, the relevant council and the Director of Public Health (or delegate). No land size restrictions are in place.

In Tasmania it is lawful for Aboriginal cremations to occur on Aboriginal land with appropriate approval. All other cremations are strictly regulated consistent with other states. Unclaimed remains are kept for two (2) years then can be disposed by crematoria management.

Australian Capital Territory (ACT)

The legislation in the ACT grants the Minister authority to approve codes of practice for everything from the operation of cemeteries to the construction of the coffin. Other key features of the ACT legislation and regulations are:

- Perpetual tenure of burial sites except where no human remains have been interred 60 years after the right was granted;
- Burial is only available in cemetery or private burial ground; and,
- When human remains are buried in a vault, not only is embalming required but the remains must also be sealed in a corrosion resistant metal container.

Northern Territory (NT)

Legislation in the NT explicitly recognises indigenous rights and traditions. The Act also specifically excludes the Darwin Chinese Public Cemetery and cemeteries or portions of cemeteries under the control of the Imperial War Graves Commission.

Other NT specific provisions include:

- burials must be in a cemetery;
- the granting of licenses to individuals (not undertakers/funeral directors only) to undertake a funeral for a relative or close associate;
- exclusive right of burial in a grave, vault or burial ground (no renewable tenure);
- approval for double burials possible;
- when burying in a vault the body must be encased in wood, enclosed in lead and hermetically sealed and then enclosed in a coffin; and
- erecting structures such as monument, tombstone, headstone, tablet, gravestone, vault, kerbing, railing or other structure requires written permission and payment of a fee.

Sea Burial

In Australia burials at sea are regulated under the national *Environment Protection (Sea Dumping) Act 1981 (Cth)*. A burial at sea requires a sea dumping permit¹⁵ which is generally only granted to those with a demonstrated connection to the sea, such as long-serving Navy personnel (Department of the Environment and Energy 2016; Northern Territory Government, 2013).

Burials at sea can be expensive because of the regulatory requirements to:

- locate an appropriate site – the site must not interfere with other marine users;
- dispose at an appropriate depth – must be greater than 3000 metres which is generally a long way offshore;
- use a weighted shroud (not coffin or casket) of sufficient strength to ensure rapid and permanent submersion (see Department of the Environment and Energy 2016);
- employ an appropriate vessel and ship's captain. The Department of the Environment and Energy recommends the use of a funeral director so burial at sea is consistent with the [‘Ship Captain’s Medical Guide’](#).

Currently, a permit for burial at sea costs \$1675 and takes 3-4 business days to process. Additional approvals may be required from state authorities with further fees and permissions required.

3.2.6 Coffin Regulations

As with other aspects of the funeral process, regulation of coffins¹⁶ ranges from non-existent to quite specific. The most specific regulatory requirements are in Tasmania, and these are generally consistent with guidelines of the Australian Funeral Directors Association (AFDA) Guidelines (AFDA, 2008). The AFDA 2008 Guidelines have the following objectives:

- reduce the likelihood of product failure;
- limit health and safety risks;
- limit psychological risks during the conduct of a funeral service; and
- provide a basis for AFDA member’s acceptance of receptacle.

¹⁵ A permit is not required to scatter ashes/cremains.

¹⁶ Here coffins will include caskets and other receptacles.

The AFDA Guidelines also recommend that coffins be sourced direct from the manufacturer¹⁷ and set out the following criteria:

- for cremation purposes contain a solid base made of wood, composite board or other equivalent suitable combustible material to facilitate storage and handling e.g. transfer between vehicles, upon roller trolleys;
- only be made of steel and/or metal for burial purposes;
- be impervious to liquids;
- be constructed in such a manner that:
 - distortion does not occur during handling or transportation;
 - joints in the receptacle do not come apart;
 - be able to withstand the rigours of being carried/handled by trained or untrained persons;
 - acceptable lifting handles can be affixed to the receptacle;
- have internal dimensions that exceed the measurements of the deceased
- have external dimensions limited to a size acceptable for burial/cremation (adapted from ADFA, 2008).

Table 3.3: State Legislation/Regulations Governing Coffins/Caskets and Other Receptacles

New South Wales	Regulations do not specify coffin requirements except general requirements in respect of vaults and secured lids under Public Health Regulation 2012
Victoria	Cemeteries and Crematoria Regulations 2015
Queensland	No regulations specify coffin requirements
South Australia	Burial and Cremation Regulations 2014 (para 20)
Western Australia	Cemeteries Act 1986 delegates the specification of coffin requirements to local cemetery boards.
Tasmania	Burial and Cremation Regulations 2015
ACT	Cemeteries and Crematoria (Burial Conditions) Approval 2015 (No. 1)
Northern Territory	No regulations specifying coffin requirements

The states that regulate coffins and other receptacles generally only extend the AFDA Guidelines in terms of health and safety (i.e. extra requirements for burial in a vault) and the specifications for protection of those handling bodies in terms of contamination (e.g. bodies placed in a bag made of impervious materials). Most regulation also allows for religious and cultural traditions to be respected as long as minimum health and safety requirements are met. The one exception is the ACT where the regulations have a provision for the re-use of receptacles: “If the container is to be reused, it should be capable of being cleaned to prevent the transmission of disease”¹⁸.

¹⁷ There are other regulations arising from consumer protection arrangements (e.g. consumer acts, fair trading acts) that protect consumers from faulty products. As funeral directors most often supply coffins directly to consumers, product quality affects their business.

¹⁸ Cemeteries and Crematoria (Burial Conditions) Approval 2015 (No. 1,) (ACT), para 4, cl (v).

Coffins/caskets and receptacles for burial and cremation are a product that has minimal state regulation. Most concerns about coffins and receptacles come from consumers in relation to the price of the product (see CPSA, 2009). Additionally, there is no impediment for anyone to manufacture their own coffin if they wish as long as it meets the health and safety requirements. The industry standards are somewhat dated with new materials (e.g. cardboard) and non-traditional receptacles becoming more common.

3.3 Industry Regulation

Funeral directors are professionals consistent with the view of a profession as a “means to control the asymmetric expert-client relation” (Abbott, 1988, p. 15). Therefore, they are able to control knowledge and skills by demonstrating the characteristics of a profession as described by Greenwood (1957).

- Authority and credibility
- Community sanction, or regulation and control of its members
- Code of ethics; and
- Professional culture, or a culture of values, norms and symbols.

The key feature is the self-regulatory aspect of the practice standards of professional bodies (e.g. Australian Funeral Directors Association (AFDA), Funeral Directors Association (FDA)) which contain general statements about: the need to ensure the maintenance of acceptable standards of occupational health and safety; public safety; as well as, the requirement to provide services to meet community expectations.

Additionally, members are expected to gain all necessary licences, permits and registrations, and to meet government standards where they may be higher than the standards set by the relevant industry associations. At present, there is no requirement for a license to operate as a funeral director in Australia¹⁹ (AFDA, 2016). However, most operators become members of one or more professional associations.

Funeral Directors' Prayer

*Our Father, grant me the knowledge to wisely counsel the grieving people I serve.
Grant me the skill to professionally care for their loved ones who have died.
Grant me the sensitivity and awareness to understand the depth of their pain and sorrow.
Grant me the strength to care without my heart breaking, so I can be of help.
And yes God, grant me a sense of humour so at the appropriate time and in a sensitive way,
I can give these mourners a moments rest. (www.ifdaa.org)*

3.3.1 Federal Associations

There are three major federal associations that funeral directors (as businesses or individuals) may belong to. These are the Australian Funeral Directors Association (AFDA) and the Funeral Directors Association (FDA), the Independent Funeral Directors Association of Australia. In addition, the Association of Independent Funeral Directors (AIFD), was formed in 2015 and, although based in Victoria, advertise that they are a global association “with resources dedicated to supporting our member’s growth professionally, ethically and operationally” (AIFD, 2016, n.p.). Additionally, funeral directors can join the Family-owned Funeral Directors

¹⁹ Except in Western Australia.

Association of Australia (FOFDA) if they are a member of the Queensland professional body (Queensland Funeral Directors Association (QFDA)).

The Australasian Cemeteries & Crematoria Association (ACCA) exists for operators. It also has a code of ethics and a code of conduct based on the principle that its members value “its tradition of integrity, responsibility and fair dealing. We are committed to maintaining the highest standards in our dealings with members, the community and in the services we provide” (ACCA, 2017, n.p.). Supporting these codes is a grievance resolution procedure for complaints about operators. However, there is no information about how this association regulates their members or what kind of sanctions might be imposed for any breach of the codes.

Finally, the Australian Institute of Embalming (AIE), a member-based organisation, “regulates and implements minimum education and post education standards, as well as performing a range of other funeral profession-specific functions” (AIE, 2017, n.p.). This association also has a code of ethics that members are required to adhere to which includes both abiding by the “Constitution, Operating Rules and Policies of the Australian Institute of Embalming” (AIE, 2017, n.p.) as well as promoting embalming and maintaining professionalism.

3.3.2 State Associations

While the AFDA supports state divisions in all states, only New South Wales (NSW) and Queensland (Qld) also have independent, state-based associations. The NSW Funeral Directors Association and Queensland Funeral Directors Association both have codes of ethics that mirror the AFDA code (see [New South Wales Code of Ethics](#), [Queensland Code of Ethics](#)). However, neither association has information relating to sanctions or complaint procedures for breaches of the code.

3.4 Regulation of Pre-need (Pre-Paid) Funerals

A pre-need or pre-paid funeral is a funeral purchased in advance. The funeral is documented in a formal contract and paid for at current prices. A pre-need funeral is sometimes referred to as a *Funeral Plan* as it can also be paid for by instalments. Generally, the price is fixed regardless of when the funeral is needed. Payments for pre-need funerals are invested with an independently managed funeral fund and paid to the supplier (funeral director) once the contracted funeral service is complete (AFDA, 2016, ASIC, 2013). Pre-need, therefore, effectively ‘locks-in’ the future provision of goods and services for a particular funeral director.

Most states (all except WA, ACT & NT) further detail legislative requirements as outlined below.

3.4.1 New South Wales

Pre-need funerals in NSW are regulated under Part 4 of the Funeral Funds Act 1979 (NSW). The Act sets out requirements for:

- registration of trustees (for funeral funds which hold funds in trust for pre-paid funeral contracts);
- registration of funds for pre-arranged funerals;
- administration of trust funds under pre-paid contracts;
- investment and management expenses (including commissions) of the trust funds;
- actuarial investigation of funds;
- reporting and auditing of funds;
- some general terms for prohibition of certain things (e.g. rise and fall clauses), description of services to be supplied etc.

Pursuant to the Act, the Funeral Funds Regulation 2006 (NSW) specifically regulates pre-need funerals and focuses on the disclosures required around the contracts (e.g. cooling off periods), the administration of the funds and qualification requirements of the trustee. The regulation provides detailed guidance on many aspects of pre-need funerals. Importantly it outlines the particulars of a funeral service and the details of the particulars that should be determined in the pre-need contract (See Table 3.4 below).

Table 3.4: Particulars of a Funeral Service in NSW

Supply of coffin or casket	principal material to be used type of lid or method of closure type of any external or internal trimmings finish to be applied to the surface
Provision of vehicles	classes of vehicles number of vehicles in each class
Conveyance of persons and remains of the deceased	maximum distance for conveyance maximum number of people to be conveyed days and time for conveyance before additional charges levied
Disposal of remains	disposal by burial or cremation
Provision of memorial or urn	design, size and material of memorial or urn

(Adapted from Funeral Funds Regulation 2006 (NSW))

Many items traditionally provided by a funeral director such as flowers, a place for the service, newspaper notices are not required to be specified.

Breaches of the Act attract 'Penalty Units' which determine the amount of the fine associated with the breach.

3.4.2 Victoria

Regulation of pre-need funerals in Victoria is governed by the Funerals Act 2006 (Vic). This Act repealed the Funerals (Pre-Paid Money) Act 1993 (Vic) and came into operation on 1 November 2007. Pre-need funeral contracts in Victoria are required to specify:

- funeral services to be supplied;
- any other funeral goods in connection with the funeral services;
- the amount to be paid for the supply of the funeral services; and
- if there is another party involved that requires payment (for example, in Victoria all cemeteries are operated by cemetery trusts) how these funds are to be disbursed or invested.

All money paid under the contract is subject to investment rules and subject to rules under associated legislation (e.g. Life Insurance Act 1945 (Cth)). Breaches of the Act attract 'Penalty Units'.

3.4.3 Queensland

The rules in Queensland for selling pre-need funerals come from the Funeral Benefit Business Act 1982 (Qld) and Funeral Benefit Business Regulations 2000. The centrepiece is the requirement to provide consumers with a *Client Care Statement* which outlines the services provided, the fees

and charges clients will pay and the cooling-off period (currently 30 days). Penalties under the legislation largely take the form of a fine.

3.4.4 South Australia

In South Australia, the Fair Trading (Pre-Paid Funerals Code of Practice) Regulations 2011 operate pursuant to the Fair Trading Act 1987 (SA). Similar to other jurisdictions, the regulations set out the information required to be disclosed in the contract and prescribe how funds are invested. Again, breaches attract a penalty in the form of a fine (max \$1000).

3.4.5 Tasmania

The Pre-paid Funerals Act 2004 (Tas) governs pre-need funeral operations in Tasmania. The Act sets out what information is required to be disclosed in the contract, the duty to deposit funds in a funeral trust, the registration of funeral trusts and the duties of funeral businesses and custodians. Again, breaches of the Act are calculated in 'Penalty Units'.

3.5 Funeral Insurance

Funeral insurance is a form of life insurance that is sold directly to consumers. Funeral insurance differs from pre-need funerals in that the payment to beneficiaries is made as a dollar amount without spending restrictions. Pre-need funerals, on the other hand, provides for the delivery of a particular product/service in the future.

Advertising of funeral insurance products is both prevalent and increasing. Similar to the concerns regarding funeral costs, the high cost of funeral insurance and the potential exploitation of the vulnerable have prompted consumer advocates to call for regulatory intervention and increased transparency from funeral insurance providers (see Consumer Action Law Centre, 2013).

Both consumer groups and regulators have identified issues with the product design and sale of funeral insurance (ASIC, 2015). In 2015, the Australian Securities and Investment Commission (ASIC) compiled a report on funeral insurance providers and disclosure practices. The report identified that funeral insurance in Australia tended to have certain common features including:

- premiums dependent on age and sum insured;
- applicants that are not normally subject to health or medical checks;
- restrictions on payments early in the policy;
- premiums that increase as the age of the insured increases;
- an insured amount that often increases in line with the consumer price index (CPI) or a contracted amount; and
- premiums that are not refundable if the insured stops payments or the policy is cancelled²⁰.

The funeral insurance industry is not inconsequential. In the 2014 financial year approximately \$315 million in funeral insurance premiums was paid on 437,274 active policies covering 743,421 lives. The sum insured was generally between \$4,000 and \$15,000 with an average of \$8,859 for each individual policy (ASIC, 2015).

The incidence of policy cancellations is quite high and, in 2014, 72,091 policies representing a 'lapse rate' of 16.5% were cancelled. Of these cancellations 65% were initiated by the customer

²⁰ Adapted from ASIC (2015).

(largely in the first year, 55%) with the remaining 35% cancelled by the insurer for non-payment of premiums. The cost of the policy is the most cited reason for cancellation (ASIC, 2015).

While new products offering discounts have entered the market, the advertising of funeral insurance reinforces the idea that funerals are expensive and this impression provides opportunities to exploit vulnerable consumers. Those at particular risk include: individuals insured for long periods that pay an increasing premium as they age²¹; consumers on fixed incomes (e.g. Centrelink benefits); and, indigenous communities and young consumers (ASIC, 2015; Department of Human Services, 2016a).

3.6 Funeral Bonds

A funeral bond is a financial product and not very common in Australia. Funeral bonds are usually offered by funeral directors, friendly societies or life insurance companies and have the following specific features:

- the interest received must be added to the capital;
- the capital and interest is only realised on death when it is paid to the estate or to the funeral director to cover funeral expenses; and
- money is invested in an independently managed funeral fund

Consumers are usually required to pay a bond deposit and may pay for the remainder as a lump sum or in instalments. The money is invested and is only available to pay for a funeral (ASIC, 2015; Department of Human Services, 2016a; Mihm, 2014). Funeral bonds may have certain financial advantages for those receiving Centrelink benefits (ASIC, 2015).

3.7 Chapter Summary

This chapter outlines the regulatory environment in which the funeral industry operates and includes both the legislative requirements for the provision of the good and services offered and the industry codes for professional conduct. While industry codes are fairly uniform in application, jurisdictional differences between states exist due to a lack of federal government oversight. Therefore, almost all consumers engage a funeral director to navigate this fragmented and complex set of regulations, even though in most cases individuals can organise all aspects of a funeral. When one considers that 86% of Australians die in an institution and the universal advice is to contact a funeral director, it is not surprising that consumers are not aware of this option.

The ambiguity and lack of transparency surrounding engagement with the organisation of a funeral provides further opportunities for exploitation. While professional associations and consumer legislation are designed to ensure the integrity of the conduct of funeral directors, pricing and transparency of funeral costs for a direct committal and basic or essential services funeral remains an issue for consumers (CPSA, 2009; 2011; van der Laan and Moerman, 2014). The following chapter provides empirical evidence of pricing and cost drivers in the funeral industry in Australia.

²¹ The CPSA (2011) cited the example of a 50 year old policy holder that could end up paying \$140 000 for a funeral worth \$6 000.

Chapter 4: DATA AND ANALYSIS

4.1 Overview

This chapter presents information regarding the provision of selected death-care services and delivers detailed information about the pricing provided to individual consumers. Pricing of services in the funeral industry is a function of a number of attributes, based on the services 'bundled'. As previously noted these are *disposal, ceremonial, memorialisation* and *funeral planning*. For the purpose of this research into pricing, the memorialisation and planning (e.g. pre-need funerals) aspects are not included as the practices, regulation or industry standards differ markedly or are absent. For example, when it comes to memorialisation scattering ashes in a park is very different to placement in a mausoleum or burial site.

As noted previously the listed entity, InvoCare dominates the Australian market with a 40.3% market share which is localised on the profitable east coast of Australia (IBISWorld, 2016). While the key driver in the funeral industry is the 'number of deaths', the performance of an individual enterprise varies with consumer-driven industry trends. Consumers are increasingly: opting for lower priced cremations over burials; not opting for a pre-need funeral; becoming environmentally aware; and engaging with the services provided through online retailing (IBISWorld, 2016).

4.2 Method

This report is confined to two 'standardised' products provided by the funeral industry. First, information about direct committal services (cremation only without the ceremonial aspects provided by the funeral director); and second, the basic or essential services funeral (with cremation not burial). A basic or essential service funeral contains the three invoice items: funeral directors professional services; coffin or casket; and disbursements (see section 2.5). Therefore, pricing information is largely a product of the funeral directors fees, compulsory disbursements (doctor's certifications, cremation fees) and the standard basic 'essential' services consumers purchase (coffin, transport of the body, use of premises for service, notification etc.).

4.2.1 Sample Selection

The funeral industry in Australia in 2016 comprises 836 enterprises and 1236 establishments (IBISWorld, 2016). InvoCare controls over 208 funeral homes and 14 cemeteries/crematoria in Australia under more than 60 'brands'. It is an example of a business model with vertical integration and combined back-of-house services that exploit economies of scale e.g. finance and marketing. The funeral industry is fragmented beyond InvoCare with family-operated businesses and private companies (IBISWorld, 2016). The sample of funeral directors and funeral business operators²² was drawn from two sources. First, we accessed information from funeral directors and funeral business operators that offered funeral products and/or services, and/or direct committal and/or basic or essential services funeral products and advertised the price of these products and services online. We undertook a thorough web search over the period of March and April 2016 resulting in a sample of 65 retailers. Some retailers offered a single product or service (e.g. **Costco**); others only a direct committal (e.g. **Nonono**); while some only basic funerals (e.g. ravensfuneral.com.au). However, funeral directors advertising the price of funeral services online often offered both a direct committal and a basic funeral (see section 4.3 below).

²² In an online environment enterprises may offer only one product or service e.g. coffins only.

Second, we conducted a direct survey of funeral directors by cold-calling via telephone and asking for information on the price of, again, both a direct committal and a basic funeral. Seventy eight discrete business operators were contacted from a mix of urban and non-urban operators from all states and territories in Australia. Telephone calls were made over the period of May to August 2016. Some operators would not provide information; others promised to call back and did not, resulting in a final useable sample of 63 discrete businesses. Data collection via this method ceased when saturation was reached. That is, it appeared no further information could be gathered without compromising the process.

4.2.2 Definition of variables

An important objective of this study was to determine to the pricing structure and cost information of funeral services (see Chapter 1). As with other surveys of this nature (e.g. NSW Office of Fair Trading in 2005; CPSA, 2009), it was difficult to determine itemised costs that comprise the total price of a basic or essential services funeral. In most cases, a total or average price was provided. With that in mind, the variables that have been argued to drive funeral prices were determined as:

- STE*: The location in terms of compliance with regulatory requirements of the funeral business operator²³ drive costs as argued by operators (e.g. Priess, 2016).
- IVC*: Whether the funeral business operator is part of the InvoCare group? Commentators have suggested that the listed entity has caused price increases due to lack of competition (e.g. Boreham, 2011, CPSA, 2009).
- LOC*: Whether the funeral business operates in an urban or non-urban environment. There are competing views as to whether being in an urban area drives or ameliorates prices (see: NSW Parliament, 2005). Differences in non-urban areas, such as lack of competition, allocation of fixed overhead costs and transport costs are a consideration.
- OP*: Are prices available either through personal contact or online. Concern over pricing of services has been an issue for regulators (e.g. NSW Parliament, 2005; CPSA, 2009) prompting the introduction of transparency through a basic or essential services funeral.

4.3 Results

4.3.1 Online Contact

A small number (65) of enterprises advertise their services with prices on the internet. These enterprises are largely 'budget' operators offering direct committal services or limited products and services' (i.e. one or more of ceremonial, disposal, memorialisation and/or financial planning aspects of death-care). However a small number of recognised brands (e.g. Tobin Brothers Pty Ltd) offer online price information.

²³ Online retailers have a physical presence and operate within a certain geographic area.

Table 4.1 below presents the results from the online data collected from funeral directors and funeral business operators.

Table 4.1: Funeral Services – Online Contact (\$AUD)

	<u>N</u>	<u>Mean</u>	<u>Median</u>	<u>Min</u>	<u>Max</u>
Direct committal	57	\$2215	\$2105	\$1200	\$3950
Budget funeral	59	\$4132	\$4000	\$2440	\$6500
Cremation fee	7	\$875	\$885	\$755	\$935
Casket	7	\$961	\$960	\$625	\$1250
Transport	2	\$322.50	\$322.50	\$295	\$350
Service	6	\$2604	\$2700	\$1150	\$4200
Certification	8	\$146	\$131	\$100	\$291

4.3.2 Direct Contact

Surveying market participants via direct contact²⁴ reveals a wide variety of prices and some general trends. Detail of the individual components of the funeral service was not often disclosed. Instead a ‘packaged’ or ‘bundled’ total price was generally supplied. Therefore analysis of the components of a basic or essential services funeral was not possible.

While some service providers did agree to use components from other suppliers (i.e. coffins), in most cases the bespoke pricing of this arrangement, a face-to-face meeting was requested by the funeral director. In cases where it was suggested that the purchase of services would be in the future, the caller was directed to pre-paid (pre-need funerals).

Table 4.2: Funeral Services – Direct Contact (\$AUD)

	<u>N</u>	<u>Mean</u>	<u>Median</u>	<u>Min</u>	<u>Max</u>
Direct committal	52	\$3346	\$3000	\$1500	\$6500
Budget/ES funeral	61	\$5646	\$5600	\$3300	\$9000

²⁴ Funeral business operators and funeral directors that provided prices online were not contacted directly by telephone.

4.4 What Drives Funeral Pricing?

As outlined above there has been much public discussion and criticism on pricing by funeral directors (see for example, CPSA, 2009). The factors that affect prices that have been offered by regulators, the industry and civil society are:

- the stringent regulatory regimes in certain states;
- the concentration in the industry (InvoCare’s market share and dominance);
- the location of the funeral director (presence of both competition, overhead costs and proximity of allied services); and
- the transparency of pricing.

Therefore to understand what factors drive funeral prices an ordinary least-squares (OLS) regression model is estimated with the basic funeral prices (prices quoted by the funeral director) as the dependent variable; with a number of identified indicator variables as independent variables.

For firm $i = 1, 2, \dots, 114^{25}$ and year $t = 2016$, the basic funeral cost model is formally specified as:

$$\ln FP_{it} = b_0 + b_1 \cdot STE_{it} + b_5 IVC_{it} + b_6 LOC_{it} + b_7 OP_{it} + e_{it}$$

Where:

- FP = Natural log of funeral Prices (\$AUD);
- STE = Indicator variables for state of operation (NSW as reference group);
- IVC = Indicator variable, 1 non-InvoCare group business;
- LOC = Indicator variable, 1 for non-urban location; and
- OP = Indicator variable, 1 for information gathered via direct contact.

Table 4.3 below shows the distribution of observations in the sample. Most of the sampled operations are located in New South Wales (35%), Victoria (28%) and Queensland (18%), which reflects the larger populations, and thus greater demand for funeral service providers, in these states. In contrast, the number of observations from the Australian Capital Territory (3) and the Northern Territory (3) is very small and will be excluded from the by-state analysis. As expected, the majority of operations are based in urban locations (87%). InvoCare Group providers make up only 13% of the sample and are mostly based on the east coast.

²⁵ Due to the small number of observations in ACT and NT these observations were dropped from the analysis. No data was available from Tasmania.

Table 4.3: Number and Location of Observations

State	Urban/non-urban		InvoCare Group		Online/Direct		Total	%
	0	1	0	1	0	1		
NSW	32	10	12	30	8	34	42	0.35
VIC	33	0	0	33	26	7	33	0.28
QLD	18	3	1	20	13	8	21	0.18
SA	8	0	0	8	5	3	8	0.07
WA	8	2	0	10	7	3	10	0.08
ACT	3	0	1	2	0	3	3	0.03
NT	2	1	1	2	0	3	3	0.03
Total	104	16	15	105	59	61	120	100
%	0.87	0.13	0.13	0.87	0.49	0.51	100	

4.4.1 Data Analysis

Basic funeral price distributions are compared for different sub-groups of the sample. Box-and-whisker graphs plot prices against indicator variables and display the median, the inter-quartile range and the smallest and largest values²⁶.

Funeral Prices by State

Figure 4.1 plots funeral prices separately for each state. The box plots suggest prices are higher, on average, in NSW and WA.

²⁶ The upper box boundary indicates the 75th percentile while the lower box boundary indicates the 25th percentile; the length of the box indicates the inter-quartile range (the middle 50% of the distribution). The median is indicated by the middle line in the box. The 'whiskers' are the farthest points that are not outliers (1.5 times the inter-quartile range). Outliers are designated by "•" (Tukey, 1977).

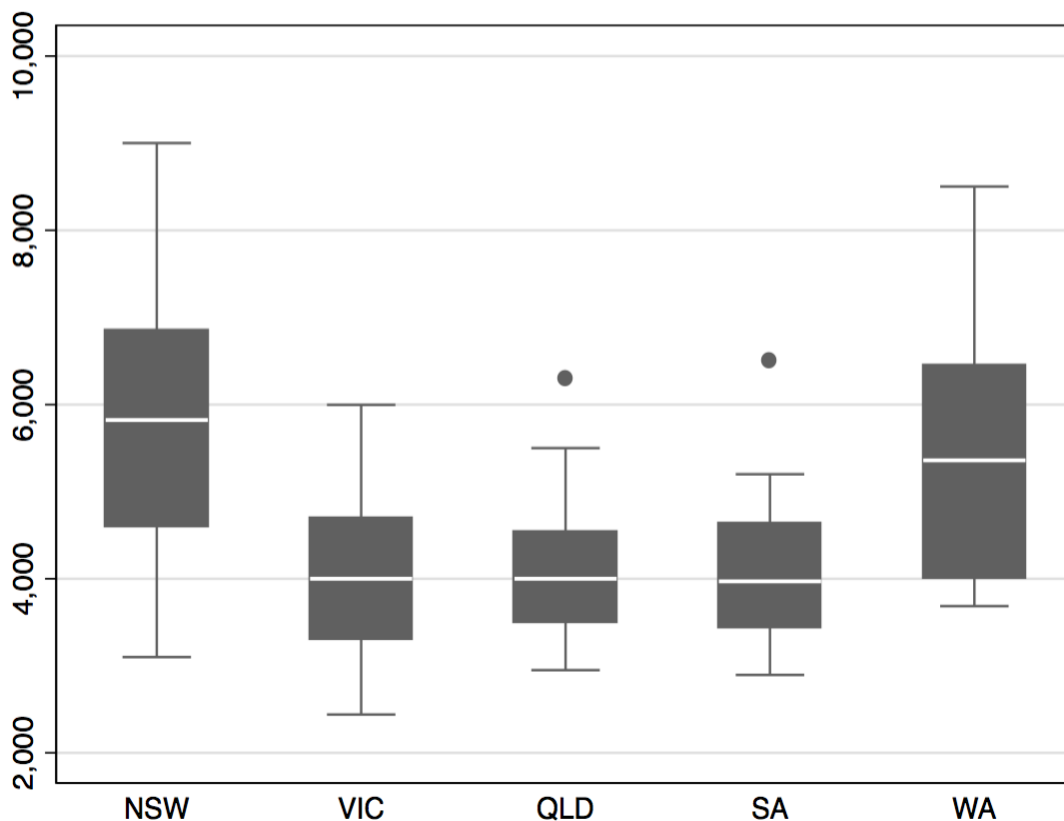


Figure 4.1: Funeral Prices by State (excluding Territories)

The distribution of basis funeral prices are similar in VIC, QLD and SA (mean = 8.2823-8.3071). Average prices in NSW and WA are almost 40% higher (mean 8.6270 and 8.5666 respectively), but also more show a greater range (spread) between cheapest and most expensive. The outliers in QLD and SA are non-InvoCare group providers, and surprisingly, in urban (metropolitan) locations.

One-way analysis of variance (ANOVA) was also conducted²⁷ (see Table 4.4). The one-way ANOVA identifies significant differences between mean funeral prices across the states at $p=0.0000$ ($F=12.68$). The sample is unbalanced, but funeral prices are approximately normally distributed across states and the assumption of equal variances is not rejected ($\chi^2 = 3.0063$, $df = 4$).

²⁷ The one-way analysis of variance (ANOVA) is used to determine whether there are any statistically significant differences between the means of two or more independent (unrelated) groups. It is more common to use such a test when independent variables are categorical (see Laerd Statistics, 2016).

Table 4.4: One-way ANOVA

State	Mean	Std. Dev.	Freq.
NSW	8.6270	0.2595	42
VIC	8.2823	0.2329	33
QLD	8.2983	0.1920	21
SA	8.3071	0.2664	8
WA	8.5666	0.2878	10
Total	8.4389	0.2898	114

Multiple comparison tests by state show that the mean price in NSW is higher than in VIC, QLD and SA and that the mean price in WA is higher than in VIC and QLD (at 5% significance). Differences between NSW and WA are insignificant as are those between VIC, QLD and SA.

Funeral Prices and Other Indicator Variables

More detailed analysis for NSW was conducted as data for the other independent variables is limited for other states. Box-and-whisker plots were graphed for NSW funeral prices against each indicator variable of: whether the observation was from an InvoCare group enterprise; whether the observation was from an urban or non-urban (remote) location; and, whether price information was gathered online or via telephone (see Figure 4.2).

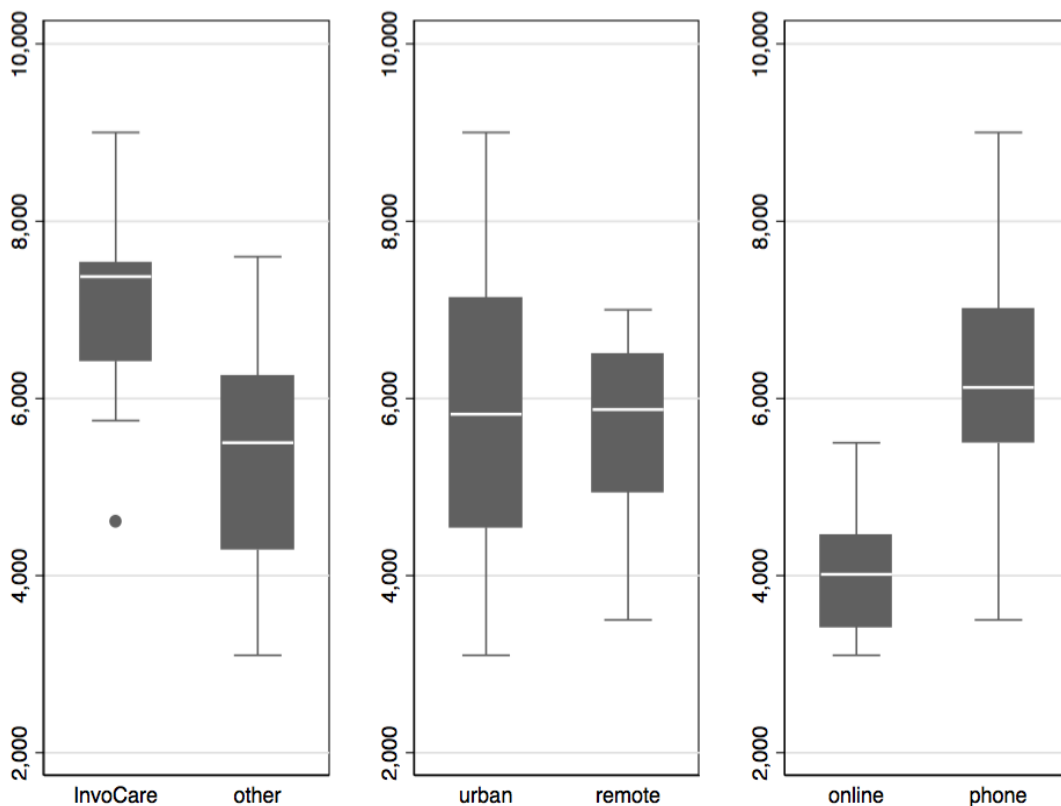


Figure 4.2: NSW Funeral Prices and Indicator Variables

Mean funeral prices for the variables IVC and OP are higher for InvoCare providers and for quotes obtained directly from operators. The results for the oneway ANOVA in Table 4 show that the main effects for IVC and OP are significant at 5% and 1% respectively. There is no significant difference between urban and non-urban (remote) providers. The sample is unbalanced, but the log-transformed prices appear to be normally distributed with equal variances.

Table 4.5: Robust Regression

	(a) IVC	(b) LOC	(c) OP		(d) IVC	
	IVC	Non	Urban		IVC	Non
Mean	8.8420	8.5410	8.6320	Mean	8.8420	8.5410
Std. Dev.	0.1729	0.2389	0.2708	Std. Dev.	0.1729	0.2389
Freq.	12	30	32	Freq.	12	30

The analysis of variance was expanded to include all three indicator variables. The results in Table 6 show that being a member of the InvoCare group and direct contact (phone contact) for price information results in a higher price for funeral goods and services. Due to data limitations it is not possible to identify any interaction effects.

Table 4.6: Three-way ANOVA – NSW Funeral Prices and Indicator Variables

Number of obs = 42		R-squared = 0.5336	
Root MSE = 0.1841		Adj R-squared = 0.4967	
Source	df	F-statistic	p-value
Model	3	14.49	0
IVC	1	6.52	0.0148
OP	1	18.38	0.0001
LOC	1	0.25	0.6206

FP	Coef.	Std. Err.	t	p-value
IVC	-0.1919	0.0655	-2.93	0.006
OP	0.3602	0.0775	4.65	0
LOC	-0.0393	0.0843	-0.47	0.643
Intercept	8.4819	0.0924	91.83	0

Regression Analysis

As outlined in section 4.4 the analysis of funeral prices undertaken for this study culminates in the estimation of a regression model. Table 4.7 below reports the results for the model specified in section 4.4. The model finds, consistent with the descriptive analysis above, that funeral prices are lower in Victoria, Queensland and South Australia than in NSW and Western Australia. It also shows, again consistent with the analysis above that being a member of the InvoCare group increases funeral prices (i.e. not being a member of the InvoCare group ameliorates prices) and disclosing prices online results in lower prices for funeral goods and services supplied by funeral directors. These results are all statistically significant.

The indicator variable LOC (location) which sought to identify if prices were higher in non-urban (remote) locations due to lack of competition, fixed overhead costs and transport costs was not statistically significant. This may be due to two factors, first even in non-urban locations most Australian die in institutions which are more accessible to funeral directors and as such most fixed overhead costs are ameliorated by a lack of completion and second, the price information gathered was for a basic or essential services funeral and within that context, travel is constrained to 30km in most cases (see for example NSW Fair Trading 2011) so a premium can be charged for longer distances.

Table 4.7: Regression Analysis

FP	Coef.	Std. Err.	t	p-value
VIC	-0.1730	0.0616	-2.81	0.006
QLD	-0.1983	0.0636	-3.12	0.002
SA	-0.1755	0.0901	-1.95	0.054
WA	0.0945	0.0824	1.15	0.254
IVC	-0.2414	0.0784	-3.08	0.003
LOC	0.0104	0.0731	0.14	0.887
OP	0.1678	0.0538	3.12	0.002
Intercept	8.6611	0.0820	105.62	0.000
N	114			
R²	0.4633			
Adjusted R	0.4279			

Where:

- FP = Funeral Prices (\$AUD);
- STE = Indicator variable for state of operation;
- IVC = Indicator variable, 1 non-InvoCare group business;
- LOC = Indicator variable, 1 for non-urban (remote) location; and
- OP = Indicator variable, 1 for information gathered via direct contact (phone).

4.5 Chapter Summary

This chapter has presented detailed information about the pricing of certain funeral goods and services provided to individual consumers by funeral directors. Data collection and therefore analysis was constrained by transparency of pricing by suppliers. However a significant amount of data was collected to be able to provide statistically significant results. The analysis presented here confirms it is more expensive to have a basic or essential services funeral in NSW and Western Australia, on average, than it is in Queensland, Victoria and South Australia.

Concerns about concentration in the industry due to the dominance of InvoCare Limited in the market appear warranted as being a member of the InvoCare group significantly drives prices. Additionally, calls for greater transparency in the pricing of funeral goods and services for consumers should be heeded as there is also evidence that prices of a basic or essential services funeral are lower when they are available online.

Chapter 5: SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Summary and Conclusions

The research project has highlighted the historical, regulatory, cultural and social context of death-care to explore the opportunities and challenges for consumers of death-care services and the funeral industry in Australia. The funeral industry is currently worth approximately \$1 billion in Australia and dominated by InvoCare, a listed company with a 40% market share concentrated on the east coast (IBISWorld, 2016). Since engagement with death-care and/or the funeral industry will occur for most Australians at some stage, often as a vulnerable consumer, it is a topic of social and regulatory significance. Several inquiries in Australia have highlighted the need for increased scrutiny and information about the goods and services provided by the funeral industry. Transparency in pricing is required for two primary considerations. First, for consumers to make an informed choice between providers by ensuring that relevant prices for similar goods and services are disclosed. Second, to provide information about the actual product or service so consumers can explore or compare alternatives.

To address the first issue, recommendations to provide and disclose the price of a basic or essential services funeral have been proffered to allow consumers to access a low-cost funeral (including disposal and ceremony) and also compare prices. The second issue relates to the itemisation of the funeral director's invoice which includes professional fees, coffin or casket and disbursements. The professional fee accounts for 39% of the total price of a funeral and includes variable costs such as labour as well as the allocation of indirect costs such as depreciation on buildings. The coffin or casket accounts for 31% and the mark-up can be considerable, often to cross-subsidise other areas of the operation (IBISWorld, 2016). However, since correct handling and disposal of the body are the only aspects of death-care that are explicitly regulated, alternatives to the full service funeral are available, including a direct committal or even do-it-yourself.

Prior studies by the PSA (1992) and CPSA (2009) and two state government inquiries have highlighted the lack of transparency regarding pricing and a wide variation in the price of standard products. However, variation in pricing is expected due to geographical and regulatory differences and the presence or absence of competition. This project extends these prior studies to examine the pricing of a direct committal (cremation) and a basic or essential services funeral (including cremation) in Australia in 2016 and also understand the key drivers and impacts on price. We found that the 2016 average price for a basic funeral in NSW is \$5758 which represents an increase of nearly \$1000 or approximately 21% since 2009 (\$4769). We also determined that key drivers of this price were jurisdiction or state location of the enterprise and whether the enterprise was a member of the InvoCare group. Further research could identify other contributing factors on funeral prices. While large providers such as InvoCare can exploit economies of scale for support activities or vertically integrate, the price of an InvoCare funeral was more expensive than other providers on average. InvoCare are geographically located primarily on the east coast of Australia where the cost of land for a funeral premises and wages may be more expensive than other states or regional areas. Further studies adopting a different approach (e.g. interviews or questionnaires) could interrogate these ideas.

Non-urban (remote) providers often have greater distances to travel (beyond the 30km specified in a basic funeral) and are small or family-owned companies offering 24 hour service. Where there is limited other providers, monopoly pricing may occur to allow for the allocation of overheads across a smaller number of funerals, however there we found no evidence that non-urban (remote) providers charged higher prices, on average.

The legislative environment of the funeral industry in Australia is fragmented and primarily limited to regulations that govern transport and disposal and financial products. Therefore, most aspects of death-care exist in an unregulated environment and provide an opportunity for both predatory pricing and marketing by operators; as well as, the freedom for individuals to do-it-yourself. While the conduct of funeral directors is largely self-imposed through various national and state-based codes of ethics promulgated by professional bodies, membership to a funeral directors' association is voluntary. While calls for mandatory national standards have been criticised as problematic for small operators (FCDC, 2005), compulsory compliance and sanctions for breaches may mitigate unethical practices.

Prior studies have found that while a majority of consumers are comfortable with the services provided, and indeed appreciative of a one-stop-shop approach (e.g CPSA, 2009), pricing transparency and choice raise concerns for regulators and the public.

Drawing on the findings of this research, recommendations for policy makers and regulators in terms of promoting consumer choice and protecting vulnerable consumers through increased price transparency are outlined below.

5.2 Recommendations

Recommendation 1

Harmonise legislation and regulation nationally to remove jurisdictional differences which add to complexity and create confusion for consumers. Since regulatory requirements impact on the costs of professional services (e.g. transport) coherent rules will impact price transparency and comparability across jurisdictions, facilitating consumer choice.

Recommendation 2

Ensure all funeral directors offer a basic or essential services funeral and provide the price and inclusions on request.

Recommendation 3

Develop guidelines for the information disseminated to those with authority to make arrangements that includes alternatives, such as direct committal, not-for-profit and community providers as well as do-it-yourself options. For example, most Australians die in an institution and the information provided to relatives and friends is to contact a funeral director.

Recommendation 4

Regulate the marketing and labelling of funeral insurance to accurately reflect the actual product purchased. Funeral insurance is a form of life insurance and consumers 'buy' a future lump sum which may or may not be spent on funeral goods or services. The use of the label 'funeral' creates opportunity for predatory marketing to vulnerable consumers.

Recommendation 5

Develop a 'national product information standard' for pre-need (pre-paid) funerals to prevent predatory practices such as 'up-selling' at the point of delivery.

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Biographies:

Professor Sandra van der Laan

PhD, BCom, MCom, FCPA, GAICD

Sandra van der Laan is a Professor of accounting at the University of Sydney Business School. Sandra has approximately 20 years' experience researching the impact of accounting practices on institutions and society more broadly. Sandra's work has interrogated accounting's role as a corporate discourse and as a mechanism to discharge accountability. More recently, Sandra has become interested in similar themes in the 'third' sector.

Sandra's work has been supported by a number of research grants and published in leading international journals, books and industry reports. In addition, various media outlets often call on her expertise to inform public debate and, as a consequence she has contributed to discussion on TV, radio and news outlets. She has also contributed her expertise to the community through volunteer work on public sector and third sector boards and committees.

Sandra is on the editorial review board for a number of leading international journals and regularly presents her work nationally and internationally. Sandra is a fellow of CPA Australia and a graduate member of the Australian Institute of Company Directors (AICD).

Associate Professor Lee Moerman

PhD, BCom, MCom, FCPA, GAICD

Lee Moerman is an Associate Professor at the University of Wollongong with an interest in accounting in society, especially corporate disclosures of information both in the past and present. In her research, she is particularly interested in the information for non-shareholders groups and has published extensively on a range of topics of social significance such as accounting for asbestos-related liabilities. She primarily adopts an interdisciplinary perspective of accountability and adopts critical perspectives informed by discourse studies, theology, sociology and politics to inform what it means to give an account. Lee is on the editorial board of several leading journals including *Accounting Forum*, *Accounting History*, and *Social and Environmental Accounting Journal*.

More recently Lee has taken on several roles as a non-executive director on the board and chair of the Audit, Risk and Compliance subcommittee of a large aged-care provider and as a volunteer accountant in Cambodia with a UK-based social enterprise.

This research provides information to enable a comprehensive understanding of the funeral industry in Australia and the drivers of costs and prices for funerals in the current regulatory environment. Given recent criticisms of increasing concentration in the industry and predatory pricing and marketing in an environment where consumers are vulnerable, this research project highlights the historical, regulatory, cultural and social context of death-care to allow an exploration of the opportunities and challenges for consumers of death-care services and the funeral industry in Australia.

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