

## CHAPTER THREE – ISSUES WITHIN THE FUNERAL INDUSTRY

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3.1 Chapter 3 discusses issues which are of concern to the funeral industry itself while the following chapter focuses on issues which have more of an impact on the community. In Chapter 3, issues surrounding the need for standards for the conduct of funerals are discussed in detail, especially in relation to the transport, preparation and storage of human remains. Occupational health and safety issues of particular concern to the funeral industry (i.e. stress, working hours, manual handling, infection control) are covered. Training and formal education currently available for the funeral industry is outlined, the industry response to training is discussed and an international perspective is provided. Fair trading issues such as misleading advertising, the cost of funerals, and pricing practices within the industry are explained. The current regulation of pre-paid funerals is evaluated and the chapter ends with a summary of the issues particularly relevant to rural and regional funeral businesses.

### **STANDARDS**

3.2 Issues surrounding standards for the conduct of funerals have been discussed at all public hearings conducted for this inquiry and feature in most of the written submissions received by the

Committee. These issues, which focus on the transport of human remains and the preparation and storage of the deceased until the funeral is conducted, are of concern to both large and small operators in the industry. Many of the issues also have an indirect impact on the community and its interaction with the funeral industry.

### ***Issues with the Introduction of Mandatory Standards***

#### **Industry association standards**

3.3 Within the funeral industry, there is debate about the need for standards and the level at which such standards should be set. The industry associations have practice standards focussing on premises, equipment and vehicles to which their members must adhere in order to continue their membership. There is concern that if mandatory standards were set too high, competition could be reduced and the entry of new businesses to the industry could be restricted. However, the AFDA submission and testimony received from AFDA members at public hearings promote the concept of minimum standards.

Naturally, as I said, having been the senior vice-president of the Victorian division of the AFDA, I do go along with what the AFDA guidelines are, but I also must admit that I know the AFDA is not pushing for the maximum — we would like to see the minimum. I would like to reiterate that, because we do not want to scare people off or anything like that, just provide a level playing field.<sup>1</sup>

3.4 Not all funeral directors belong to industry associations. Some may achieve and maintain high standards while others may not reach even the minimum standards promoted by the industry associations. It has been suggested by the VIFD that minimum

standards could be achieved across the industry by directing funeral businesses to join one of the three associations before they would be permitted to trade.<sup>2</sup>

### **Disadvantages for the industry**

3.5 The introduction of mandatory standards may disadvantage smaller funeral operators and those in rural and regional areas who may find it uneconomical to invest large amounts of capital in their businesses given the number of funerals they conduct.<sup>3</sup> A further issue with the introduction of any mandatory standards is that businesses may require time to upgrade to those standards and financial assistance to do so.

3.6 For example, if there was a requirement that a vehicle owned by a funeral business could not be used both as a transfer vehicle and as a hearse, then businesses conducting 30 funerals per annum may have the expense of purchasing an additional vehicle which would be idle for much of the year. Any requirement for each funeral business to operate its own mortuary and have certain items of equipment would reduce the economies of scale currently operating across both smaller rural and regional businesses and larger operators where mortuaries may be shared or equipment borrowed when necessary.

3.7 In addition, funeral businesses which operate in border areas may have to meet the standards of Victoria, New South Wales and South Australia, which would further add to costs, unless uniform standards were established nationally.

### **Advantages for the industry**

3.8 The greatest advantage in introducing mandatory standards for the funeral industry is that the community would have increased confidence in the level of ethics and professionalism existing within the industry while the industry as a whole would benefit from such a profile. If mandatory standards were to be introduced, many funeral businesses may already be operating at the required level so there would be minimal expense to the business in achieving those standards.

### ***Infection Control Standards***

#### **Infection Control Guidelines for the Funeral Industry**

3.9 In 1992, a committee comprising representatives of the Australian Workers Union (Victorian Branch), the AFDA (Victorian Division) and the Standing Committee on Infection Control of the Victorian Health Department prepared guidelines for the funeral industry in relation to infection control.

3.10 The published guidelines recommend procedures which incorporate infection control measures designed to prevent accidental infection of employees in the funeral industry and are divided into three parts covering:

- infectious hazards and principles of infection control;
- procedures for the transport of bodies; and
- procedures for basic body preparation and encoffining.

3.11 In 1995, a fourth part of the guidelines covering procedures for embalming was published. This part received input from the AIE as well as the AFDA and the Victorian Health Department and is intended to be seen as a basis for funeral industry training programs and continuing education.

3.12 These two publications are often referred to in this chapter as infection control is an over-riding issue for the funeral industry. For the sake of brevity, they are referred to as the infection control guidelines.

### **New South Wales**

3.13 With the enactment of the *Public Health (Disposal of Bodies) Regulation 2002*, New South Wales has, in effect, legislated standards for the funeral industry. Although infection control is not the explicit focus of the regulation, the requirements for equipment and facilities mean that the infrastructure for infection control practices to occur should be in place in every funeral business in New South Wales.

### **Queensland**

3.14 Workplace Health and Safety Queensland issued a *Guide for the Funeral Industry* in 2004 which provides useful information about infection control practices from a health and safety perspective. This publication promotes the idea that all bodies should be considered to be potentially infectious and at least a minimum standard of precautions should always be adopted, regardless of the cause of death.

## ***Standards for Coffins and Caskets***

3.15 The terms 'coffin' and 'casket' are in common use in Australia to define the container in which human remains are buried or cremated. These terms are often used interchangeably by the community. However, it is generally agreed that a coffin is usually of a tapered shape to match the human body (i.e. wider at the shoulders and narrower towards the feet) with a completely removable covering lid. A casket is a rectangular shape with a hinged lid and, for an adult, is usually of larger dimensions than a coffin.

### **Materials**

3.16 Coffins and caskets can be made from a variety of materials: solid timber, plywood, particleboard (MDP), cardboard, metal. A timber coffin can be given a polished finish or stained to give the appearance of a different timber. Plywood or particle board can be painted, stained or covered with a thin veneer cut from solid timber. Cardboard can be painted or decorated in a variety of ways. Metal caskets can reflect the colour of the metal or can be spray-painted with a variety of designs.

3.17 The internal trimmings of a coffin can range from very simple liners and pillow to more expensive fabrics such as satin or velvet. Handles and any external decorations are usually made from metal or plastic. A coffin also has a nameplate attached to the lid with the name and date of death of the deceased engraved into it.

### **Requirement for a burial or cremation container**

3.18 Section 5 of the Victorian *Cemeteries Regulations 2000* states that a corpse must not be brought into or conveyed within a public cemetery unless it is in a closed coffin, receptacle or container. While a coffin must be soundly constructed, made of wood or metal and designed so that offensive liquids and noxious gases cannot escape (Section 5(a)), a receptacle or container needs to be substantial, in a clean and hygienic state and designed so that offensive liquids and noxious gases cannot escape (Section 5(b)).

3.19 The Victorian regulations do not prohibit the use of materials such as cardboard, canvas or wicker in the construction of a burial receptacle or container as long as it is not referred to as a 'coffin' and meets the requirements of Section 5(b). This ensures that the cultural traditions of religious groups where non-coffin burial is required are respected.

### **ACCA proposed guidelines**

3.20 The Australasian Cemeteries and Crematoria Association (ACCA) has proposed guidelines for the use of cardboard and other receptacles for burial and cremation. The guidelines have been developed to:

- diminish the likelihood of product failure;
- reduce OHS risk to crematoria staff during the conduct of the funeral service at the crematorium;
- limit prospective psychological disamenity during the conduct of the funeral; and

- provide an ongoing basis upon which members may objectively decide whether or not to accept a proposed receptacle.<sup>4</sup>

### ***Product failure***

3.21 Product failure can occur for a variety of reasons. For example, the material used must be impervious to external and internal fluids and be able to withstand refrigeration. The receptacle must have a solid base which facilitates storage and movement on rollers, and must not distort or come apart at the joints when being handled during the normal conduct of a funeral.

### ***OHS risk***

3.22 Unsuitable receptacles can endanger the health and safety of crematorium workers. The temperatures at which cremation chambers operate and the exposure of the receptacle to radiated heat just prior to moving it into the cremator mean that pre-ignition of the receptacle and related flashback could pose an unacceptable risk to employees or the integrity of the cremation process.

### ***Lid***

3.23 The receptacle lid must be secured in a manner which prevents release during handling and transportation. The distress caused to mourners by an insecurely fastened lid falling off during any part of the funeral service, thus exposing the corpse, would be considerable.

### ***Unsuitable receptacle***

3.24 If the coffin or burial container has been deemed unsuitable by cemetery or crematorium staff, they may refuse to accept it for burial or cremation. The proposed guidelines suggest that if a non-standard coffin is to be used for cremation, it should be inspected by crematorium staff prior to the cremation to evaluate its suitability or be issued with a certificate by a nominated testing authority. However, compliance of a particular product with the proposed guidelines does not necessarily guarantee that it will be accepted by all crematoria.

### ***Future Directions***

#### **Mandatory standards**

3.25 This Committee does not have the expertise to articulate standards which should be adopted by the funeral industry. However, it is clear from written submissions and evidence presented to the Committee that there is the need for at least minimum standards within the industry to ensure that community expectations are being met, if not exceeded, by many current funeral directors.

3.26 In the final chapter of this report which outlines options for regulation of the funeral industry in Victoria, the issue of standards is further discussed in relation to many of the proposed regulatory options. However, any standards which may be introduced for the funeral industry should be considered on a national basis to avoid states establishing conflicting standards and the situation where

companies operating in border areas must operate under different regulatory conditions.

### **Recommendation 3.1**

That the introduction of any mandatory standards for the funeral industry be considered and be mindful of the effect on large and small businesses, those located in metropolitan and rural and regional areas, non-commercial funeral directors, and families who choose not to use the services of a funeral director. While national standards are desirable, that goal should not stop immediate reform at the State level, where appropriate.

### **Infection control standards**

3.27 The *Infection Control Guidelines for the Funeral Industry* provide a solid base for the development of industry wide standards of infection control. However, the guidelines may need revision as it is ten years since the fourth section was produced. If the Committee were to recommend the adoption of industry wide standards, the process would need to involve all interested stakeholders and be supported by legislation to ensure suitable penalties for transgression of the standards.

### **Recommendation 3.2**

That the funeral industry in co-operation with the Victorian Health Department revise and update the four parts of the existing publication, *Infection Control Guidelines for the Funeral Industry*.

### **Standards for coffins and caskets**

3.28 It is the opinion of this Committee that the ACCA proposed guidelines for the use of cardboard and other receptacles should be expanded in consultation with interested stakeholders to produce standards for the manufacture and use of coffins and caskets made in or imported into Australia.

#### **Finding 3.1**

Any standards or regulations developed for the manufacture and use of coffins made or imported into Australia should not be used as an anti-competitive mechanism to exclude manufacturers and should not limit consumer choice or inhibit innovation in the manufacture and supply of coffins.

#### **Recommendation 3.3**

That the Australasian Cemeteries and Crematoria Association in consultation with interested stakeholders produce standards for the manufacture and use of coffins made in or imported into Australia.

#### **Recommendation 3.4**

That information on the full range of coffins available and their price be provided by funeral directors to consumers prior to purchase.

## TRANSPORTATION OF HUMAN REMAINS

### *Life Extinct and Certification of Death*

3.29 Before a body can be moved from the place of death, a certification of death form (i.e. Medical Certificate Concerning Death of a Person aged 28 days or over) must be completed by a registered medical practitioner. This form provides details about the cause of death, if known, and is required to be lodged with the Registrar of Births, Deaths and Marriages under Section 37 of the *Births, Deaths and Marriages Registration Act 1996*. Currently, a funeral director is not able to take possession of a deceased person without this certificate having been completed.

3.30 This certificate designating that life has ceased is often confused by the public with the certificate issued by the Registry of Births, Deaths and Marriages which is commonly called the 'death certificate'. After a death is registered, the family (usually through the funeral director) then applies for a death certificate which is required by agencies such as banks, insurance companies and the executor of the estate.

3.31 In the case where a doctor is unable to certify the cause of death or the death is a reportable or reviewable death, the Coroner must be notified. The funeral director liaises with coronial staff who then release the deceased into the care of the funeral director once an autopsy or any necessary pathology tests have been completed.

## **Delays**

3.32 Delays in signing a certification of death where the Coroner is not involved may occur when a registered medical practitioner is not available immediately. When a death occurs overnight in a private home or aged care facility, the doctor may not be available until the morning. The body cannot be moved from the place of death until this certificate, which confirms the extinction of life, is signed by a doctor. Such delays can cause distress to a family and delays in the funeral process.

## **New South Wales and Queensland**

3.33 In New South Wales and Queensland, extinction of life can be assessed by either a registered medical practitioner or a registered nurse. Extinction of life is a clinical assessment process undertaken to establish that life is extinct. By evaluating cardiac output, neurological signs and respiratory status using a standard regime of clinical assessment tools, a registered medical practitioner or registered nurse can generally establish that life is extinct. With this formal recognition of life extinct, the body can be moved from the place of death to a more appropriate location such as a mortuary, holding room or refrigeration.

## ***Respect for the Deceased***

3.34 In general, individuals working within the funeral industry have a strong sense of providing a professional service based on respect for the deceased. This was articulated well during a public hearing:

When a family loses someone close to them, they in turn are entrusting the care of their deceased loved one into our custody. This trust placed in us, as funeral service professionals, is very precious to them and to us. Pre-yesterday, the deceased that is now in the custody of the funeral company was in the care of that family...The family will not be at the funeral company to watch over us to ensure that we treat their deceased loved one with dignity and respect, and of course the deceased cannot speak for themselves... As funeral service professionals ...we will give each and every deceased person that comes into our funeral home, the dignity and respect to which they in life and, therefore, in death are entitled to. This is what the family of the deceased expects of us. What they trust us to do.<sup>5</sup>

3.35 However, incidents which have come to the attention of the Committee over the course of this Inquiry have concerned the mistreatment of human remains during their collection and transfer to a funeral premises or other place used to prepare bodies, during storage in unsuitable facilities, and during preparation and dressing. Although this type of mistreatment is often not in contravention of any law and usually occurs behind the scenes, the distress caused to family and friends, if or when the mistreatment is recognised, can be considerable and long-lasting.

### **Infants and children**

3.36 A submission from the Royal Children's Hospital (RCH) provided details of the disrespectful and inappropriate behaviour of a funeral director concerning the collection and transport of three deceased children in June 2002. The first baby was collected from the Royal Women's Hospital and carried through the RCH in a cloth carry bag. The second deceased baby was collected from the mortuary refrigerator in the Department of Anatomical Pathology and

placed in the same bag on top of the first baby. The third child was collected from the Intensive Care Unit and, with the parents in attendance, placed in the same bag as the other two deceased babies. This funeral director ignored the directions of RCH staff and caused great distress to the parents and staff who had been caring for the third deceased infant. The deceased children were then transported in the boot of the funeral company car. A similar incident involving the same funeral company occurred the following year.

3.37 Attempts by the RCH to ensure that such behaviour did not occur in the future were ineffectual. The AFDA were concerned but advised that the funeral director in question was a former member and beyond the AFDA's jurisdiction. The lack of a regulatory body to which the RCH could have reported these incidents of professional misconduct was, and still is, of concern to the hospital.<sup>6</sup>

### ***Infection Control During Transportation***

#### **Treating all bodies as infectious**

3.38 The infection control guidelines state that all deceased human bodies should be treated as if they were potentially infectious. As the medical history of many of the bodies which funeral industry employees deal with may be unknown, this perspective is taken so that the decision whether to apply infection control principles should not be left to personal judgement in individual situations.

3.39 Common practice should be that appropriate precautions are taken when handling all bodies. However, funeral industry employees are not able to take appropriate precautions unless they

have been informed of the level of disease contained within the deceased person. Family and friends may not be aware of an individual's medical history, especially with the increasing prevalence of blood-borne pathogens such as Hepatitis B and C and HIV, and such a condition may not have been diagnosed when the person was alive.

### **Cause of death**

3.40 An issue of concern to the funeral industry, especially for those employees who collect bodies from a hospital or the Coronial Services Centre (CSC) where the cause of death is usually known, is that there is no documentation on or with the deceased about the cause of death. The nature of such information is highly confidential and subject to privacy legislation; however, it is of particular concern when the person has died from a communicable disease or when the body contains antibiotic resistant bacteria such as golden staph or vancomycin resistant enterococcus.

3.41 A funeral industry employee expressed concern at changes in coronial procedures and how this affects the transfer crews.

When we used to take bodies out of the Coroner's ... they used to do toxicology on every body so that we would know then what infection they had. That didn't mean that the family had to find out about it or anything like that, but just that we were made aware so when we were transferring the body and they came in bio hazard bags as well. Now, they just come out on the tray, blood all over the tray, we have got to pull them off in our uniforms, the only thing we have got is gloves and that is it. And we don't know what they have got.<sup>7</sup>

### **List A and List B diseases**

3.42 The New South Wales Health Department has classified communicable diseases into List A and List B diseases. List A diseases are Creutzfeld-Jacob disease (CJD), hepatitis C and HIV. List B diseases are diphtheria, plague, respiratory anthrax, smallpox, tuberculosis and any viral haemorrhagic fever (including Lassa, Marburg, Ebola and Congo-Crimea fevers).

3.43 According to Section 13 of the Public Health (Disposal of Bodies) Regulation 2002, if a person has reason to believe that bodies are infected with a List A or List B disease, the body bag or wrapping must be marked indelibly with 'INFECTIOUS DISEASE - LIST A (or List B) - HANDLE WITH CARE'. For the purposes of the Regulation, the person responsible for complying is the chief executive officer (if the body is removed from a hospital) or the funeral director or other person removing the body if the body is at any other premises or place. Therefore, the person transporting the body is able to take appropriate precautions especially in the case where there may be leakage of body fluids.

#### **Finding 3.2**

The Committee has been informed that the Government is developing protocols regarding "specific risks from exposures when handling bodies of persons who have died" (Submission from the Victorian Government, p. 14). The Committee supports the development of procedures that will ensure the health and safety of those in the funeral industry.

## ***Vehicles and Equipment***

### **Body bag**

3.44 When the body is collected by the transfer team from the place of death (i.e. a home, hospital or health care facility, or other location) or the CSC, it may not be in a hygienic condition with open or inadequately covered wounds increasing the risk of fluid and exudate leakage. All bodies need to be wrapped and sealed in plastic sheeting or enclosed in a body bag before being placed on a stretcher to ensure that no leakage occurs from the body.

3.45 Although there are no Australian Standards for the manufacture of body bags, the infection control guidelines provide information about the type of plastic to be used, its thickness and size, and instructions on how the body should be wrapped and sealed. Standards Australia collects and disseminates information relating to standards but it is the responsibility of industry to develop the standards through a committee system.

### **Transfer vehicle**

#### ***Physical requirements***

3.46 A transfer vehicle is used to collect a body and transfer it to the mortuary used by the funeral business. The infection control guidelines detail the physical requirements of the transport vehicle and the equipment contained in it. For example, the vehicle should have a separate and sealed compartment for the stretcher. In cases where the body may be in a decomposed state, this separation is necessary so that the driver is not affected by fumes or odour.

3.47 The interior of the transfer vehicle needs to have a mechanism to secure the body bag, stretcher or capsule to prevent it moving around while the transfer vehicle is in motion. The vehicle itself and all the equipment used during the transfer process needs to be easily and thoroughly cleaned and disinfected after transfers especially if the interior of the vehicle has been contaminated by fluids or exudates.

3.48 Often, transfer vehicles are modified station wagons which can be adapted for use as a transfer vehicle by the insertion of a mounting in the rear compartment to which the stretcher can be anchored. In order to separate the driver's compartment from the rear of the vehicle, a partition is fitted behind the driver's seat. This restricts the movement of the driver's seat, thereby reducing the space available for the driver. If the stretcher is enclosed within an outer sealed capsule, this may be large enough to also restrict the driver's movements so there are safety issues involved with the use of modified station wagons as transfer vehicles.

3.49 Given the nature of what is carried in the transfer vehicle, it is advisable that the public cannot see into the rear of the vehicle. This can be achieved by using a van with closed sides or, in the case of a station wagon, having curtains which draw along the side windows.

### ***Multiple functions***

3.50 Issues which have been brought to the Committee's attention concern whether a transfer vehicle can be used as a hearse and vice versa, and whether a transfer vehicle can be used for any other purposes. It appears that there are no health and safety issues with having one vehicle which can be used both as a transfer vehicle and

a hearse as long as the vehicle is adequately cleaned in the case of a leakage occurring. The vehicle should have an appropriate mechanism to secure the body, whether it is contained in a body bag or wrapped on a stretcher or in a coffin, and allow ease of entry and removal from the vehicle

3.51 In the case of a transfer vehicle such as a modified station wagon being used for other purposes, the Committee has heard no valid reason to prevent a funeral business from using such a vehicle to transport equipment to a cemetery, for example. However, it has been suggested that some smaller funeral businesses may also use such a vehicle for family transport as well. There seems to be no reason, except for one associated with sensitivity issues of travelling in a vehicle in which a dead body has also been conveyed, to prohibit this from occurring as long as the internal cleanliness of the vehicle is maintained.

### ***Protective equipment***

3.52 The infection control guidelines state that the transport vehicle must carry suitable quantities of protective garments as well as cleaning and disinfecting materials. Protective garments such as overalls, gloves, masks, protective eyewear and overshoes may be required depending on the state of decomposition of the body and the amount of blood, body fluids or water contaminated with these substances.

### ***Mortuary transport services***

3.53 Specialised mortuary transport services may be used by a funeral director if the funeral business does not have its own transfer

vehicle or the funeral business is not able to collect the body for any reason. Mortuary transport services have this type of work as their sole business so any regulation referring to transfer vehicles must also include this category of business.

### **Infants and children**

3.54 In its submission to the inquiry, the Royal Children's Hospital pointed out that the death of an infant or child is generally not something that a family has anticipated; therefore, the grief experienced by parents and family members is significant and acute. While the need for protecting the body appropriately during transportation is recognised, the RCH suggests that consideration should be given to the type of fabric used to cover the child's body due to the emotional vulnerability of the parents and family members at this time.

3.55 Specially designed receptacles similar to car safety capsules are available for the transfer of babies and infants. The Committee has heard that, out of respect for the sensitivities of the parents and other family members, infants and children are sometimes transported on the back seat of the funeral company car, especially when accompanied by a family member, or in a station wagon rather than a transfer vehicle. Due to the special circumstances of an infant or child death, the Committee believes that this practice should continue as long as appropriate infection control measures are observed.

## **Hearse**

3.56 Once a body has been prepared for burial or cremation, a hearse is used to transport the coffin during the conduct of the funeral. The hearse needs to have a mechanism such as rollers to facilitate movement of the coffin into and out of the vehicle as well as an anchoring device to ensure the coffin is safely secured when the hearse is moving. The colour, style and age of the hearse is largely the choice of the funeral company and many promote a particular colour or style of hearse as part of their overall presentation to the public.

### ***Non-traditional hearses***

3.57 Vehicles which are not generally recognised as hearses are sometimes used to transport coffins at the request of the family if this type of vehicle has been significant to the deceased during their lifetime. Horse-drawn hearses, heritage hearses and utilities have been used and motorcycle hearses are available from several companies nationally.

3.58 Motorcycle hearses may either tow an enclosed trailer in which the coffin is contained or have an open platform attached to the side of the motorcycle in the manner of a sidecar. The hearse platform has rollers for easy access with non-damaging clamps as in a typical hearse to secure the coffin in transit. With this arrangement, the coffin is on display to the public and is not enclosed within a vehicle.

## ***Interstate and Overseas Repatriation***

### **Interstate repatriation**

3.59 When bodies are to be transported interstate, there are several options available. Specialised refrigerated mortuary transport services can be contracted by the funeral industry for interstate road transport. Bodies can also be transported by air through the domestic airlines on passenger aircraft or by some air freight companies. Each company has its own policy which is based on *The Air Cargo Tariff (TACT) Rules Manual* which contains the international standards. Unembalmed remains are accepted by some companies for domestic carriage. Generally, the airlines and freight carriers will only deal with funeral directors as the shippers, which ensures that the airlines can be confident that the body is contained and sealed to the airline minimum standards.<sup>8</sup>

### **Overseas repatriation**

3.60 Generally, full embalming is required before a body can be transported overseas from Australia. The AIE supplies registered embalmers with a standard certificate, stating their qualification number, for them to complete when a body is embalmed for overseas repatriation. If a person without formal qualifications has embalmed a body, that person would be able to sign a statutory declaration stating that the body was fully embalmed.<sup>9</sup> Funeral directors have access to an international directory which outlines the basic requirements for most countries and it is the country to which the body is being transported which sets the regulations for its transport.<sup>10</sup>

## **Repatriation to Australia<sup>11</sup>**

3.61 When deceased human bodies are returned to Australia from overseas destinations, they must satisfy AQIS requirements. Bodies must be accompanied by an official certificate of death, or an extract of an entry in an official register, in respect of the person, showing the date, place and cause of death.

3.62 Bodies should also be accompanied by a certificate of embalming. Embalmed bodies must be contained in an outer coffin or crate suitably prepared for transportation. The inner container must be hermetically sealed and may be made from lead, bronze, zinc, steel or polythene plastic sheeting with a minimum thickness of 0.26mm. In the latter case, the polythene container must have all excess air removed and both ends hermetically sealed with double welds. Non-embalmed bodies will only be accepted under exceptional circumstances such as when embalming facilities are not reasonably available at the place of embarkation.

## ***Future Directions***

### **Death certification**

3.63 The Committee notes the situation in NSW and Queensland where medical practitioners and registered nurses are authorised to certify life extinct. *The Australian Funeral Director* suggested in September 2002 that the ability to verify life extinct should be extended to Division 1 registered nurses, ambulance paramedics and intensive care paramedics<sup>12</sup> as this would streamline the process of moving a body to a more suitable location or the

premises of the funeral director if the death is not required to be notified to the coroner.

### **Respect for the deceased**

3.64 The issue highlighted by the experience of the Royal Children's Hospital is that, although there are avenues of complaint when the complaint concerns a product or service, there is currently no authority in Victoria which handles complaints when the professional standards expected from the funeral industry are transgressed.

### **Infection control**

3.65 While seeking to uphold universal standards of infection control, and encouraging funeral industry workers to maintain these standards at all times, the Committee supports further requirements in the identification of infectious diseases in deceased persons. Consideration should be given to adopting a similar practice as that used by New South Wales to identify, where this is already known, bodies which have died from a communicable disease or are known to contain contagions which may be harmful to funeral industry employees involved in the transportation of the deceased. Without knowledge of the cause of death, the transfer crews are unable to take appropriate precautions. It has been indicated to the Committee that some funeral industry employees prefer not to use infection control procedures in removing a body due to the distress that it may cause some family members. However, the Committee stresses that funeral industry employees would be placing themselves and their

colleagues at great risk by not practising infection control procedures at all times.

### **Recommendation 3.5**

That a clear method of identifying and labelling a deceased body which carries an infectious disease be developed in order to alert funeral industry workers that they must use the highest level of infection control procedures when transporting, preparing and storing the body.

### **Vehicles and equipment**

3.66 The industry associations appear to have in place adequate standards for vehicles and equipment. However, the issue for this Committee is how to ensure that funeral directors who are not members of any industry association also adhere to minimum standards which meet community expectations. This issue is further discussed in Chapter 5 of this report.

### **Interstate and overseas repatriation**

3.67 The procedures for interstate and overseas repatriation of bodies appear to be adequate and working effectively. The AFDA has expressed concern about the condition in which some bodies are received from overseas and, although Australian authorities have set standards for the treatment of bodies being repatriated to Australia, it is not within the terms of reference of this Committee to address the situation when these standards are not upheld by other countries.

## **PREPARATION OF HUMAN REMAINS**

3.68 The preparation of human remains can range from a simple cleansing and disinfecting process to a more sophisticated level of embalming. These procedures usually occur in a mortuary which may or may not be physically located at the premises of a funeral business. Mortuaries must meet standards imposed by local authorities for the physical environment of the mortuary in regard to water connections and the disposal of waste. There are no legislative requirements covering the activities which are carried out in a mortuary or the level of qualification or training of the people undertaking such activities.

### ***Basic Body Preparation and Encoffining***

#### **Infection control**

3.69 The infection control guidelines cover the procedures which should be followed when:

- transferring the body from cool-room to mortuary table;
- unwrapping the body;
- preparing the body in the mortuary;
- placing the body in the coffin;
- cleaning, disposing of waste, and laundering; and
- cleaning and disinfecting equipment.

3.70 In all these procedures, the infection control guidelines direct that mortuary workers should be attired in appropriate protective clothing as they are exposed to blood and body discharges, soiled

and contaminated clothing and bandages, sharp hazards, chemicals and concentrated levels of disinfectant.

### **Inadequately trained employees**

3.71 Much of the training undertaken in the funeral industry is on-the-job-training. This method of instruction is adequate for many aspects of funeral service but, in a mortuary environment where invasive procedures are conducted and employees are exposed to contaminated waste, anybody entering the mortuary should have an understanding of infection control procedures.

3.72 Invasive procedures involve piercing of the dermis (i.e. skin). Even during minimal body preparation, the mouth is usually closed with sutures. This procedure is described in the infection control guidelines as the most hazardous procedure in body preparation because of the danger of accidental needlestick injury to the person doing the procedure. The Committee has heard evidence that one of the large funeral businesses requires drivers and transfer crews to do basic body preparation including invasive procedures without having adequate training in infection control practices.

### ***Embalming***

3.73 In general, the funeral industry promotes professional ethics of a high standard. Of the funeral industry associations, only the AIE specifically states in its Code of Ethics: "I will treat with respect all human remains". However, without industry-wide coverage of association membership, there is a real danger that unqualified or unethical individuals are attempting to embalm bodies. The

Committee has been provided with evidence that this has occurred although it is hardly widespread.<sup>13</sup>

### **Registration of embalmers**

3.74 Currently, there is no legislation in Victoria to prevent an unqualified or untrained person from embalming a body. In NSW, the *Public Health (Disposal of Bodies) Regulation 2002* states in regard to the embalming of bodies:

A person must not embalm a body unless that person has a certificate of proficiency of, or equivalent to, Certificate IV standard, issued by an institute approved by the Director-General<sup>14</sup>.

3.75 Certificate IV level training which embalmers receive covers core areas such as mortuary work, communication and client relations, professional conduct and workplace safety, and administration and business operations. Given the serious nature of the health and safety issues associated with embalming and the trust placed by the community in those who handle the deceased, consideration should be given to the introduction of legislation in Victoria in the form of accreditation, licensing or registration of embalmers.

### **Communicable diseases**

3.76 The funeral industry has expressed concern that, although information is provided by the Victorian Health Department regarding the treatment of living people with communicable diseases, there is no information regarding how the remains of people who have died from a List A or List B disease, as classified by the NSW Health

Department, should be dealt with in the mortuary context when body preparation or embalming is being conducted.

### **Permission of next-of-kin**

3.77 There is no legal requirement to obtain permission from the next-of-kin before the deceased is embalmed. As there are different levels of embalming from sanitation to complete preservation, the use of the terms 'preparation' and 'embalming' may not be clearly understood by the public. It may be advisable to consider requiring authorisation to be given by next-of-kin before embalming commences and for the level of embalming treatment to be specified on the authorisation form.

### ***Mortuary***

3.78 The industry associations have practice standards for the mortuaries of their member firms. They cover such elements as the siting of the mortuary, service connections, the room itself and the facilities and equipment within it.

### **Siting of the mortuary**

3.79 In consideration of the activities which are conducted in a mortuary, it is essential that the mortuary is physically separate from the public areas of a funeral business. It also needs to be adjacent to the vehicle access area which can be screened from public view, either permanently as part of the building design or temporarily when required.

3.80 This physical separation of the mortuary is also necessary to avoid contamination through cross-infection. However, if the

mortuary area is to be accessed by staff not involved in body preparation, procedures within the mortuary for those staff must be clear and adequate to avoid cross-infection.

### **Cross-infection**

3.81 Cross-infection occurs in an indirect manner when, for example, contaminants carried on the gloves of a mortuary technician are transferred to a door handle which is touched by a ungloved person who is then capable of transmitting those contaminants to a wider area. Where basic hygiene practices are not followed such as the wearing of gloves when moving a deceased person, cross-infection is also a risk. The Committee has heard evidence of practices regularly occurring which lead to cross-infection.

We are supposed to wear gloves, but there are staff members who don't wear gloves, they refuse to wear gloves. That doesn't just affect the person that is not wearing the gloves, it affects the other people in the company as well because as you would understand they are touching things and moving things around. In the mortuary itself we have people currently walking out of a mortuary just in their shoes as they are, in their suits. We have often got bodies on the table that have been autopsied and there is blood all over the floor. Nothing is at all done to stop these people walking out of the mortuary and as you can imagine that is being transferred right through the entire premises, all the blood. We have got people who walk around the streets in their mortuary gowns, they wear their mortuary boots ... outside into the street.<sup>15</sup>

3.82 Cross-infection is not only an issue for smaller companies where the cost of protective equipment may have an impact on the profitability of the business but also for larger companies such as

those that are seen to be leading the way in infection control practices.

## ***Future Directions***

### **Employee safety**

3.83 All people within the funeral industry who are responsible for allocating tasks to others need to be aware that there are legislated requirements for employers to maintain a workplace which is without risk to the health and safety of employees. Directing employees to complete tasks for which they do not have adequate training or are not provided with the minimum necessary protective equipment constitutes a breach of the *Occupational Health and Safety Act 2004*.

### **Embalming**

3.84 NSW has legislated that anybody embalming a deceased person must have a certain level of qualification. If Victoria were to follow this lead in establishing a minimum level of qualification, the basis for a nationally-recognised accreditation system for embalmers would be in place. Considering that many issues for the funeral industry are national rather than state-based and that the AIE is the only industry association representing embalmers nationally, such a system could be achievable through the already existing infrastructure.

## **Mortuary**

3.85 Best practice standards for the design of mortuaries and their positioning within the premises of funeral businesses should be developed. Such standards would need to be disseminated to those involved with the design and construction of these buildings as well as the local authorities who are responsible for planning permits and the inspection of mortuaries for compliance with local regulations regarding water and waste disposal.

3.86 The Committee has been made aware of one case of a communicable disease contracted possibly through cross-infection within the mortuary environment.<sup>16</sup> Considering the concerns raised by funeral industry employees about the lack of awareness of infection control practices, this should be a priority issue for any information campaigns targeted at or within the funeral industry.

## **STORAGE OF HUMAN REMAINS**

### ***Respect for the Deceased***

3.87 There is no legislation to prevent an unscrupulous person from storing human remains in an unsuitable environment or in a disrespectful manner. The Committee has heard evidence from funeral industry employees of funeral companies where bodies are stored 'top to tail' or not under refrigeration in the back of garages. Further evidence, albeit regarding instances occurring interstate, has also been presented regarding inappropriate storage of human remains.

3.88 At this point, it should be made clear that the term ‘human remains’ refers to a deceased person prior to their burial or cremation. After cremation, ashes do not have the same legal status as recognisable human remains. Therefore, ashes are often stored in a variety of containers and locations such as a private home without contravention of any legislation or norms of public decency.

### ***Refrigeration***

3.89 Once human remains have been embalmed, refrigeration is not necessary for preservation of the remains. Unembalmed human remains need to be kept under refrigeration to retard decomposition. As a minimum, even a small funeral business would need refrigeration facilities which could contain two adult bodies on separate trays at a temperature range of 3 degrees Celsius plus or minus 2 degrees.

### ***Self-Storage Facilities***

3.90 The Self Storage Association of Australasia is not aware of any member being contacted by a funeral director or an individual about storing human remains. Generally, climate controlled self-storage units have a temperature set at around 15° Celsius so they would be unsuitable for short or long-term storage of bodies. However, the nature of self-storage is that the customers rent the space, load and unload their own goods, and provide their own lock for the storage unit. The facility does not control or usually even have knowledge of the type of goods which are stored. The SSAA acknowledged that it would be possible but extremely unlikely for

human remains to be stored in a facility without the knowledge of the facility's owner.<sup>17</sup>

### ***Future Directions***

3.91 Consideration should be given to developing guidelines applicable to the whole funeral industry in regard to the transport, preparation and storage of human remains. Again, these issues have national rather than local relevance so any progress in this area should consider what has already been developed in other states.

## **OCCUPATIONAL HEALTH AND SAFETY**

### ***Current Legislation***

3.92 As discussed in Chapter 2, the current legislation governing occupational health and safety in the workplace is the *Occupational Health and Safety Act 2004*. The Act covers the general provisions for health and safety in all workplaces but there is no legislation in Victoria addressing issues specific to the needs of the funeral industry.

### ***OHS Issues in the Funeral Industry***

3.93 Within the funeral industry, there are specific OHS issues arising from both emotional and physical aspects of the work and the environment in which it is carried out. Of particular concern are stress, working hours, manual handling and infection control issues.

## **Stress**

### ***Daily stress***

3.94 For people working in the funeral industry, as in any other workplace, there are stressors which affect them on a daily basis. Due to the particular nature of funeral service in constantly dealing with the bereaved, funeral industry workers can experience additional stress from assisting people during a highly emotional period of their life.

### ***Critical incidents***

3.95 In the course of their work, funeral directors can be called to the scene of a murder, suicide, traffic accident, drowning, fatal fire, child or infant (SIDS) death, farm or motorcycle accident, explosion, electrocution, plane crash, boat accident, natural disaster or industrial accident.<sup>18</sup> It is recognised that emergency services workers can benefit from critical incident debriefing yet the funeral director, the person who has actually removed the body from these kinds of situations, is not usually included in such debriefings.

3.96 In New Zealand, the FDANZ initiated a Peer Support program in 1993 to provide this type of critical incident debriefing for their members. The FDANZ pays for the training of volunteer Peer Supporters who then give their time free of charge if their colleagues need assistance. The service is not used often but is gaining increasing acceptance among FDANZ members.<sup>19</sup>

3.97 The high level of acute stress resulting from exposure to situations which are outside the usual range of human experience is an issue in funeral service. This form of critical incident stress can

lead to immediate or delayed symptoms of post-traumatic stress. Resulting from a study of critical incident stress among funeral directors in America, Kroshus and Tibbetts (1997) recommended that:

- support networks should be set up within funeral service to provide funeral directors with opportunities to talk about the stress in their work;
- funeral service families with one or both parents involved in stressful work should have access to therapy; and
- funeral service education should inform students about the stress associated with being a funeral director and tell them about resources.<sup>20</sup>

3.98 These recommendations are applicable to the funeral industry in Victoria. Within the industry associations, it appears there is a strong network of colleagues who are able to provide assistance when needed. In rural and regional areas where it is common for families to be involved in smaller funeral businesses, this type of external assistance is important. While funeral service education covers areas such as dealing with grief and trauma, it is important that funeral directors understand and apply these concepts to themselves and their staff and not only to the families they serve.

### **Working hours**

#### ***On-call arrangements***

3.99 By necessity, a funeral business must be available to the public for twenty-four hours a day on every day of the year in order

to provide a timely response to calls for service. Once a funeral director is engaged to conduct a funeral, part of the professional service offered is to be available to the family at any time in the days preceding the funeral. This type of on-call working arrangement has the same type of well-documented negative effects as shiftwork on the physical and emotional capacities of workers in the funeral industry.

3.100 The Committee has heard that the usual practice at one large metropolitan funeral business is to have funeral director's assistants on-call for 24 hours a day for one week each month. This could result in 45 hours of overtime actually worked which could give a total of 80 or 90 hours for the week. Such a time demand on an employee may not allow adequate rest periods between activities such as collecting a body and participating in the funeral of another person. When preparing a body or driving short or long distances is required, the effects of fatigue could reduce the employee's ability to follow correct procedures or to drive safely. As a result, colleagues and the public could be placed at risk.

### ***Rest breaks***

3.101 Although the *Funeral Industry Award 2003* states that the maximum hours worked in a shift will not exceed ten hours and provides details of the timing and length of rest breaks and meal breaks, evidence presented *in camera* by funeral industry employees has shown that some employers are disregarding the provisions of the award. This evidence was provided *in camera* as employees who raise such issues within the industry are in a vulnerable position and fear for the continuation of their employment.

## **Manual handling**

### ***Body retrieval***

3.102 When a funeral assistant retrieves a body, it may not always be from easily accessible locations such as a hospital, nursing home or private home. Funeral assistants may have to negotiate confined spaces, steep slopes or other types of difficult terrain and deal with bodies of varying size and weight. The risk of sprain and strain injuries is common and on-the-job training in manual handling and correct lifting techniques is essential to avoid such injuries.

### ***Lifting bodies***

3.103 Embalmers and mortuary technicians risk injury when moving, lifting and turning bodies during body preparation and embalming procedures. If a body weighs more than 100 kilograms, for instance, it would be extremely difficult for a single person to manoeuvre that body without the assistance of another person or lifting equipment.

### ***Lifting and lowering coffins***

3.104 Musculoskeletal injuries can also occur when lifting and manoeuvring coffins. Movement can be difficult due to the size and weight of the coffin and the number of people who have been assigned to complete the task. However, the use of trolleys and church trucks can alleviate some of the lifting and carrying required. Current practice is for coffins to be carried at waist height by pall-bearers rather than shoulder height to avoid potential injury.

3.105 When lowering heavy coffins into graves, the graveside may be slippery or unstable which adds to the risk of injury to hips, knees and ankles. In 2002, female funeral workers employed by one funeral company won the right to stop wearing high heeled shoes because they pose a health and safety risk.<sup>21</sup> The shoes can cause trips, slips and falls which are especially dangerous when lifting or carrying a load such as a coffin.

3.106 The Geelong Cemeteries Trust won a WorkSafe Victoria Award in 2004 for a graveside safety fence. The fence provides a safety system at the graveside to prevent people falling into an open grave prior to and during funeral ceremonies. It also significantly reduces the manual handling risks involved with positioning a coffin over an open grave as this can now be done at waist height rather than at ground level.<sup>22</sup>

### ***Weight of coffins***

3.107 There are no standards for the manufacture of coffins, which can range between 25 to 60 kilograms in weight when empty, or restrictions against the type of coffins which can be imported into Australia. Coffins of a larger size or casket type and those made of metal and other heavy materials can be hazardous for funeral workers to move, especially if they do not anticipate the extra weight. A discrete label indicating the weight of the empty coffin could overcome this problem.<sup>23</sup>

## **Infection control**

### ***Contracting an infection***

3.108 There are two main ways in which funeral industry employees may contract an infection. The first is through ingestion when basic hygiene procedures such as wearing gloves are not followed and an employee's hands become contaminated with fluids or exudates from the body they are handling. The second is through the skin or the mucous membranes of mouth, nose and eyes which may occur when employees are moving bodies and liquids or aerosols are expelled from the body. In addition, there is the risk of skin being pierced from sharp hazards such as jagged bones resulting from traumatic death or as the result of autopsy.

### ***Principles of infection control***

3.109 The infection control guidelines outline principles of infection control which include:

- basic hygiene procedures such as hand washing;
- wearing protective clothing, gloves, masks and goggles;
- special procedures following accidental skin injury or splashing of blood or other body fluids onto mucous membranes;
- immunisation against tetanus, diphtheria, poliomyelitis and Hepatitis B;
- base-line chest X-ray (repeated every 5 years);
- providing all employees with written information;
- avoiding unnecessary invasive procedures; and

- body preparation areas which are designed and equipped to be conducive to hygienic practices.

3.110 American research has shown that when the three key elements of universal precautions (i.e. the use of gloves; the wearing of protective clothing; work practices which reduce exposure to blood and bodily fluids) to minimize occupational exposure to blood borne pathogens are used on a consistent basis, occupational infections are reduced which reduces overall health care costs to employers.<sup>24</sup>

3.111 However, as noted several times at public hearings, it is not possible to ensure that funeral industry employees follow infection control procedures while they are working. Whether this is through ignorance, laziness or instruction from their employer is impossible to determine. Information and training for employers and employees who choose to ignore standard infection control procedures, thereby putting colleagues and the public at risk of cross-infection, may overcome this problem.

3.112 The Committee has heard from funeral directors' assistants that families become distressed when the employees use protective equipment such as gloves during removal of the deceased from private homes or when wrapping the deceased in order to place them safely on a stretcher. Where this results in negative feedback to the funeral company with perhaps the loss of the funeral for that business, employees have been chastised for taking appropriate infection control precautions to protect themselves.

## Compensation claims

3.113 WorkSafe Victoria has supplied the Committee with the number of standardised claims for the funeral industry from July 1999 until December 2003. WorkSafe uses the Australian Security and Investment Commission code 9632 which provides data for funeral directors only, excluding claims from cemetery and crematoria employees.

3.114 During this four and a half year period, a total of 81 claims were successfully lodged with WorkSafe. Although there was a 50% increase in claims over this period, the number of claims per annum is still relatively low. However, without further information regarding the nature of the claims (i.e. stress, sprains and strains, infections), it is impossible to identify any trends which should be addressed by the industry.

Table 3.1: L9362X Funeral Directors compensation claims

Reporting year	1999/2000	2000/2001	2001/2002	2002/2003	Jul - Dec 2003
Number of claims	15	16	20	22	8

Source: Victorian WorkCover Authority<sup>25</sup>

## Future Directions

### Increasing OHS awareness

3.115 From evidence presented to this Inquiry, it is clear that compliance with OHS legislation and standard practices is variable across the funeral industry. The industry would benefit from

encouraging an increased awareness of OHS issues of particular relevance to the funeral industry. WorkSafe Victoria has developed industry specific information to encourage safe working practices in particular industries as OHS information can be more readily used if it targeted at specific industries. Providing such information for the funeral industry would be one way of increasing industry awareness of OHS issues.

3.116 In addition, the provisions of the *Funeral Industry Award 2003* contain practices which enhance workplace safety by providing adequate rest breaks, restrictions on the length of shifts to be worked and so on. An education campaign to ensure that employers and employees are aware of these provisions would also add to an awareness of OHS and the responsibility of employers and employees to ensure a safe workplace.

### **Infection control**

3.117 In their submission to this inquiry, the AFDA stated that:

With the exception of infection control issues in the mortuary environment, we do not believe that regulation is needed in relation to general standards of OHS in the funeral industry.

The *Infection Control Guidelines for the Funeral Industry* could form the basis for an approved code of infection control practices within the funeral industry. A working group of interested stakeholders would need to be established so the current guidelines could be updated and informed by recent work carried out in NSW and Queensland.

## EDUCATION AND TRAINING

3.118 Generally, employees who do not have a family background in the funeral industry or previous experience in similar work enter the industry at a level where they are engaged in low skilled jobs to gauge whether they are suited to continuing employment in the industry.

From the training perspective, employees often come into a firm as a driver or receptionist and they will receive on-the-job training. From there, they will go and do an infection control course...it is an important course because they learn safe infection control methods. That is vital for all employees who go out and deal with the handling of bodies.<sup>26</sup>

3.119 At any given time, a funeral business is likely to have at least some staff members who have not received training in basic procedures such as infection control and safe body handling procedures. Although there is currently no legislation requiring workers in the funeral industry to hold a certain level or type of qualification, the industry realises that training courses provide employees with desirable levels of skill and confidence in their ability to do their jobs. Even small business operators within the industry recognise the importance of providing training for people entering the industry for their own benefit and that of the industry:

(A course run by the AFDA) covers customer service, transfer of deceased persons, coronial services, ethics, which is important, and the management side of things and also some bereavement studies. It is only a short course, but it certainly helped me and I think, from now on, anybody entering the industry should have to do some sort of course and there should be some qualification at the end for them. I

know it will take time and it costs money, but if I employed anyone I would certainly put them through that course.<sup>27</sup>

### ***Formal Training Currently Available***

3.120 In order to supplement essential on-the-job training and skills development supervised by more experienced staff within a funeral business, formally recognised courses for existing employees and those entering the industry have been developed under the direction of the Australian National Training Authority (ANTA).

#### **WFS02 Funeral Services Training Package**

3.121 In 2002, WFS02 Funeral Services Training Package was endorsed as the recognised training package for the funeral industry. It was developed by the National Wholesale Retail and Personal Services (WRAPS) Industry Training Council in conjunction with the funeral services industry. The package contains twelve nationally recognised qualifications in funeral operations, embalming, coffin and casket manufacture, cemetery and crematoria operation, grave digging and grounds maintenance. It is a competency-based training package with 127 new competencies specifically developed for the package. The package also contains 55 competencies from other endorsed packages within the Australian Qualifications Framework Certificates I to IV, which recognises that many people come to the funeral industry from other areas of employment. Some subjects are available for study by correspondence but, to do so, a pre-requisite is employment in a funeral business.

### ***Recognition of Prior Learning***

3.122 People who have been employed in the funeral industry for a considerable time may be granted Recognition of Prior Learning (RPL) or Recognition of Current Competence (RCC) where the skills and experience developed in their working lives are evaluated so that they do not have to begin training for a certificate at the lowest level.

### **Training Providers**

3.123 Training Package qualifications may only be issued by a Registered Training Organisation (RTO). An RTO is an organisation which has been registered by a state or territory training authority to conduct training and assessment leading to a national qualification.<sup>28</sup> The training and assessment provided by an RTO is regularly evaluated and audited for service, quality and compliance with the nationally agreed standards of the Australian Quality Training Framework. Table 3.2 provides details of the seven RTOs currently authorised in Victoria to provide training relevant to funeral directors.

Table 3.2: RTOs currently authorised to provide WFS02 Funeral Services training in Victoria

National Code	Organisation Name	Location	Courses (excluding Coffin and Casket Manufacture; Cemetery / Crematoria Operations; Grave digging, Grounds and Maintenance)
90125	Australian Institute of Workplace Learning Pty Ltd trading as Workplace Australia Group	Burwood, NSW	Certificate I in Funeral Services Certificate II in Funeral Services (Funeral Operations) Certificate III in Funeral Services (Funeral Operations) Certificate IV in Funeral Services Certificate IV in Funeral Services (Embalming)
3044	Gordon Institute of TAFE	Geelong, Vic	Certificate II in Funeral Services (Funeral Operations) Certificate III in Funeral Services (Funeral

21290	Grubar Pty Ltd trading as Adcom Training Solutions	Collingwood, Vic	Operations) Certificate IV in Funeral Services Certificate III in Funeral Services (Funeral Operations)
21125	Mortuary and Funeral Educators Pty Ltd	Oakleigh, Vic	Certificate I in Funeral Services Certificate II in Funeral Services (Funeral Operations) Certificate III in Funeral Services (Funeral Operations) Certificate IV in Funeral Services (Embalming) Certificate IV in Funeral Services
4078	Service Industry Advisory Group Pty Ltd trading as	Collingwood, Vic	Certificate I in Funeral Services Certificate II in Funeral Services (Funeral

	SIAG Learning Links		Operations) Certificate III in Funeral Services (Funeral Operations) Certificate IV in Funeral Services
20806	Tobin Brothers Pty Ltd trading as Funeral Industry Development Australia (FIDA)	North Melbourne, Vic	Certificate II in Funeral Services (Funeral Operations) Certificate III in Funeral Services (Funeral Operations) Certificate IV in Funeral Services (Embalming) Certificate IV in Funeral Services
3113	Victoria University of Technology (TAFE Division)	Footscray, Vic	Certificate I in Funeral Services Certificate III in Funeral Services (Funeral Operations) Certificate IV in Funeral Services

Source: <http://www.ntis.gov.au/> Accessed 11 March 2005.

3.124 Workplace Australia Group are still developing their curriculum and focus most of their training on the NSW arm of the funeral industry.<sup>29</sup> By the end of 2004, Victoria University had not conducted any training for the funeral industry. Their courses had been developed and they were hoping to source industry clients for 2005.<sup>30</sup>

### **New Apprenticeships**

3.125 New Apprenticeships, which are training contracts providing employers with financial incentives, are available for funeral industry employees training under the Funeral Services Training Package. However, according to the Department of Education and Training, there is negligible activity in these traineeships.<sup>31</sup> The numbers of apprentices in-training in Victoria at the end of February 2005 (and February 2004 for comparison) are shown in Table 3.3.

*Table 3.3: In training including existing employees*

<b>Code</b>	<b>Name</b>	<b>As 28/2/05</b>	<b>at</b>	<b>As 28/2/04</b>	<b>at</b>
WFS20202	Certificate II in Funeral Services (Funeral Operations)	1		5	
WFS40202	Certificate IV in Funeral Services (Embalmer)	4		2	

Source: Office of Training and Tertiary Education

## ***Issues with Education and Training***

### **On-the-job training**

3.126 Although on-the-job training was an acceptable way of training funeral industry employees in the past, the changing conditions of employment and the special circumstances of the funeral industry indicate that a certain level of knowledge is desirable and expected before employees are exposed to the occupational health and safety risks specific to the funeral industry.

### **Industry response**

3.127 The funeral industry has been slow to take advantage of the ANTA-approved, industry appropriate training which exists and can provide a base level or more advanced qualifications for people working in the funeral industry. The competency dealing with grave digging has had the greatest industry uptake due to its availability across Victoria. Cemetery operators and the AWU have supported this training since its inception.<sup>32</sup>

3.128 Funeral Industry Development Australia (FIDA) has issued about thirty-five Certificate II in Funeral Services (Funeral Operations) as this forms part of the Tobin Brothers induction program for new employees, as well as three Certificate IV in Funeral Services (Embalming) with two of the trainees being based in Sydney.

3.129 The greatest training uptake has been in Statements of Attainment which can be issued when a trainee has completed one

or two competencies rather than a complete course of study for a certificate.

### ***Reasons for slow industry response***

3.130 Although the lack of industry support is surprising, given the special circumstances of the funeral industry, it is understandable for several reasons. Firstly, the funeral industry does not have a long history of formal training. Most training provided to employees has been on-the-job training with one generation passing on their skills to the next. The risk inherent in this is that poor operational practices can be transmitted through this style of training and recent improvements in such practices may be ignored. In addition, daily work patterns for a funeral business cannot be known in advance due to the immediate nature of the response required to a death. Therefore, it is very difficult to develop and maintain a training plan as staff need to work when the job is there and training must fit in around the immediacy of this.<sup>33</sup> While larger companies may have the financial and personnel resources to cover staff absences for training purposes, the funeral industry consists of many small operators who, realistically, would not be able to release a staff member for even one or two days especially if the training was only available in the metropolitan area.

### **Continuing education**

3.131 RTOs and industry associations also provide training in professional development areas in the form of seminars or short courses. Some recent courses have included workshops for funeral arrangers and funeral conductors, communication skills,

occupational health and safety,<sup>34</sup> transfer procedures and ethical values for funeral service.<sup>35</sup> Many of these workshops aim to achieve the same learning outcomes as various competencies within the Funeral Services Training Package and may lead to a Statement of Attainment while others have been developed separately from the package.

3.132 Continuing education is also available through articles published in trade journals which can inform funeral businesses about changes in legislation, provide information on health and safety issues, innovations in funeral practices and equipment, and the needs of particular cultural and religious groups within the community.

### ***International Perspective***

3.133 In countries such as New Zealand and the United Kingdom where there are no government licensing requirements, the situation in regard to education and training is similar to that in Australia. However, in Canada and the United States of America where funeral directors and embalmers must be licensed, formal education at college or university is required as well as certain levels of continuing education as part of the licensing requirement.

#### **New Zealand**

##### ***Funeral Service Training Trust***

3.134 The Funeral Service Training Trust (FSTT) is the Industry Training Organisation for the funeral industry in New Zealand. The FSTT is made up of two members from the Funeral Directors

Association of New Zealand (FDANZ), two members from the New Zealand Embalmers Association (NZEA), two representatives from the Wellington Institute of Technology and a secretary/treasurer and is responsible for:

- developing industry training programmes;
- setting up national skill standards to be registered on the National Qualifications Framework;
- arranging for the delivery of training (on and off the job); and
- developing arrangements for monitoring the training and assessment of trainees (on and off the job).

### ***Qualifications***

3.135 Qualifications in the New Zealand funeral service industry are:

- National Certificate in Funeral Directing;
- National Certificate in Embalming; and
- Diploma in Funeral Service.

3.136 The National Certificate in Funeral Directing and the National Certificate in Embalming are both 15-month courses which require a candidate to be aged 20 years or more, have a minimum of one year working in funeral service and current employment with a funeral firm. Together, these qualifications form the Diploma in Funeral Service. Although there is no government requirement for those in funeral service to have a formal qualification, the numbers of funeral directors with a government-recognised qualification in funeral directing has increased significantly over the last decade.<sup>36</sup>

### ***Professional development***

3.137 The FDANZ and the NZEA both require their members to participate in ongoing professional development and, in 1997, brought in the requirement for a minimum number of training hour credits (THCs) to be completed in order for practising certificates to be maintained.<sup>37</sup> Those on the FDANZ Register are required to accumulate 18 THCs over a period of three years. Although this requirement was extremely unpopular with a number of members, the average number of THCs now accumulated by those on the register over a three year period is currently about 32.<sup>38</sup>

3.138 An experienced practitioners' course designed to provide long term funeral directors with the opportunity to gain a formal qualification in funeral directing was held in November 2004. The one-off course was designed to build on the knowledge of those who had been working as funeral directors for a minimum of 10 years.<sup>39</sup>

### **United Kingdom**

3.139 In the United Kingdom, National Vocational Qualification Levels 2 and 3 in Funeral Service are available. This training is usually delivered in the workplace, supervised by other experienced workers, and assessed in the workplace.

3.140 There are also courses at three levels which are approved by the National Association of Funeral Directors:

- Foundation Certificate in Funeral Services - designed for operatives and assistants;
- Diploma in Funeral Directing - offers progression from the Certificate for more experienced directors; and

- Higher Diploma in Funeral Directing - intended for funeral directors who are already in, or wish to move into, management.

3.141 The British Institute of Funeral Directors has a national network of registered tutors who run schools offering the Foundation Certificate in Funeral Service and the Diploma in Funeral Directing. Other organisations provide training courses more geared towards professional development than acquiring a basic qualification.

### **Canada**

3.142 In order to be licensed, Canadian funeral directors usually need formal education, which is typically one year of study in a community college, and an apprenticeship made available through a post-secondary programme.<sup>40</sup>

3.143 For example, the Funeral Services Apprenticeship Program in British Columbia is a worksite apprenticeship program that combines classroom instructional seminars, on-line home study modules and work experience for full-time employees of funeral homes. It is a three-way contract between the apprentice, their employer and the Industry Training Authority of British Columbia.<sup>41</sup> Training for funeral directors can include courses in communications, interpersonal skills, funeral law, ethics, funeral services, merchandising and management. Training for embalmers includes courses in anatomy, cosmetology, embalming, infection control and sanitation.<sup>42</sup>

### **United States of America**

3.144 The American Board of Funeral Service Education (ABFSE) serves as the national academic accreditation agency for college

and university programs in Funeral Service and Mortuary Science Education. The ABFSE is the sole accrediting agency recognized by the US Department of Education and the Council on Higher Education Accreditation in this field.

3.145 Each of the American states has its own educational requirements. An apprenticeship is usually required either before or after mortuary college, depending upon the state licensing laws. After graduation, a prospective funeral director may also be required to take a state licensing examination.

3.146 American states also vary in their requirements for the completion of Continuing Education Units. These units provide professional development opportunities and a certain number of hours, ranging from 4 hours per year up to 20 hours per year, must be completed as part of the licensing requirement.

## ***Future Directions***

### **Promotion of training and New Apprenticeships**

3.147 From comments made during public hearings, there appears to be a considerable lack of knowledge within parts of the funeral industry about the availability of training and the existence of apprenticeships for the industry. Several training providers have commented about the lack of interest from parts of the funeral industry but this may be connected with ignorance of the government assistance available to support the employment of a trainee within a funeral business.

3.148 Marketing of apprenticeships and traineeships to industry is done by Commonwealth Government contracted agencies called

New Apprenticeships Centres (NACs). There are about 50 NACs in the metropolitan area with a further 60 to 70 located throughout rural and regional Victoria. These centres provide free information and services to employers and people interested in becoming an apprentice or trainee. As with OHS, targeting information specifically to the funeral industry through currently available avenues such as trade journals may assist in increasing industry awareness of the training currently available as well as government assistance for employers.

### **Review of Training Package**

3.149 Service Skills is the Industry Skills Council for the Australian service industries, which includes the funeral industry, and will be conducting a review of the Funeral Services Training Package commencing in June 2005. All registered RTOs and industry peak bodies will be notified of the review during the consultation process. It may take up to 18 months before a revised version of the package is completed and endorsed.<sup>43</sup>

3.150 Three issues raised during this inquiry which should be considered during the review of the training package include:

- the method of delivery and the development of flexible or on-line delivery to suit small or rural and regional business which cannot afford even the temporary loss of a staff member to attend training in Melbourne;
- Statements of Attainment and short courses may provide funeral industry employees with training relevant to their needs

and the operation of their businesses rather than the completion of certificate level training; and

- the development of a certificate in basic mortuary care for funeral directors in rural and regional areas who do not require embalming expertise.

### **Recommendation 3.6**

That professional training and qualifications are desirable for the different and demanding occupations within the funeral industry, and the industry itself has successfully developed core curriculum for most skills required. The industry should, in an organised way, approach post-secondary education providers to establish over the longer term both entry-level and career path training for funeral industry employees.

## **FAIR TRADING ISSUES**

3.151 For this Inquiry, the Committee was required to examine the adequacy of the current regulatory framework taking into account fair trading issues. Such issues raised during the course of this inquiry have included misleading advertising practices, soliciting for business by holders of the coroner's contract, the cost of a funeral and how this varies between funeral businesses, restrictions on the supply of coffins, and pricing practices for funerals in general.

### ***Advertising Practices***

3.152 Funeral businesses advertise using a variety of media: newspapers and magazines, television and radio, the Internet,

telephone directories, public billboards. In written and oral submissions to the inquiry, certain advertising practices used by some funeral directors were raised as being against the basic principles of fair trading. Some examples of these practices, which have implications for consumer protection and the integrity of the funeral industry, are provided.

### **Misleading advertising practices**

- Advertisements in the print media, which do not contain a street address for the company, often have a 1300 number or a mobile phone number and/or a PO box. If there is a problem with the funeral conducted by such a company, it could be impossible for a consumer to locate the physical operating address of the company or any of the staff.
- Advertisements listing several or many suburbs for the one company give the impression of premises in those areas when the company may not have a physical presence (e.g. office, chapel, mortuary) in those areas. Services required by a family such as a viewing may involve considerable travel if they are unaware that the company does not operate from their locality.
- The use of a phone number in a particular suburb gives the company a presence in that suburb. The phone number may be that of a casual employee or relative of the funeral company owner and there is no physical presence of the business apart from the person in that area (i.e. an employee or relative agrees to operate as an answering service).

- The non-identification in advertising that one company is associated with another company gives the consumer that impression that there may be several funeral companies operating in one area when they are actually branches of a parent company. This limits customer choice and the ability to shop around while giving the misleading idea that the businesses are independent of each other.
- The use of an Internet address gives a level of authenticity to the company. However, some funeral company websites are non-existent or inaccessible which means that the inclusion of such a device in the advertisement has been deliberately misleading.
- Advertisements describing an 'information service' may have a direct line to only one funeral company or a group of allied funeral companies so the impartial advice which a consumer would expect is not provided.

### **Finding 3.3**

The Committee understands that some funeral companies may operate from two or more locations. However, the Committee supports effective disclosure of the location of business premises so that consumers are aware of additional costs that may arise from the storage and transportation of the body if the funeral premises are some distance from the family home or the site of burial.

### ***Coroner's Contract***

3.153 When the coroner is involved with investigating a death, the body needs to be transferred from the place of death to the CSC in Melbourne or to the mortuary of a country hospital. The Victorian Government Purchasing Board<sup>44</sup> tenders for funeral directors or specialised mortuary transfer companies to carry out this work. Contracts are commonly referred to as the 'coroner's contract' or the 'government contract' and are let for two years in the metropolitan area and three years in rural and regional areas.

#### **Who tenders for the contract?**

3.154 Many funeral directors do not tender for this type of work as they would be required to attend accident scenes, fires, suicides, murders and so on. They would be constantly on call and would be required to attend the scene within one hour of being called.

3.155 For the funeral directors who are successful tenderers, it can be particularly stressful work due to the mutilation of bodies and the involvement of children or young people. Especially in rural and regional areas, it is likely that the funeral director will know the person or their family when called to an accident scene.

3.156 There are several mortuary transfer firms which specialise only in this type of work and are not involved in the business of conducting funerals.

#### **Current holders of the Coroner's Contract**

3.157 In the Melbourne metropolitan area, the current contract for transfer of the deceased to the CSC is held by two companies.

Forty-three firms in rural Victoria successfully tendered for the 'Removal of Deceased Persons to Mortuaries - Country Areas' contracts for 2003-2005. Of these firms, 24 are AFDA members and 12 are VIFD members. One firm is not a member of either association but has membership of several international industry associations.

### **'Touting' for business**

3.158 The contractual documents expressly forbid soliciting for business from the family or friends of a deceased person who the contracted funeral director may have transported on behalf of the Coroner.

The Contractor, or any person employed by the Contractor, shall not use or attempt to use any influence with the relatives or friends or any other person connected or associated with the deceased person for the purpose of being engaged to conduct the funeral of the deceased. Any effort on the part of a Contractor to influence the family of the deceased to use their services in a later funeral, is strictly forbidden.

The leaving of ANY printed material by the Contractor is strictly forbidden.

Unless engaged by the relatives, friends or any person associated with the deceased, the contractor shall not contact the relatives, friends or associate of the deceased.<sup>45</sup>

3.159 The AFDA submission to this Inquiry cited a case where a funeral director holding a government contract visited the home of the deceased shortly after an accidental death to falsely advise the family that he was authorised by the government to conduct the funeral. At this point, the family was not even aware that the death had occurred.<sup>46</sup>

3.160 The issue that the practice of touting occurs despite it being expressly forbidden was also raised by funeral directors during public hearings and in written submissions. For example:

...the unacceptable practice that I am not comfortable with is the funeral directors that have the police contract and transfer bodies on behalf of the coroner and they tout for business. It is in their appointment documents that they are not allowed to, but it happens on an ongoing basis.<sup>47</sup>

### **Recommendation 3.7**

That the Coroner's Office more closely scrutinise the behaviour of funeral directors awarded contracts to ensure that the practice of soliciting for business does not occur.

### ***The Price of a Funeral***

3.161 Most funeral businesses construct the price of their total funeral package by separating it into three elements:

- the funeral director's professional service fee;
- the coffin; and
- disbursements (payments made to others by the funeral director on behalf of the person who is paying for the funeral).

3.162 The funeral industry supports a range of businesses which provide consumers with choice in the type and cost of funeral they require. Criticism of the high cost of funerals has been made by individuals, consumer groups and funeral directors servicing the lower cost sector of the market. This criticism by consumers may be due to a realisation in retrospect that more than intended had been

paid for a funeral or a lack of understanding of how the price of a total funeral package is structured.

### **Low cost funerals**

3.163 Historically, most firms offering 'no frills' funerals capitalised on public concern about the high cost of funerals but only sustained their businesses for a relatively short time. The established funeral industry is concerned about the methods of operation of such firms. Their lower costs can occur because they do not maintain chapel or viewing facilities. As such, these firms may discourage clients from viewing the deceased or having a committal service, both of which are recognised to be essential elements of the grieving process.

3.164 Unless a funeral company has positioned itself in the middle to top-end of the market, most funeral companies appear willing to accommodate low cost funerals with an associated reduced level of extra services for families where price is a major consideration. However, unless people are specific about their financial situation at the first consultation with the funeral director, they may commit to a level of service which is beyond their financial means.

### **Professional service fee**

3.165 The professional service fee can vary considerably between companies, both in the services it covers and the cost for these elements of service. This fee generally includes:

- legal procedures and administration (liaison with the coroner when required; transfer and storage of the deceased; registering the death; arranging burial or cremation with

cemetery or crematorium; completing all associated paperwork);

- liaison with third parties (clergy or funeral celebrant; arranging newspaper notices; arranging flowers) not including the actual cost of the disbursements;
- making arrangements with the family, including written agreement;
- preparation of deceased (washing, dressing) not including embalming; and
- transport of deceased (from funeral home to place of service and then to cemetery or crematorium; carrying of coffin by pallbearers).

3.166 Within their standard professional service fee, some companies may also include goods and services such as:

- a viewing or vigil depending on when and where it is held;
- the use of the funeral director's chapel for the service;
- the funeral director officiating at the service;
- memorial book or attendance book;
- audio taping the funeral service;
- a shroud; and
- bereavement counselling.

3.167 Even if consumers do not require these additional goods or services, they may unknowingly pay for them and, therefore, subsidise those consumers who do require them. If funeral

businesses do not provide a detailed and fully itemised account, consumers may not be aware of exactly what they have paid for under the concept of 'professional service fee'.

### ***Variation in professional service fee***

3.168 There are several reasons for this variation in professional service fee. Larger firms with a number of staff may charge a higher professional fee which includes greater labour costs and a component of depreciation for premises and vehicles. There may also be considerable variation in the amount of time spent arranging a funeral, depending on the requirements of the family. This can range from around 25 hours to 30 or 40 hours. Smaller businesses and single-person operations may charge a low professional service fee, which does not accurately reflect the amount of labour which is required to make the funeral arrangements, as they may be content with a smaller profit margin than larger companies. Generally, the greater the distance away from the metropolitan area or a regional centre the funeral business is located, the lesser the professional service fee will be.

## **Coffins**

### ***Price of a coffin***

3.169 The price of a coffin can form a substantial portion of the total funeral cost. The coffin price includes labour costs, material costs and a nameplate. Coffin lining and trimmings, handles and adornments on the exterior of the coffin may be costed separately.

3.170 A wooden coffin in the lower price range would be constructed from plain or painted plywood or MDF (medium density

fibreboard, commonly known as chipboard or particleboard). Such a coffin in an untrimmed and unstained state is listed in wholesale catalogues for around \$450 and sold by funeral directors from \$1,600 depending on their geographical location and position in the market.<sup>48</sup> A mid-range coffin would be made from MDF with a timber veneer finish while premium range coffins costing upwards of several thousand dollars would be made from a range of local and exotic solid timbers.

3.171 Metal caskets are also available in Australia and have a similar price structure to solid timber coffins, ranging from several thousand to tens of thousands of dollars. These caskets cannot generally be used for cremation and are marketed as being more durable than timber for burial.

3.172 Criticisms that coffins are overpriced when compared with a piece of furniture made from the same material and taking the same number of hours to make are valid. However, such criticisms fail to take into account the social or symbolic value of a coffin. Coffins in a wide range of style and price are available through all funeral directors if consumers ask for them or the funeral director is aware of the financial circumstances of the family and presents appropriate choices.

### ***Unintended deception***

3.173 The unfamiliarity of consumers with timber products and woodworking terms means that many people will purchase what they believe to be a solid timber coffin. For example, a 'mahogany' coffin may be purchased by a bereaved family in the belief that the coffin is made from mahogany timber. However, 'mahogany' can also refer to

the veneer (a thin layer of timber attached to the surface of the MDF) or to the colour of a stain applied to bare timber such as pine. Therefore, there may be an element of unintended deception in descriptions of coffins.

### ***Restricted supply***

3.174 There are four main coffin manufacturers in Victoria<sup>49</sup> using timber products, none of whom are willing to sell coffins direct to the public. Without the ability to bypass the funeral director as the sole supplier of coffins, consumers are subject to a market where funeral directors can manipulate prices to their own advantage by the closed nature of their business.<sup>50</sup> Within the industry, the mark-up from wholesale to retail can vary from at least 250% to up to 500% for timber coffins.

### **Disbursements**

3.175 Disbursements are the payments made by the funeral director on behalf of the person who has organised the funeral to a third party and can include:

- newspaper notices;
- floral tributes;
- copy of the death certificate;
- clergy or celebrant fee;
- organist or provision of music;
- hire of church or other venue; and
- cemetery or crematorium fees.

### ***Fixed price disbursements***

3.176 Some disbursements have fixed prices which cannot be influenced by the funeral director. For example, a copy of the death certificate costs \$17.50 which is a standard fee set by the Registry of Births, Deaths and Marriages. Cemetery and crematorium fees are fixed by the cemetery trust or operator of the crematorium and are not subject to negotiation.

### ***Variable price disbursements***

3.177 Burial fees vary with the choice of cemetery, size and position of grave, and whether it is a lawn grave or a monumental grave. Prices start at around \$2,600 and go up to \$6,000 and beyond in the metropolitan area; in rural areas, the cost can be one half or even one quarter of that. Cremation fees also vary and may be greater if cremated remains are interred.

3.178 The fees charged by clergy or celebrant can add significantly to the cost of a funeral. Where a church service is provided for a parishioner, the clergy may waive any fee or ask that a donation be made to the parish. For non-parishioners or those more able to pay, the fee or required donation may be increased accordingly. This also applies to the provision of an organist and/or choir as well as hire of the church. Celebrants may charge a standard fee of several hundred dollars to conduct a funeral service or may work to an hourly rate. Where the service is more personalised and, therefore, has required more work, it can be expected that the celebrant's fee will be higher.

### ***Benefits for funeral companies***

3.179 The cost of other disbursements are seemingly not under the control of the funeral director who works as an agent between the family and the third party. However, there is the opportunity for funeral directors to benefit from the choice of disbursements and to influence the bereaved into choosing products, such as floral tributes, and services of a greater value than they may otherwise have chosen without such persuasion. It is usual practice for families and friends to insert death and funeral notices in daily newspapers. Funeral notices carry information (name, address, telephone contact) about the funeral company conducting the funeral but also include the company logo if there is one, thus providing an advertisement for the funeral company.

### ***Disadvantages for funeral companies***

3.180 Funeral directors are sometimes disadvantaged in regard to disbursements. As cemetery and crematorium fees must be paid up front, these are paid for from the operating funds of the funeral business before payment is received from the estate of the deceased. If there is a delay in receiving payment or the payment eventually has to be written off as a bad debt, the funeral business can be considerably out of pocket.

## ***Pricing Practices***

### **Cross-subsidisation**

3.181 The economic concept of 'universal service' requires that services are available at reasonable prices even to small

communities where the small scale of operation makes costs extremely high. This is the situation within which many small, rural and regional funeral businesses operate. Therefore, in order to provide universal service and operate a business with even a low margin of profit, funeral businesses engage in cross-subsidisation.

3.182 Cross-subsidisation refers to the economic policy of selling one product at a loss which is made possible by higher profits on another product.<sup>51</sup> Although the PSA investigation into funeral prices in 1992 recognised that cross-subsidisation occurred in the pricing practices of funeral businesses, it did not suggest that all cross-subsidisation is avoidable or undesirable. For example, as part of their perceived social obligation, many funeral businesses substantially reduce the cost of a funeral for a baby or a child in recognition that those paying for such a funeral are usually young parents who have less ability to pay than those who pay for the funeral of an adult which is usually covered by their estate.<sup>52</sup>

3.183 In some instances, cross-subsidisation operates to increase the price of what would otherwise have been a lower cost funeral by requiring consumers to subsidise the use of facilities or services that they may not use. For example, 'free' bereavement counselling is offered by some funeral companies but a charge for this may be included in the overall professional service fee independent of whether the counselling is used by the family.

### **Provision of price information**

3.184 Unless they are offering low priced funerals, funeral directors generally seem reluctant to advertise prices either in print advertisements or in the information provided on their websites. This

may be because the focus of the industry is on providing a quality service rather than on offering goods and services in an atmosphere of price competition. However, much of the criticism of the high cost of funerals could be avoided if detailed and itemised price information was provided to clients at the arrangement meeting and as part of the final account.

## ***Future Directions***

### **Advertising practices**

3.185 The misleading advertising practices highlighted in this section and the fact that these types of advertisements are currently in telephone directories and on the Internet demonstrate that CAV has a role to play in promoting acceptable advertising practices in the media rather than only responding to complaints. In addition, a clear avenue for complaining about such practices should be available to funeral directors or the community; currently, such an avenue does not exist.

### **Coroner's contract**

3.186 Although the contract for transporting the deceased to the CSC expressly forbids soliciting for business, evidence has been provided to this Inquiry that this practice does occur. As only two firms hold the contract for the metropolitan area, it is feasible that the coroner should investigate these complaints and take appropriate action.

## **Price information**

3.187 The funeral industry maintains a competitive price structure for funerals due to the diversity of businesses providing these services. However, the purchase of a funeral is regarded as a 'distress purchase' (i.e. consumers are in a state of distress with limited time available and generally limited knowledge of the choices and options available to them<sup>53</sup>) so price is often not the greatest concern for many consumers at the time when they are arranging an at-need funeral. Therefore, they are at risk of committing to expensive funerals, especially when they are dealing with funeral business representatives who may be working on a commission basis and have an incentive to propose more expensive goods and services.

3.188 Many emotional factors affect the purchase of a funeral which are not involved in the purchase of other consumer products of similar price. To improve consumer understanding of what they are purchasing, more readily available price information would be of benefit. Detailed price information would also allow consumers to more easily compare the goods and services offered from a number of funeral businesses so they could make an informed choice. It is also important for consumers to understand what is covered by the professional service fee as this may vary between funeral businesses.

### **Finding 3.4**

The Committee welcomes developments such as the introduction of low cost funerals. However, the Committee finds that differences in the description of services offered by different funeral directors can make real price comparison difficult for consumers.

### **Recommendation 3.8**

That in order to facilitate consumer comparison of products, services and prices, that funeral directors disclose upon request those products, services and prices in a clear and consistent manner across the industry.

### **Recommendation 3.9**

That Consumer Affairs Victoria, in cooperation with interested stakeholders, develop, publish and make freely available a consumer information booklet on funerals. Such a booklet should include information on the procedures surrounding a death, funeral and burial; the professional services which may be rendered by a funeral director; an indication of options for consumers and information regarding a complaints mechanism.

### **Recommendation 3.10**

That funeral directors supply such a booklet and their price list prior to signing of a contract for goods and services.

(Please refer also to Recommendation 4.1)

## **PRE-PAID FUNERALS**

3.189 The *Funerals (Pre-paid Money) Act 1993* sets out the legislative requirements for dealing with money paid by consumers for pre-paid funeral contracts. The provisions of this legislation were discussed in Chapter 2.

### ***Adequacy of Legislation***

3.190 The Committee has received submissions from funeral industry associations, individual funeral directors and investment funds in regard to the adequacy of the current legislation. These stakeholders are unanimous that the legislation provides a solid framework for the regulation of pre-paid funeral contracts. It offers workable guidelines for funeral businesses and fund managers and provides a high degree of consumer protection. However, the legislation Australia-wide is fragmented and it has been suggested that uniform national legislation would be of benefit to the industry.<sup>54</sup>

### **Prosecutions under the legislation**

3.191 Consumer Affairs Victoria (CAV) administers the *Funerals (Pre-Paid Money) Act 1993*. The principal sections of the Act came into effect on 26 August 1993. Contracts entered into prior to 26 August 1993 had to comply with the requirements of the Act unless specifically exempted by the Minister. At the time that the Annual Report for 1993-1994 was written, 43 exemption applications had been received, involving 5,125 contracts. The Minister had exempted 4,172 of these contracts.

3.192 During the 1997-1998 reporting year, CAV established a comprehensive database of the industry to enhance and monitor the inspection program. During the 1998-1999 reporting year, a series of inspections on a cross-section of funeral organisers were completed in order to establish the level of compliance with the Act. This occurred in response to emerging concerns from the community about the pre-paid funeral industry. Several serious instances of non-compliance were discovered and investigations commenced with a view to launching prosecutions. Minor non-compliance was addressed with warnings to the funeral organisers to implement corrective measures.

3.193 Table 3.4 details the five prosecutions which have been carried out under the provisions of the Act. No prosecutions have been necessary in the last three years.

Date of Hearing	Defendant	Section	Number of Offences	Fines \$	Costs \$	Other Orders	Breach Summary
19 <sup>th</sup> Feb 97	Service Industries of Australia	24	1	-	432	No conviction. 12 months good behaviour bond.	Failure to comply with transitional provision
23 July 99	T. Bathurst & Co Pty Ltd of Melbourne  (ACN 044 199 099)	7 (2)(a)  7(2)(b)	1  28	25,000	750	Conviction	Failure to invest moneys received within the specified time.
3 Sep 99	Edward (Ted) Bull Pty Ltd of Hastings  (ACN 006 520 958)	4  5 (1) (b)  7(2)	10  10  10	10,000	1,400	Conviction	Failure to provide details of investment  Failure to have required provisions in contract  Failure to invest money as prescribed
3 Sep 99	Edward Eli Bull of Somerville	4	10	-	-	12 month good behaviour bond	A Director of Edward (Ted) Bull Pty Ltd charged with the same offences as the

		5 (1) (b)	10			Ordered to pay \$1200 into Court Fund	company
		7 (2)	10				
11 Feb 02	Mark Robert Bull of Hastings	5 (1) (a)	2	20,000	850	Conviction	A funeral organiser who is respect to pre-paid funeral contracts failed to comply with provisions regarding contract requirements; procedure for investments; receipts and the register of contracts
		5 (1) (b)	7				
		5 (5)	3				
		7 (2) (a)	1				
		7 (2) (b)	4				
		7 (3) (a)	5				
		10 (1) (a)	1				
		11	2				

Table 3.4: Prosecutions by Consumer Affairs Victoria since the introduction of the Funerals (Pre-Paid Money) Act 1993

Source: Consumer Affairs Victoria, *Annual Reports*, 1996-1997; 1999-2000; 2001-2002.



## ***Issues with Pre-Paid Funerals***

### **Administration costs for funeral businesses**

3.194 When drawing up a pre-paid funeral contract, some funeral businesses may charge an administration fee which could be several hundred dollars. Depending on the length of time before a contract is fulfilled, funeral businesses may need to complete administrative paperwork and ensure that records are current. It has been suggested that a percentage of the interest from the investment of the contract amount could be returned to the funeral business to cover part of their administrative costs.<sup>55</sup>

### **Audits**

3.195 A number of stakeholders have suggested to the Committee that CAV should engage more inspectors so that regular audits can be carried out of funeral businesses to monitor compliance with legislation. Increased communication by government agencies such as CAV and the Australian Competition and Consumer Commission (ACCC) to funeral firms of their responsibilities under the legislation may also be helpful in ensuring the system operates smoothly.

### **Central registry**

3.196 A central registry for information about pre-paid funerals and funeral bonds could alleviate the problem families face when a person dies and they do not know whether the person had made arrangements for their funeral and, if so, with whom the arrangements were made. This may occur in families where death was not discussed or in situations where the paperwork was not

retained or easily accessible, or the person concerned was suffering from dementia or other form of memory loss.

3.197 The registry would need to contain information about pre-paid funeral contracts entered into from a certain date as well as information about already existing contracts. Establishment of the registry would require the co-operation of all funeral directors, investment companies holding funds, CAV and the State Revenue Office. Such a registry would operate more efficiently if it was Australia-wide because of population mobility, especially among the older population. However, if state registries were established, they could be encouraged to communicate with each other.

3.198 The registry could be funded by a percentage of the interest accrued on the investment held by the financial institutions, thus keeping the cost of the registry within the financial sector who are the major financial beneficiaries of the pre-paid funeral plans. Alternately, the registry could be funded by a small surcharge on each funeral bond or pre-paid funeral contract in addition to the administration charge made by the funeral director. However, this would place the cost of maintaining the registry onto the consumer.

### **Centrelink exempt assets**

3.199 Under the assets test for Age Pensions, exempt assets are those which are not included when working out the rate of payment received. The exempt assets related to pre-paid funerals are the value of a pre-paid funeral for the person or their partner and the value (up to \$5,000 for a single bond or a parcel) of a funeral bond. Although the value of a pre-paid funeral up to \$5,000 is exempt, the entire value of a more expensive funeral (e.g. \$12,000) is regarded

as an assessable asset. There may need to be revision of this \$5,000 limit given the rise in funeral costs and the fact that no CPI adjustment was built into the original amount.

### **Cooling off period**

3.200 Under the current legislation, there is no provision for an individual to change their mind once they have taken out a pre-paid funeral contract with a specific funeral director or funeral company. The pre-paid funeral legislation in New South Wales and Queensland has specified cooling off periods for consumers who have entered into a new contract.

### **Transfer of contract**

3.201 Under the current legislation, there is no provision for an individual to transfer their pre-paid funeral contract to another funeral director or company before the contract is exercised. An instance when this may be desired, for example, is when one company (e.g. a small family-owned business) may be taken over by another company (e.g. a multinational company) and it may be impossible for the company to fulfil the terms of the contract in the manner the deceased had originally intended because of their operational procedures. In addition, given the time that a pre-paid funeral contract might be held, the reputation of the funeral director or the funeral company may have declined.

### ***Unclaimed Moneys Act 1962***

3.202 The State Revenue Office has been responsible for the administration of the *Unclaimed Moneys Act 1962* since 1 October 2004, taking over this function from State Trustees. There are

provisions under the Act for the treatment of unclaimed money invested as funeral bonds or in pre-paid funeral contracts. However, there is no trigger for identifying unclaimed money from such a investment. One investment fund runs an annual report to identify any beneficiary who is over the age of 100 and then contacts the funeral business to see whether they have conducted a funeral for that person.<sup>56</sup>

## ***Future Directions***

### **Legislation**

3.203 The 1999-2000 Annual Report from the Victorian Justice Department said that the scheduled review of the Funerals (Pre-paid Money) Act 1993 was removed from the schedule by the Treasurer after further investigation. Nine other Acts, all from the Consumer Affairs portfolio, were also removed from the list of scheduled legislative reviews that year. Given that the Act has been in operation for almost twelve years, it would be advisable to reschedule the review especially considering the information provided in this report and adjustments made to the legislation in New South Wales and Queensland following review.

### **Audits**

3.204 Information provided to this inquiry by CAV as part of the Victorian Government submission states:

Compliance and enforcement activity at CAV has included audits and inspections of funeral directors businesses...These inspections are the first in what will be regular visits by CAV to regional and metropolitan areas. Inspections included auditing registers of pre-paid funerals to

ensure pre-paid funeral money was recorded and invested in compliance with the Act. CAV also uses the inspection process to offer education and advice to assist traders in compliance with the law.<sup>57</sup>

The Committee commends this approach and encourages regular audits of a representative sample if not all funeral businesses. The provision of timely advice to the funeral industry may assist in avoiding further breaches of the legislation.

### **Central registry**

3.205 The concept of a central registry for pre-paid funeral funds was well-received by funeral directors, consumer representatives and fund managers. It would be especially useful if it was established on a national basis and serious consideration should be given by interested stakeholders within the industry to developing such a registry.

#### **Recommendation 3.11**

For the purposes of consistency, the Committee recommends that a central registry of pre-paid funeral contracts be established to enable consumers and funeral directors to expeditiously verify the details of existing contracts. Such a registry should be administered by Consumer Affairs Victoria and, ideally, should be linked to all the States and Territories.

## **RURAL AND REGIONAL FUNERAL BUSINESSES**

3.206 Rural and regional funeral businesses fill a vital role in the funeral industry and in their local community, especially in the context of providing universal service. The proprietors of these businesses often come from a background of community service such as nursing or emergency services and have a high level of involvement with their local communities.

3.207 Funeral businesses in rural and regional areas face particular problems in operating their businesses and providing service to their families. On many occasions, a funeral to be conducted will be that of a person known to the employees of the funeral business, thus increasing the workplace stress placed on the employees in preparing the deceased and dealing with the family. The Committee has been impressed by the level of cooperation within the funeral industry in rural and regional Victoria and has heard many examples of businesses providing support in terms of personnel and equipment, advice and expertise to a competitor when needed.

3.208 Often, a funeral business may be the only one operating in a particular region. It is important that the recommendations of this Committee and any rulings of subsequent inquiries recognise that it is important for rural communities to have access to a local funeral director. Bereaved families do not want to travel outside their local area to make arrangements for a funeral or to attend a viewing.

The benefits of having a local funeral director may not top the list until such time as families are faced with the loss of a loved one and have to travel 100 or 200 kms to meet with a funeral director. The mere fact that

you would be forced to seek the service of a company in a larger provincial town would mean costs would be higher, the travel costs of the funeral director will also add to the funeral costs and scheduling could also be an issue reducing the choices of grieving families.<sup>58</sup>

3.209 Concerns have been expressed by the smaller businesses operating in rural and regional areas that the introduction of a licensing scheme for funeral directors may increase their operating costs. If costs are such that the proprietor needed to invest a large amount of capital to ensure compliance for a business which conducts a relatively small number of funerals each year, it may not be viable for that business to continue. For businesses in border areas where regulations may be inconsistent between states, this problem would be exacerbated.

## **SUMMARY**

3.210 The introduction of agreed standards for the conduct of funerals, especially in regard to the transport, preparation and storage of human remains, infection control and coffins and caskets would provide the funeral industry with best practice benchmarks as well as increasing community confidence in the industry.

3.211 The *Occupational Health and Safety Act 2004* is the general legislation covering OHS in the funeral industry but there is no industry specific legislation and very little information, apart from the infection control guidelines, for the industry in regard to its particular health and safety issues.

3.212 The Funeral Services Training Package provides training to Certificate Levels I to IV relevant to the funeral industry. Traditionally, much industry training has been on-the-job training so

there has not been a great uptake by the industry of these training courses.

3.213 Misleading advertising practices by some firms are an issue for the funeral industry. The price of a funeral usually consists of the funeral director's professional service fee, the coffin and the cost of disbursements. Funeral businesses are generally hesitant to advertise prices unless they target the lower end of the market. Cross-subsidisation exists in the funeral industry but this is often to allow the industry to fulfil a social obligation.

3.214 The legislation covering pre-paid funerals appears to be adequate although more regular audits would be welcome. There have been very few prosecutions since the legislation was enacted. A central registry holding details of all pre-paid funeral contracts would be of benefit to the industry and the community.

3.215 Due to their location, funeral businesses in rural and regional areas face specific difficulties which are compounded for those businesses operating in border regions.

## Endnotes

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<sup>1</sup> Peter Cox, Peter Cox and Sons Funeral Directors, *Hansard*, Public Hearings, Shepparton, 3 August 2004.

<sup>2</sup> Simon Mulqueen, VIFD, *Hansard*, Public hearings, Shepparton, 3 August 2004.

<sup>3</sup> *ibid.*

<sup>4</sup> Russ Allison, Vice President, Cemeteries and Crematoria Association of Victoria, Submission, 19 October 2004.

<sup>5</sup> Jeff Mullenhour, Mortuary and Funeral Educators, *Hansard*, Public Hearings, Melbourne, 19 October 2004.

<sup>6</sup> Royal Children's Hospital, *Submission*,

<sup>7</sup> Although the identity of the witness is known to the Committee, the witness has not been publicly identified in this Report.

<sup>8</sup> NSW Health (2004) *Guidelines for the Funeral Industry*. p 36.

<sup>9</sup> Jennifer Burge, AIE, *Hansard*, Public hearing, Melbourne, 19 October 2004.

<sup>10</sup> NSW Health (2004) *op cit.*

<sup>11</sup> Information in this section was accessed from the AQIS website [www.aqis.gov.au/icon32](http://www.aqis.gov.au/icon32) on 24 March 2005.

<sup>12</sup> *The Australian Funeral Director*, 24 (1), September 2002, p 44.

<sup>13</sup> Martin Tobin, AFDA, *Hansard*, Public hearings, Melbourne 19 October 2004; Liz Young, AIE, *Hansard*, Public hearings, Melbourne 19 October 2004.

<sup>14</sup> NSW *Public Health (Disposal of Bodies) Regulation 2002*, Part 3 Handling of bodies, Section 11(1).

<sup>15</sup> Although the identity of the witness is known to the Committee, the witness has not been publicly identified in this report.

<sup>16</sup> Tony Favier, Submission, 23 August 2004.

<sup>17</sup> Rennie Schafer, Executive Officer, Self Storage Association of Australasia, email communication, 6 October 2004.

<sup>18</sup> *The American Funeral Director (1997) Critical Incident Stress Among Funeral Directors*. 120 (4), April 1997.

<sup>19</sup> Robyn Grooby FDANZ Executive Officer, email communication, 27 October 2004.

<sup>20</sup> Kroshus, J.M. and Tibbetts, S. (1997) Critical incident stress among funeral directors. *The American Funeral Director* 120(4).

- <sup>21</sup> Workers Online, Labour Council of New South Wales [http://workers.labor.net.au/156/news82\\_funeral.html](http://workers.labor.net.au/156/news82_funeral.html) Accessed 10 March 2005.
- <sup>22</sup> WorkCover Victoria Accessed 10 March 2005.  
[http://www.workcover.vic.gov.au/dir090/vwa/home.nsf/pages/ Worksafe\\_Victoria\\_Awards\\_2004](http://www.workcover.vic.gov.au/dir090/vwa/home.nsf/pages/Worksafe_Victoria_Awards_2004)
- <sup>23</sup> ACT WorkCover Newsletter. Issue No. 2. July-October 1999.
- <sup>24</sup> Douthit, D. (1996) Universal precautions: Is it working? *The Director*, 68 (12). pp 28, 30.
- <sup>25</sup> Janet McMartin, Senior Statistical Analyst, Victorian WorkCover Authority, email communication, 15 March 2005.
- <sup>26</sup> Jonathan Hepner, CEO, Jonathan Hepner Ltd, *Hansard*, Public Hearings, Geelong, 27 July 2004.
- <sup>27</sup> Ricky Hall, Kittle Brothers Funeral Directors, *Hansard*, Public Hearings, Shepparton, 3 August 2004.
- <sup>28</sup> National Wholesale, Retail and Personal Services Industry Training Council [http://www.natwraps.com.au/training\\_packages/funeral\\_qualifications.htm](http://www.natwraps.com.au/training_packages/funeral_qualifications.htm) Accessed 6 August 2004.
- <sup>29</sup> Kit McMahon, Workplace Australia Group, telephone communication, 20 December 2004.
- <sup>30</sup> Maria Kouppas, Victoria University, telephone communication, 15 November 2004.
- <sup>31</sup> Chris Stewart, Office of Training and Tertiary Education, email communication, 10 March 2005.
- <sup>32</sup> Barbara Hawkins, Executive Officer, Service Skills Victoria, Submission, 17 November 2004.
- <sup>33</sup> Trenergy, R (2002) *Talking about training - literacy and numeracy practices in industry: a comparative study across five industries*. University of South Australia.
- <sup>34</sup> Funeral Industry Development Australia website, [www.fida.com.au](http://www.fida.com.au) Accessed March 2005.
- <sup>35</sup> Mortuary and Funeral Educators website, [www.mfe.com.au](http://www.mfe.com.au) Accessed March 2005.
- <sup>36</sup> Funeral Directors Association of New Zealand  
[http://www.fdanz.org.nz/news/show\\_item.php?i=11](http://www.fdanz.org.nz/news/show_item.php?i=11) Accessed 26 July 2004.
- <sup>37</sup> New Zealand Embalmers Association  
<http://www.nzembalmers.co.nz/index.php?page=home.php> Accessed 8 November 2004.

<sup>38</sup> Robyn Grooby, FDANZ Executive Officer, email communication, 8 February 2005.

<sup>39</sup> Funeral Directors Association of New Zealand  
[http://www.fdanz.org.nz/news/show\\_item.php?i=15](http://www.fdanz.org.nz/news/show_item.php?i=15) Accessed 15 October 2004.

<sup>40</sup> Roterman, M. (2001) *Canada's funeral services industry in the 1990s*. Analytical Paper Series No 35. Statistics Canada. p 10.

<sup>41</sup> Funeral Service Association of British Columbia  
<http://www.bcfunerals.com/page.php?pagelid=Mw%3D%3D> Accessed 17/9/2004.

<sup>42</sup> Roterman, M. (2001) op cit. pp 10-11.

<sup>43</sup> This information was contained in an email sent to Wendy Goy, Course Co-ordinator of FIDA, by Anne-Marie Yates, Service Skills, on 30 March 2005.

<sup>44</sup> The Victorian Government Purchasing Board (VGPB) was established under the Financial Management Act 1994 and replaced the State Tender Board from 1 February 1995.

<sup>45</sup> Part B, Section 3(f) of the *Request for Tender* issued by the Department of Justice for the *Removal of Deceased Persons to Coronial Services Centre - Melbourne and Metropolitan Area*; Reference 047/04; 1 May 2004.

<sup>46</sup> Victorian Division of the Australian Funeral Directors Association (AFDA) written submission, October 2004, p 12.

<sup>47</sup> Jonathan Hepner, Jonathan Hepner Ltd, *Hansard*, Geelong public hearing, 27 July 2004.

<sup>48</sup> Sylvia Johnson, Funeral Finery, Submission, 2 September 2004.

<sup>49</sup> S J Bamba Pty Ltd; R H Minter incorporating H H Webb; Regal Caskets; Amalgamated Caskets (owned by Tobin Brothers).

<sup>50</sup> Sylvia Johnson, Funeral Finery, Submission, 2 September 2004.

<sup>51</sup> Baumol, W.J., Blinder, A.S., Gunther, A.W. and Hicks, J.R. (1992) *Economics: Principles and Policy*, 2nd Australian Ed., Harcourt Brace Jovanovich Group, Sydney, p. 705.

<sup>52</sup> Prices Surveillance Authority (1992) *Investigation into Funeral Prices*. Report No. 39. p 62.

<sup>53</sup> Victorian Government submission, 14 April 2005, p 12.

<sup>54</sup> Noel Woff, Manager, Funeral Plan Management, *Hansard*, Melbourne, Public hearing, 19 October 2004.

<sup>55</sup> Ricky Hall, Kittle Bros Funeral Directors, *Hansard*, Shepparton, Public hearing, 3 August 2004.

<sup>56</sup> Noel Woff, Manager, Funeral Plan Management, *Hansard*, Melbourne, Public hearing, 19 October 2004.

<sup>57</sup> Victorian Government submission, 14 April 2005. p 8.

<sup>58</sup> Simon Mulqueen, Managing Director, Mulqueen Family Funeral Directors, Submission, 30 March 2005.

