

CHAPTER FOUR – ISSUES AFFECTING THE COMMUNITY

4.1 Chapter 4 discusses issues relating to the funeral industry which have a particular effect on the community as opposed to the issues discussed in Chapter 3 which are of more concern to the industry itself. Community perceptions of the funeral industry, especially the general lack of knowledge about the industry and its operation, are highlighted. Consumer education and protection issues are explained and the perspective taken by other states and countries is provided. The complex issue of complaints, the current procedures for dealing with them and suggestions for improvements are detailed. Planning processes as they relate to the establishment of funeral businesses are evaluated and issues of importance to various cultural and religious communities are discussed.

COMMUNITY PERCEPTIONS

Opinion Polls

Australia

4.2 Funeral directors rarely if ever appear in opinion polls in Australia about the ranking of different occupations. A ranking system for the social standing of occupations was last updated around twenty

years ago and, on a scale of 1 to 7 with 7 having the lowest ranking in terms of prestige, funeral directors were rated 4.8 while funeral workers were rated 6.2.¹

United States of America

4.3 An American survey which looked at consumer trust in particular service industries found that about one-fifth of people surveyed felt they did not know enough about the funeral industry to provide an opinion. Those who provided an opinion about the honesty of funeral homes displayed a level of distrust about the same as for banks, companies that sell over the Internet, and stock brokers.² Another later poll found that funeral directors were rated as having higher standards of honesty and ethics than business executives, building contractors, journalists, real estate agents and insurance salespeople.³ However, a different American survey around the same time found that overall satisfaction with funeral homes was high with 80% of respondents clear that they would not change anything about their personal experience with funeral homes.⁴

Australian Situation

4.4 Although there is still an occupational stigma attached to working in the funeral industry, the results of these American surveys may not be applicable to Australia as there are differences in the social and commercial frameworks within which Australian funeral directors operate. The level of respect for funeral directors within the community or community perceptions of the ethical standards within the industry are difficult to assess as very little attention has been

given to these issues in public debate in Australia. As a result, the funeral industry and many of its members work proactively at promoting the industry as one where the practitioners provide a professional service of therapeutic importance to the community.

4.5 The Committee has heard evidence from many funeral directors and a constant theme has been the respect and esteem with which they regard the families that they serve. Several smaller rural funeral companies expressed their attitudes towards ‘their’ families during public hearings:

Families are the most important, and we do whatever we can that is right for them when they come to say goodbye to their loved one, so that they are approaching them in a situation that is healthy for them as well as giving them the opportunity to carry on with memories of that situation.⁵

Being a small business we find we can give personal care and we are proud of our commitment, care, attention and detail. We respect the deceased and their family and friends. Being a funeral director is an enormous privilege. It is a position of trust and a position and role we never take lightly... As a family funeral business we put a lot of our time, love and respect into our families and treat them accordingly.⁶

4.6 If this level of respect is reciprocated by most families, and it is reasonable to assume that it would be given the nature of the contact between bereaved families and their funeral director, then the ethical standing of funeral directors in the community should be quite high. However, as most families have infrequent contact with the funeral industry and the value of the service provided by the industry to the

community is frequently overlooked, the community displays a significant level of ignorance about the funeral industry.

Perception of Licensing

4.7 In July 2004, the AFDA conducted consumer research into issues relevant to this inquiry.⁷ An interesting result of that research is that the respondents were generally unaware that funeral directors are not required to satisfy any licensing procedures in order to operate their businesses. Community ignorance about the lack of licensing requirements for funeral directors, embalmers and other employees within the funeral industry is not surprising given the limited community knowledge about the funeral industry in general. Television programs from Canada and America, where funeral directors are licensed in all but one state, may also have influenced the erroneous community belief that there is a licensing system operating to regulate the funeral industry in Victoria.

Role of the Media

4.8 The Committee has been made aware of several television programs⁸ and news reports⁹ which have presented the more unscrupulous side of the funeral industry. These reports are vital in bringing such issues to the public attention and it is understandable that such incidents are sometimes presented in a sensational manner to increase their newsworthiness. However, if the focus is only on the negligent and possibly criminal activities of a very small number of funeral directors Australia-wide, this provides an unbalanced picture of the funeral industry in Victoria.

4.9 The media plays an important role in shaping public opinion and providing information to the community. An uninformed media is not likely to provide complete and impartial information to the public. In 1996, the AFDA held its first Funeral Service Media Awareness Day for 40 trainee journalists from Deakin University.¹⁰ These days did not continue due to lack of interest from the university. The AFDA would like to reintroduce such days so that the media gains an understanding of the behind-the-scenes work of the funeral industry.¹¹

4.10 The South Australian Division of the AFDA holds successful annual Media Awareness Days in conjunction with the School of Journalism from the University of South Australia. Funeral directors and those working within or around the funeral industry conducted the 2004 program. The program covered the work of the AFDA, the role of a funeral director, displaying sensitivity towards survivors while covering a news story, a tour of a funeral home and a cemetery, and a panel discussion with the Forensic Science Centre Mortuary Manager, Coroner's Office Manager, a funeral director and an embalmer.¹²

Use of a Funeral Director

4.11 As there is currently no legal requirement in Victoria for a funeral director to be involved in the arrangement and conduct of a funeral nor a licensing requirement for funeral directors, individuals are legally able to arrange funerals for family members or friends. However, most funerals do involve a recognised funeral director except in the case of specific religious groups and a few individuals who may wish to organise a funeral themselves. People may conduct their own funerals for friends or relatives for economic reasons (e.g.

they feel that the charges of funeral directors are too high), for ecological reasons (e.g. they do not want to use a solid timber coffin or are opposed to the process of embalming) or for other reasons (e.g. they do not want to involve a person who did not know the deceased during their life in their funeral).

4.12 Although it is possible for an individual to organise and conduct a funeral, it is a difficult task for numerous reasons. Without prior knowledge of the legal, health and administrative requirements involved with the disposal of a body, the person arranging the funeral risks non-compliance with these requirements. Coronial staff may be reluctant to deal with an individual who is not a recognised funeral director and refuse to release a body to the next-of-kin. Coffin manufacturers and funeral directors may refuse to sell a coffin directly to a member of the public out of concern that the coffin may be used in an undignified manner. Crematorium staff may refuse to deal with an individual due to concerns about that person's competency in preparing the coffin and the body (e.g. removal of items which cannot be placed in a cremator). Some cemeteries may be reluctant to deal with anybody other than a recognised funeral director. Newspapers have guidelines regarding from whom they are able to accept death and funeral notices.¹³ If the deceased had invested in a pre-paid funeral bond which can only be released to a funeral director, the investment company may be reluctant to release the funds to an individual who has arranged and paid for a funeral.

CONSUMER EDUCATION AND PROTECTION

4.13 Consumers generally have very limited knowledge of the operation of the funeral industry. This may be due to the general community reluctance to address issues associated with death and dying or because people only have direct experience with the funeral industry when they have to assume the role of funeral organisers. This lack of experience combined with the lack of readily available information can have a considerable impact on consumers when they are faced with the task of organising an at-need funeral or have the foresight to consider arranging a pre-need (either pre-arranged or pre-paid) funeral for themselves or on behalf of another person.

Consumer Education

4.14 Consumers who are ill-informed about the products and services offered by a funeral director on behalf of a funeral company are at risk of making poor decisions. The next sections outline the information available to consumers from a variety of sources such as State and Commonwealth government agencies, independent organisations, funeral directors and their industry associations, and highlights where further information or education could be provided.

Information from government agencies

Consumer Affairs Victoria (CAV)

4.15 The *Funerals (Pre-paid Money) Act 1993* is assigned to the Minister for Consumer Affairs and is administered by CAV. Therefore, the focus of the information provided by CAV is on the contractual

obligations regarding pre-paid funerals for consumers considering the purchase of a pre-paid funeral and information for funeral directors providing such a service. This information is available in printed form or from the CAV website. However, it does not appear that any of this information about pre-paid funerals is readily available in languages other than English.

4.16 Part of the charter of CAV is to promote a safe consumer environment by providing information and education on the rights and responsibilities of businesses and consumers. CAV achieves this aim in regard to pre-paid funerals; however, information about the funeral process in Victoria, what a funeral director does on behalf of a family, the cost of funerals and so on is not available.

Centrelink

4.17 Centrelink provides comprehensive information via its website under the title 'Help after a death'. Most of this information is also provided on request or available from Centrelink offices in printed booklets. Although much of this information concerns pensions and benefits as would be expected, the section titled 'What to do first' provides information on the role a funeral director takes in lodging a death certificate and arranging a copy to be provided to the family.

4.18 Under the section 'Organising a funeral', this warning is provided:

Funeral costs can vary considerably. It is important to know what you're getting and how much it will cost. Do not be persuaded to spend more than you can afford. The funeral director should provide a quote in writing.

The codes of ethics of the three associations of funeral directors active in Victoria state that members should provide a written estimate of costs. The information about asking for a written estimate also appears in the single page fact sheet produced in English and seventeen community languages.

4.19 Consumers are notified that some insurance policies may pay funeral costs and other payments, and are also provided with this information about pre-paid funeral plans and funeral bonds:

If you think there was a prepaid funeral or funeral bonds, but cannot find the relevant papers, the papers may have been left with someone responsible such as next of kin, a solicitor, the Public Trustee, a trusted friend or the executor of the Will. You can also phone the local funeral directors. They usually have their own lists that you can check.

This information highlights the fact that there is no single central point of inquiry about the existence of funeral bonds or pre-paid funeral plans and shows the number of perhaps futile inquiries which a bereaved person may have to undertake of many individuals and companies in order to find the pre-paid funeral plan of the deceased if one exists.

4.20 A link is provided from the Centrelink website to the AFDA website.¹⁴ This may give the incorrect impression that all funeral directors belong to this association or that only AFDA members are approved by Centrelink. It may be wise to reconsider providing this link or supplementing it by additional information about the other industry associations active in Victoria, given the implications of bias and unfair trading.

Victorian Coroner's Office

4.21 The Victorian Coroner's Office and the Victorian Institute of Forensic Medicine have produced a 20-page booklet titled *When A Person Dies: The Coroner's Process* to provide information for family and friends of a deceased person who is subject to an autopsy or coronial investigation. This booklet was published by the Victorian Law Foundation in 1999 and is also available on the website of the coroner's court.¹⁵ In addition, there is also a pamphlet available which explains the Counselling and Support Service.

4.21 The second piece of information in *When A Person Dies: The Coroner's Process* is to contact a funeral director. However, the information that the family is "not obliged to use the funeral director who transported the person's body for the coroner after death" does not appear until the fourth page of information. It is highly likely that, by the time the family and friends have read and digested this information, they will already have contracted the services of a funeral director, especially given the additional distress surrounding the type of deaths which the coroner investigates.

4.21b In order to make this information more accessible to the people it is intended for, it should be given more prominence in the booklet. Alternately, a small card could be handed to families and friends with the information that they are not obliged to continue to use the funeral director who transported the body to the Coronial Services Centre or hospital mortuary.¹⁶

Information from independent organisations

Australian Consumers' Association

4.22 The Australian Consumers' Association (ACA) publishes Choice magazine in hard copy and on-line. The magazine does not often carry information about funerals as ACA published a book by Stella Tarakson in 2001 titled *What to do when someone dies*, which is a practical guide to the arrangements which should be made when a funeral needs to be organised.¹⁷

Information from the industry

Funeral directors

4.23 As with any business, funeral directors produce a range of promotional material in printed form. In addition, many have embraced the Internet and use their websites to promote their services as well as providing general information about funerals, bereavement, coronial services and useful links. As part of their involvement in local communities, funeral directors may provide speakers for local service groups and some are also involved in education programs with their local schools in order to demystify the work of a funeral director.¹⁸ Several funeral directors hold extensive library material available to the public, not just their own clients, which provides a valuable resource for the bereaved, students and those in the caring professions.¹⁹

4.24 Introductory information about pre-arranged and pre-paid funerals is provided on most websites. Some businesses mention that

they charge an administration fee for a pre-paid funeral; this can be several hundred dollars. However, accurate pricing information is absent from most websites as many funeral directors appear reluctant to advertise their prices. Funeral directors who advertise that they provide funerals at a 'realistic' cost usually provide information about the starting prices of coffins and caskets, disbursements and other fees.

Industry associations

4.25 Industry associations primarily exist to serve their members but also have a role to play in educating the public about the funeral industry. However, consumer information provided by the AFDA on its website, for example, is not clearly separated from information solely intended for members. The information which is provided for consumers concerns:

- the AFDA Code of Ethics;
- the steps to take when somebody dies;
- why an AFDA member should be chosen;
- information about pre-paid funerals;
- information about grief; and
- contact details for all member firms in Victoria.

4.26 The website does not contain any information about the pricing elements which make up the total cost of a funeral nor any information for consumers about what they should do if they have a complaint to

make against an AFDA member. Both of these pieces of information would be useful for consumers.

Funeral Industry Open Days

4.27 The first Funeral Industry Open Day in Victoria was held on 23 November 1985. Thirty-eight premises were open in the metropolitan area with sixteen available in rural areas for the public to visit.²⁰ The lack of interest by the general public has meant that Funeral Industry Open Days are no longer held. As pointed out by the AFDA:

Funeral homes would be opened up and staff employed for an entire day for all of 10 people to wander through. As a couple of members pointed out, most funeral homes are quite happy to give any member of the general public a tour through their home upon request.²¹

Consumer Protection

4.28 Consumer education is closely linked with consumer protection. Most consumers who have to arrange a funeral, especially an at-need funeral, are generally ignorant of the range and cost of products and services and the procedures involved in organising a funeral. The funeral director is usually welcomed as the person who takes the main responsibility for the funeral arrangements. However, in handing over responsibility at this time, consumers are at risk of disreputable practices which may be employed by some funeral businesses to increase their profits.

Choosing a funeral director

4.29 The majority of a funeral director's business is through recommendation or through the use of a particular company as a family's funeral director. Geographical location is also an important factor, especially in rural areas, with many people choosing a funeral director from their locality. Families of a particular religious background may be more willing to choose a funeral director from outside their local area to ensure that their needs are catered for. Apart from those consumers specifically seeking low cost funerals, price appears to be a minor factor in choice of a funeral director compared with reputation, previous service to the family and location.

'Shopping around'

4.30 Consumers are advised to 'shop around' when purchasing a funeral. When making any other major purchase such as a house or car, consumers rarely buy the first one they consider. However, the circumstances in which a funeral is arranged mean that consumers often feel they do not have the time or the inclination to consult several funeral directors and compare their prices, even if the prices were presented in a way that allowed easy comparison. Furthermore, in rural and regional areas of Victoria, towns may be serviced by only one local funeral director.

4.31 American research has shown that, even for the purchase of a pre-need funeral, most consumers contract the first funeral director they approach and few approach more than two funeral directors.²²

For both at-need and pre-need funerals, there appear to be few consumers who are willing or capable of 'shopping around'.

Misleading practices

4.32 Funeral directors who may have shop-front premises in a particular suburb with their main premises at another location are taking advantage of the geographical location factor in the consumer's choice of a funeral director. This can be misleading if a family is not aware that the other services offered by the funeral business, such as a viewing, may occur at a location requiring considerable travel.

4.33 When a consumer decides to 'shop around', it may not be clear that several funeral operators in a particular location may all be associated with the one parent company. There is no requirement for funeral businesses to advertise that they are a subsidiary of a larger company. With the move to 'branding' funeral companies, it may become clearer to consumers which funeral companies are associated with which larger organisations.

Vulnerable consumers

4.34 CAV realises that vulnerable consumers are particularly susceptible to misleading and deceptive practices. In the case of arranging funerals, this could be because of age, emotional state, lack of relevant experience or information. CAV has found that vulnerable consumers do not come forward to government agencies in the way that other consumers do in respect of seeking information or making a complaint. In addition, vulnerable consumers may find it more difficult to access dispute resolution processes than other consumers.²³

Australian Perspective on Consumer Education and Protection

NSW Office of Fair Trading

4.35 The NSW Office of Fair Trading has developed information for consumers about funerals in accordance with a NSW Government election commitment. A booklet titled *A consumer guide to funerals* was released in February 2005 and provides practical assistance to people called on to organise a funeral or those wanting to plan their own funeral arrangements. It is a guide to the funeral process in NSW and outlines what a funeral can involve, provides advice on selecting a funeral director, possible costs and useful contacts.

4.36 NSW OFT also chairs a working party of fair trading and consumer protection agencies from different jurisdictions. The charter of the working party is to consider options for raising education and awareness with respect to the funeral industry and other relevant issues. CAV declined to be part of the working party but NSW has given a commitment to release the content of the Consumer Guide for use by other jurisdictions (as a template) following publication.²⁴

Queensland Client Care Statement

4.37 Under the *Funeral Benefit Business Act 1982* (Queensland), a Client Care Statement must be given to the consumer prior to signing a contract for a pre-paid funeral. The statement is compulsory and explains the rights and obligations of both parties. Failure to provide a Client Care Statement, or failure to explain and obtain a signed Client Care Statement, may incur fines of up to \$13,400 for an individual, and

\$67,000 for a company. Similar fines apply for failure to adhere to the 30 day cooling-off period.²⁵

4.38 The three-page statement is written in Plain English and provides important information in large and bold font on the first page. Both the selling agent and the consumer must tick boxes to show that information about fees and charges has been provided and understood, the goods and services in the contract have been outlined, and consumers understand their rights under the 30-day cooling-off period.

International Perspective on Consumer Education and Protection

New Zealand

4.39 Consumer protection within the funeral industry in New Zealand is addressed by the complaint resolution process available through FDANZ members. As the government is satisfied with the level of self-regulation of the funeral industry, there has not been the need to establish any further consumer protection initiatives.

Pre-paid funerals

4.40 As fewer than 5% of funerals are pre-paid in New Zealand, there has not been the need for the introduction of legislation to regulate this activity as yet and government is satisfied with the level of industry self-regulation.

Canada

Family Funeral home Association

4.41 In Canada in the late 1980s, the Family Funeralhome Association (FFA) was founded by funeral industry professionals concerned about the larger funeral industry corporations opposing adequate consumer protection. Today, FFA is a registered non-profit society which provides a public education service and assists consumers who have not been served satisfactorily.²⁶

Price list and services

4.42 Funeral providers in Canada are required by law to provide an itemized price list of the services and products they offer. They must also provide a copy of their price list upon request.²⁷ Some funeral providers have limited facilities and are primarily involved in basic services such as transporting the deceased to a place for burial or cremation. They must disclose to consumers that they are not allowed by law to provide a full-range of funeral services.²⁸

Pre-paid funerals

4.43 In Canada, consumers who have purchased a pre-paid funeral are protected by the *Funeral Directors and Establishment Act*. All monies paid on a pre-paid contract remain the property of the investor until services are provided. In the event that a person changes their mind and wishes to withdraw their investment, all their money plus the interest earned will be refunded to them less an administration fee.²⁹ In

Alberta, the *Funeral Services Act* makes it illegal for a funeral service business to contact a person by telephone or door-to-door to offer pre-arranged funerals unless the person has specifically requested it.³⁰

United Kingdom

Basic funeral

4.44 In the United Kingdom, two consumer protection initiatives have been introduced to the funeral industry with disappointing outcomes. As a result of a 1977 Price Commission report on funerals, the industry codes of practice required funeral directors to provide a basic simple funeral which covered the funeral director's services and all necessary arrangements, a simple coffin, all necessary disbursements and removal of the body from within a prescribed distance. The intention was to enable people to compare prices and ensure the availability of a low cost funeral with an acceptable level of quality. However, a 2001 Office of Fair Trading report found that the basic funeral did not appear to be fulfilling its intended roles and needed to be reviewed.³¹

Funeral Ombudsman Scheme

4.45 A second initiative was the Funeral Ombudsman Scheme (FOS) which was established in April 1994 and operated for eight and a half years. Its initial funding was provided through two industry associations. The FOS provided an alternative mechanism for consumer protection to the existing private sector voluntary regulation.³² Its aim was eventually to be the single avenue of redress for consumers but one of the industry associations withdrew from the

scheme for financial reasons claiming that the cost of membership (about 50p per funeral plus VAT) was too high.³³

United States of America

The Funeral Rule

4.46 In order to protect consumer rights in relation to dealings with the funeral industry, the Federal Trade Commission (FTC) in America developed what is commonly known as the Funeral Rule. The Funeral Rule, which has been in effect since 1984, requires funeral providers to give consumers accurate, itemized price information and stipulates various other disclosures about funeral goods and services. However, this rule only applies to those providing both goods and services. Retailers providing coffins direct to the public, for example, are not currently covered by the Funeral Rule.

4.47 Under the Funeral Rule, these documents must be provided to consumers:

- the General Price List (GPL);
- the Casket Price List (CPL);
- the Outer Burial Container Price List (OBCPL); and
- the Statement of Funeral Goods and Services Selected.

Violations of the Funeral Rule can result in penalties of up to \$US10,000 per violation.³⁴

The Funeral Ethics Association

4.48 In America, the Funeral Ethics Association (FEA) was chartered in 1994 to promote and advance the ethical practice of funeral service. The purpose of the association is to educate funeral service professionals about ethical practices and to provide an avenue for consumers to have their complaints mediated and resolved at no cost to the parties in the dispute. This is achieved through the FEA taking the role of an ombudsman.³⁵

State funeral boards

4.49 State funeral boards in America also play an important role in educating the public and protecting consumer rights. Many have telephone hotlines where consumers can raise issues of concern. As these boards have the authority to suspend or revoke a funeral practitioner's licence, they are in a strong position to implement policies to protect consumers.

Future Directions in Consumer Education and Protection

4.50 Much of the information currently available about the funeral industry is directed at older consumers. However, death and the need to arrange a funeral can affect consumers in most age groups so consumer information appropriate for all age groups would be beneficial. Improved consumer education can reduce the need for consumer protection mechanisms.

'Average' funeral

4.51 The cost of a funeral is an issue of concern to consumers and it is difficult to compare the total cost of a funeral across funeral businesses due to different pricing structures. In 1992, the Prices Surveillance Authority recommended that funeral directors adopt a standardised definition of a basic funeral which would help consumers understand what they were purchasing and also facilitate price comparisons. As previously mentioned, this was attempted unsuccessfully in the United Kingdom where the pricing for a standard basic funeral was that of a direct disposition which, for many people, was little better than a pauper's funeral. The AFDA holds the copyright for the term 'Essential Care Funeral' for a direct disposition but this type of funeral makes up less than 5% of funerals conducted in Victoria so is clearly not very attractive to consumers.

4.52 For the concept of a standard funeral to be useful to consumers and enable them to make price comparisons, this type of funeral should contain the elements of what most consumers would consider to be an 'average' funeral. However, extensive market research would need to be conducted to determine exactly what consumers consider the elements of an 'average' funeral to be. The industry would need to support this concept and a promotional campaign would need to be conducted to inform consumers about this benchmark. It is doubtful that the will to do this exists across the industry as pricing is a sensitive issue for the industry. The Committee has heard evidence that funeral directors are sensitive to the economic circumstances of their customers and many offer a reduced level of professional service and cheaper coffin where this is appropriate for a family.

COMPLAINTS

4.53 This inquiry is required to examine the adequacy of the current regulatory framework covering practices associated with consumer protection by taking into account the number and severity of complaints raised about the funeral industry. Enumerating complaints or trying in some way to assess their severity is too simplistic an approach for the particular circumstances of the funeral industry. People of long-standing experience within the industry recognise the complexities involved in identifying an issue for complaint and following through with a procedure to reach a satisfactory outcome for all parties.

I believe it's absolutely naïve to see the level of complaints as a significant indicator in whether you need registration or some sort of processing of the industry. People don't make complaints. Funeral directors work very, very hard if there are some uncertainties with the family to resolve those uncertainties or problems. More importantly, the families that are aggrieved, if they can't resolve it with the funeral director concerned, will more than likely not progress it anywhere because often what they have to do is face up to a whole lot of ordeals that they've already been through and, at the end of the day, they'll often say, "Let's just put it behind us and move on and we just won't go back there for the next one". So I firmly believe just as I did in the mid-1980s, that there is absolutely no correlation between concerns with practice in the industry and complaints to consumer affairs, small claims tribunal or anybody else.³⁶

Reluctance to Complain

4.54 Consumers who are dissatisfied with aspects of a funeral service they have arranged may be reluctant to complain for several

reasons. Firstly, they may want to believe that the funeral they arranged was the best that could be provided as it was the final thing they could do for the deceased. This reluctance to acknowledge that the final farewell was less than perfect and did not meet their expectations may be due to the great emotional investment in the funeral as well as the financial investment. Complaining may be seen as inappropriate and likely to prolong or disrupt the grieving process.

4.55 Secondly, consumers who do not have a great deal of experience in organising funerals may be unaware that they actually have a valid complaint. For example, a family may have purchased a solid timber coffin for which a cheaper version was substituted. They may have been too distressed to realise the difference between what they had purchased and what was provided. However, workers within the funeral industry are aware of this practice and, although it may not be a widespread practice, have provided evidence that it does occur.³⁷ Similar incidents brought to the attention of the Committee where consumers are unaware that they have a valid reason for complaint concern body transfer, mortuary practice and treatment of the deceased.

4.56 Thirdly, there may be differences between consumer perception of the seriousness of an incident. For example, in August 2001, two families faced the situation of being informed (one family at the wake after a burial and the other prior to the funeral and cremation service) that the lids of two similar coffins had been incorrectly placed by an employee of the funeral director. Subsequently, the body of one man was removed from the coffin, which had been placed in the grave but not covered with soil, and replaced with the correct body. Another

committal service was conducted. Although burying the wrong body is one of the most serious complaints a funeral director could face, one family felt that the situation had been resolved satisfactorily and “everything else about the funeral had been perfect” while the other family threatened legal action against the funeral director.³⁸ Evidence has been presented to the Committee that this is not an uncommon occurrence.

Avenues of Complaint

4.57 The difficulty of establishing an adequate complaint system for the funeral industry was highlighted by a regional funeral director:

Complaints can vary dramatically from ‘wrong body, wrong hole’ and all sorts of wrong things to ‘I didn’t like the flowers you organised’. I do not know how you would deal with a complaint system that may involve someone saying the guy’s shoes were not cleaned through to someone saying ‘That is not Mum’.³⁹

Individual funeral directors

4.58 When consumers have a valid complaint, there may not be a clear avenue for them to follow to have their complaint addressed. Although general advice is to direct the complaint to the funeral director concerned, if the complaint concerned an issue that was the responsibility of the funeral director or related to the insensitivity of that person or their staff, the consumer or a person acting on their behalf may feel uncomfortable complaining directly to that person.

4.59 Many of the comparatively minor complaints which are broached with funeral directors are about issues which are beyond

their control. As the funeral director is the person with whom the bereaved family and friends have direct contact, they may assume that the funeral director has control over every aspect of the funeral process. However, when complaints are made to the funeral director about some aspect of the service provided by a third party such as a celebrant, florist or cemetery staff, there is very little that the funeral director can do to rectify the situation apart from approaching the person or organisation on behalf of the bereaved.

Industry associations

4.60 An alternative is to complain to the industry association if the funeral director is, in fact, a member of any association. Complaints against a member of the AFDA are usually brought to the attention of the association by a telephone call or correspondence from the complainant to the National or Divisional Office. The AFDA provides an arbitration process for complaints; however, this is not well publicised so disgruntled consumers may not be aware of this option. For example, neither the AFDA website nor the websites of AFDA member firms contain any explicit information about a complaint resolution procedure apart from this point in their Code of Ethics:

To provide access to a clients' advisory service with conciliation and arbitration arrangements available to help resolve any disputes which arise between members and their clients.

4.61 The AFDA also fields complaints against non-member firms. If the firm is not a member of either of the other associations operating in Victoria, there is little the AFDA can do except suggest the complainant approaches the firm directly or contacts an appropriate

government agency, where one exists, depending on the nature of the complaint.

Government agencies

4.62 Government agencies at local, state and federal level field complaints regarding the funeral industry. Local council planning departments, for example, are responsible for handling complaints at the planning proposal stage in regard to the proposed location of funeral businesses, car parking and traffic issues associated with the conduct of funerals. Local council health departments control the operation of mortuaries in regard to their waste disposal systems but have no control over the activities carried out within a mortuary. However, the local councils consulted for this inquiry reported few if any complaints directed to them about the operation of funeral businesses within their local areas.

4.63 Consumer Affairs Victoria helps to resolve disputes between consumers and businesses by providing information and education and ensuring compliance with the law. CAV has a clear complaints procedure when the concern is about purchased goods or services. However, CAV is not able to handle the types of complaint specific to the funeral industry where the concern is not with a purchased product or service but with lack of respect for the dignity of the deceased or distressing insensitivity shown to a bereaved family.

4.64 The ACCC is concerned with some consumer protection issues, mostly where they concern the purchase of goods and services, and business practices under the *Trade Practices Act*. The ACCC also has a role to play in industry regulation.

Complaint Statistics

4.65 The number and severity of complaints which reach the public domain for many professions, industries or commercial enterprises may provide a clear indication of the success of that enterprise or problems within it. However, the particular circumstances of the funeral industry suggest that the number of complaints may not be a useful indicator of the prevalence of unsatisfactory incidents within the industry. This was articulated in a submission from a private individual whose two sons had died in vehicle accidents ten years apart.

The measurement of consumer complaints does not necessarily declare satisfaction because there is not a complaint. The ability to put energy and clarity into creating a complaint is severely depleted for months or years following the death of a family member. Pompous, arrogant or even compassionate responses by the parties being questioned are very off putting and the ability of the grieving family member to converse in any sort of rational or reasonable assertive manner is critically impaired.⁴⁰

4.66 Minor complaints from customers which are addressed and solved as part of the daily operation of any business are not likely to be the subject of detailed statistics or analysis. Industry associations can only provide vague or anecdotal records of the number and type of complaint that they handle. Therefore, it is understandable that statistics of the accuracy required to be of benefit to this inquiry are not kept by individual funeral directors or industry associations.

Consumer Affairs Victoria

4.67 If a consumer complains directly to a funeral director and the complaint is resolved in-house, the industry associations and CAV may never be made aware of the complaint. This could explain the low number of complaints which come to the notice of these bodies. For example, in the four years between January 2000 and January 2004, fifty-three complaints were made to CAV about the more than 130,000 funerals conducted in Victoria. Most of these complaints were resolved through conciliation.⁴¹ However, without knowledge of the nature of the complaints (whether they were cemetery issues beyond the scope of this inquiry, cultural issues, coronial issues or simply misunderstandings arising from the emotional circumstances involved in arranging funerals), it is impossible to evaluate their impact or severity.

Australian Competition and Consumer Commission (ACCC)

4.68 The ACCC advised that the funeral industry does not come to their attention a great deal. Australia-wide, the ACCC has received an average of 40 complaints per year over the past five years. However, these complaints also concern cemeteries and crematoria, stone masons and associated areas and cannot be provided at the level of individual funeral directors.⁴²

4.69 Not every incident that warrants a complaint may initiate a complaint. For example, in early 2000, the ACCC acted on complaints by two consumers about GST which had been incorrectly charged on

cemetery and crematoria services as part of pre-paid funeral contracts sold by funeral directors. The company concerned provided refunds to the two consumers and, as a result of reviewing all its pre-paid funeral contracts, found that 637 consumers had been incorrectly charged.⁴³ Although any statistics would show that only two complaints had been made, this example clearly demonstrates that the number of complaints should not be taken as an indicator of the degree or severity of problems within the industry. Furthermore, the lack of complaints should not be taken to indicate an absence of reasons to complain.

International Perspective on Complaint Resolution

4.70 The complaint resolution procedures operating in New Zealand, the United Kingdom, Canada and the United States of America all have elements which could be incorporated into an improved funeral industry complaint resolution process for Victoria.

New Zealand

4.71 The FDANZ generally fields complaints about all funeral businesses in New Zealand as consumers presume that funeral businesses have to belong to the FDANZ. Members of the FDANZ are bound to accept the decisions of an independent dispute resolution process which was established through Griefcare, a quality assurance programme designed specifically for funeral practices.

4.72 If a consumer believes a Griefcare funeral director has been unfair, unethical, unprofessional or insensitive, they should make a personal approach to the manager of the funeral business about the

complaint. If the complaint is not resolved successfully, the consumer should contact the FDANZ with details of the complaint and any supporting documentation. An FDANZ officer will liaise between the consumer and the funeral director but, if unsuccessful, the consumer can sign a statutory declaration to enable the matter to be taken to the FDANZ Disputes Committee. The wording of the statutory declaration means that neither party can prolong the matter by taking it to court or by involving the media. The decision of the Disputes Committee can be appealed which means that an independent Funeral Disputes Mediator becomes involved. The mediator has been used three times in the four and a half years since the inception of this process.⁴⁴

4.73 If the funeral director is found to be at fault, resolution of the dispute can lead to an apology, a partial refund or a small ex gratia payment. The funeral director may have their practising certificate or registration suspended and be required to undertake appropriate training or counselling.

United Kingdom

4.74 In the United Kingdom, the Code of Practice of the National Association of Funeral Directors sets down a comprehensive complaints procedure, with members being bound to abide by its outcomes. Consumers are advised to contact the funeral director concerned where a senior person within the business should have been designated to handle complaints. If a resolution of the issue is not reached, the consumer should contact the Funeral Arbitration Scheme which provides independent conciliation and arbitration through the Chartered Institute of Arbiters.

4.75 The procedure is well-publicised to consumers as funeral directors in the United Kingdom are required to display and make available to consumers the Funeral Arbitration Scheme leaflet which provides detailed information to guide the client through the procedures on how to make a complaint. When submitting their final account, association members are also required to invite comments from consumers about the service received. Consumers are given within twelve months of the date of the funeral to lodge their complaints.

Canada

4.76 The Canadian funeral industry is regulated by Provincial Boards which are empowered to investigate complaints. For example, the Alberta Funeral Services Regulatory Board will review a complaint to determine whether the *Funeral Services Act* has been violated, whether the professional integrity of the funeral services industry has been undermined or compromised, and whether it is in the public interest to take action.

4.77 The Complaints Investigator will act on behalf of the complainant in approaching the funeral director concerned if the complainant is unwilling or unable to do so. The business manager of the funeral business must provide a written response to the complaint within two weeks. If a complaint is unsubstantiated, both the complainant and the funeral business will be notified of the results of the investigation. If the Complaints Investigator finds that a contravention of the *Funeral Services Act* or the *Regulations* has occurred, the Board will instruct the funeral service business to rectify

the contravention or require the licensee to appear before a complaints panel of the Board to determine the future status of his or her licence. If the complaint is not a direct contravention of the *Funeral Services Act* or *Regulations*, mediation or arbitration may be offered.⁴⁵

United States of America

4.78 The funeral industry in America is also regulated by State Boards which are empowered to deal with consumer issues relating to goods and services as well as breaches of ethical codes and practice standards. There is substantial information in the public domain for consumers and the requirements of the FTC Funeral Rule mean that consumers are generally well-informed in regard to their contract with the funeral company.

4.79 All State Boards, except Colorado, have licensing requirements for funeral directors and, if a complaint is upheld against a funeral director, substantial penalties can be applied. For example, the Texas Funeral Service Commission administers a comprehensive complaints resolution process with penalties ranging from a Letter of Warning to fines of up to \$US5,000 and suspension of licence. Consumers are able to complain by using a telephone hot-line service, Internet page, by letter or in person.

Adequacy of Current Regulatory Framework

4.80 The adequacy of the current regulatory framework in Victoria in relation to complaint handling procedures is difficult to assess for several reasons. Firstly, a considerable range of emotional issues prevents consumers from making an initial complaint and carrying it

through to a satisfactory completion. Therefore, it is impossible to gauge the level of satisfaction or dissatisfaction with service provided by the funeral industry merely from the number of complaints or the lack of them. In addition, industry associations and government agencies are not able to produce accurate complaint statistics about funeral directors, either because the incidents are simply not noted or they are combined with data relating to cemeteries and crematoria, stone masons, and so on. Furthermore, industry associations do not widely publicise their complaints handling procedures either within the industry or to consumers so, it can be assumed, that consumers who may have a legitimate complaint are not aware of any avenues through which they can progress their complaint. Finally, where a complaint has been substantiated, available penalties are seldom applied by the industry associations or by government agencies as, in many cases, there is little supporting legislation specific to the funeral industry apart from the *Funerals (Pre-paid Money) Act 1993*.

Best practice in complaint resolution

4.81 In light of overseas experience and the current situation in Victoria, it is clear that improvements can be made to the way in which the complaint resolution procedure for the Victorian funeral industry operates. For a complaint resolution procedure to be effective, there needs to be a recognised issue of complaint, a clear process which is understood by those in the industry and publicised to consumers who may have cause to use it, and a meaningful outcome provided to the parties to the dispute.

4.82 Inadequacies in the current system were highlighted by the AFDA:

In order for the activities [of rogue operators] to be curtailed, they will have to constitute a breach of an existing law or regulation that doesn't specifically relate to funeral directing...The client would need to be aware of the breach in spite of the fact that most activities occur behind the scenes. The client would have to report or complain about the breach, despite the fact that there's no department or body to complain to, and the nature of the breach would need to give rise to some kind of sanction or penalty that would act as an incentive for the funeral director to change the way he operates. Those things just don't exist.⁴⁶

4.83 Improvements which could encourage a more effective complaint resolution process include:

- the provision of information to consumers regarding products and practice standards so that they will be able to recognise more easily when they may have grounds for complaint;
- the requirement for funeral directors to supply consumers with information and have this information on display at their premises regarding the complaint procedure undertaken by their industry association (if they belong to one) and/or contact details for CAV and information about how to initiate a complaint;
- funeral businesses nominating a senior staff member as the contact person for complaints; and
- training for funeral directors on effective dispute resolution as part of the Certificate level training currently available for the funeral

industry and/or professional development on this topic provided by industry associations.

4.84 However, for a complaint resolution procedure to be truly effective, the process should be handled by an independent body to which all funeral directors, regardless of their membership of an industry association, would be accountable. Such a body would be able to handle the more sensitive complaints concerning the professional and ethical integrity of the industry as well as issues related to goods and services.

Finding 4.1

The Committee finds that the number of complaints received by individual funeral directors, industry associations and government agencies does not provide a valid indication of problems existing within the industry.

Recommendation 4.1

That individual funeral directors, industry associations and government agencies undertake to promote their existing complaints procedures regarding the funeral industry in an effective and meaningful way to the community. This includes the clear advertising of a complaints phone number and the provisions of consumer information literature about the complaints mechanism.

PLANNING

Local Planning Schemes⁴⁷

4.85 Under the *Planning and Environment Act 1987*, the Victorian Government through the Department of Sustainability and Environment (DSE) is responsible for managing Victoria's Planning System and the regulatory framework for land-use planning, environment assessment and land subdivision. Victoria has 81 Planning Schemes: one for each of the 78 Victorian municipalities and one for each of the 3 Victorian special planning areas (Alpine Resorts, Port of Melbourne, and French and Sandstone Island).

4.86 Within the Victorian Planning Provisions (VPP)⁴⁸, there are 25 standard zones which can be used, with each individual planning scheme using only those zones which are appropriate for that area. Zones reflect the primary character of land such as residential, business, industrial or rural and indicate the type of use and development which may be appropriate in that zone. There are also 22 standard overlays which ensure that important aspects of the land are recognised and indicate the type of development which may be appropriate in that area.

4.87 There is variation in Planning Schemes in relation to the zoning conditions for funeral businesses depending on the local situation. However, the definition of land use for a 'funeral parlour' supplied in the VPP is common to all areas:

Land used to organise and conduct funerals, memorial services, or the like. It includes the storage and preparation of bodies for burial or cremation.

Establishing Funeral Businesses

4.88 Where a funeral business was established prior to the introduction of planning controls, the use of the site as a funeral parlour has existing land use rights. In order to establish a new funeral business, whether in a new building or by renovating an existing building, the funeral business must apply to the local council for a planning permit. The applicant must meet the conditions applicable to the zone in which the premises is to be located as well as the parking provisions relevant to a place of assembly.

4.89 Local residents and other businesses are notified of the planning proposal and have the opportunity to lodge objections. If the business is unsuccessful in its application and wishes to challenge the council decision, or if the business is successful and local residents wish to challenge the permit approval, redress can be sought through the Victorian Civil and Administrative Tribunal.

4.90 Where an existing business wishes to renovate or expand its existing premises, the same procedure applies. The Committee has not been presented with any evidence that the planning process is problematic for existing businesses:

Speaking from recent experience, we applied to a planning group for alterations to one of our chapels. That was fairly straightforward; we did not really have any great problems with that. We just adhered to the regulations and made the application, and it was

approved...generally we have found that planning regulations are quite reasonable.⁴⁹

Issues with Funeral Businesses⁵⁰

Car parking

4.91 The VPP state that on-site car parking requirements for a funeral parlour are based on the number of seats available in the chapel, if the business includes one, or per each square metre of net floor area, whichever is the greater. For places of assembly, the requirement is 0.3 car spaces per seat available to the public. For example, a funeral parlour with a chapel capable of seating 60-80 people would be required to provide between 18 and 24 car parking spaces for members of the public.

4.92 If larger numbers of mourners are likely to attend a funeral service, the funeral arranger would encourage the family to hold the service at a larger facility in order to cater for all expected mourners. However, it is often difficult to estimate the number of people who will attend a funeral and it would be insensitive to turn people away given their emotional state. As a result, cars may have no option but to park in the surrounding streets of adjacent residential areas thus causing loss of amenity to residents.

Traffic

4.93 Often the level of traffic activity on and surrounding a site is less than that feared by objectors to a planning proposal. For example, a company may arrange 200 funerals per year from the site but only half

of them may actually use the chapel and other facilities on-site. Therefore, there may be only 2 or 3 occasions per week when there is substantial movement of traffic around the site.

4.94 Where local authorities feel that traffic congestion may be a problem, they have the option of imposing conditions on the planning permit. Such a condition may prevent the timetabling of funeral services so that mourners for two separate funerals are not in attendance on the site at the same time.

4.95 When a funeral parlour is proposed, complaints from local residents generally concern parking and intermittent traffic congestion. However, once the parlour has been established, councils receive very few complaints if any at all. Function centres and places of worship generate a higher level of complaint, even though the cause of aggravation (parking and traffic) is the same. This may indicate that residents appreciate that mourners have lost a family member or friend and, therefore, tolerate a short-term inconvenience rather than complain.

Hours of operation

4.96 As necessitated by the nature of the business, the hours of operation of a funeral business are continuous. However, such a business tends to be operated in a discreet way and is neither busy nor noisy in the normally accepted sense.⁵¹

4.97 The greatest disruption for local residents is usually the arrival of mourners and the departure of the funeral procession when a funeral service is held in an on-site chapel. Funerals are usually

scheduled during working hours and sometimes on Saturday if requested by the family. Other activities of the business such as viewings may be held in the evening but transfer vehicles and hearses may drive onto or from the site at any time.

4.98 As with traffic congestion, local authorities may impose conditions on the planning permit which control the hours during which funeral services may occur but it is not realistic to impose other time restrictions on the operation of the business.

Amenity

4.99 'Amenity' as it relates to planning provisions can be defined as a feature that increases attractiveness or value, especially of a piece of real estate or a geographic location. Many objections received by councils concern amenity of the local area, especially where the funeral business is in or adjacent to a residential zone. When a funeral parlour is to be established in an existing building, the building is often of domestic scale with well established planting which can be enhanced by further landscaping. Businesses usually make an effort to fit in with the architectural aesthetic of the surrounding neighbourhood. Therefore, the loss of amenity usually does not refer to the visual aesthetics of the physical environment but concerns aspects such as privacy, lighting and noise.

4.100 The Administrative Affairs Tribunal of Victoria (AATV) has found that ordinary, reasonable members of the community would have the perception of loss of amenity at the prospect of the establishment and operation of a funeral parlour in close proximity to their homes. The

Tribunal accepted that people would become used to the presence of the funeral parlour but not perhaps the activities conducted there.⁵²

4.101 It has been suggested that there is a psychological effect in living near a funeral parlour in that it is a constant reminder of mortality and introduces an unwanted morbidity into the day to day lives of residents. However, this has been countered in the AATV by the comments of Dr Robert Montgomery:

Hiding death away, treating funeral parlours and their normal activities as though they were shameful or 'obscene', robs us of our traditional opportunities to develop a realistic understanding of death and increases our distress when we must face up to death.⁵³

Rural and regional issues

4.102 The only issue identified by a regional shire council which was not specifically identified by metropolitan councils is the concern that, due to rapid population growth and development in some regional areas, existing funeral businesses are being surrounded by land uses or other uses which conflict with the provisions of car parking.⁵⁴

Conclusion

4.103 Eighteen metropolitan councils⁵⁵ and four rural city and regional shire councils⁵⁶ responded to the Committee's invitation to provide comment on their planning regulations in respect of the establishment and operation of funeral parlours. Many of the councils have not recently received any applications for the establishment of funeral parlours; of those who have, none reported any difficulty with the planning or appeals process. In general, councils received very few if

any complaints once the funeral business was established and operating although there may have been a level of concern expressed by local residents during the planning and appeals process. The Committee has received only positive responses from funeral directors in regard to the planning process for new premises or extensions to existing premises.

Finding 4.2

The Committee finds that the planning schemes of municipal councils are operating well in relation to the establishment and operation of funeral businesses in their local areas.

ISSUES AFFECTING DISTINCT COMMUNITIES

4.104 The Committee received submissions from distinct religious and cultural communities in both rural and metropolitan areas explaining their requirements in regard to funeral rites. Issues were raised where these religious and cultural requirements are not being met by the current procedures.

Buddhist Communities

4.105 In Melbourne, the Committee received testimony, which was coordinated by the Buddhist Council of Victoria, from representatives of the Cambodian and Vietnamese Buddhist communities.⁵⁷ Concerns were raised about the cost of funerals, the lack of understanding of cultural traditions, the need for dedicated burial sites and information available in languages other than English.

4.106 The price of funeral services was said to start at \$3,000 and could cost more than \$7,000. Evidence was provided that funeral directors allowed three hours for what would be considered in Australian culture as a 'viewing' and charged \$120 per hour for any time longer than that for the family to be in attendance. As it is important that a family member accompanies the deceased and that prayers are chanted for a period of up to seven days, the current pricing structure within the industry does not appear to accommodate the cultural needs of the Buddhist community.

4.107 There was further concern that cultural requirements were not being met by Australian funeral directors or cemeteries. It is culturally appropriate for a body not to be touched or moved for several hours so that the spirit can leave the body peacefully. Orientation of the body to face the west is also important. It was suggested that the temple could provide information to funeral directors about such cultural requirements by holding seminars or producing a booklet similar to 'Buddhist Care for the Dying' and continue the information to caring for the deceased.

4.108 The Committee heard evidence that it would be desirable for every Buddhist temple in Victoria to have its own morgue and crematorium, as is the custom in South-east Asia, for the care of the deceased and storage of cremated remains. A reserved section of appropriately oriented burial sites within an existing cemetery was also considered an important aspect of stabilising the community, given the respect afforded to deceased elders.

4.109 There was also evidence of a lack of information available to communities speaking languages other than English about any legal

requirements concerned with keeping ashes in the home in Australia or transporting them back to the country of birth.

Filipino Community

4.110 In Shepparton, the Committee received testimony from a representative of the Ethnic Council of Shepparton and District⁵⁸ in regard to the requirements of the Filipino community in the district, many of whom are Filipino women married to Australian men.

4.111 Generally, current funeral practices are acceptable to the Filipino community which is predominantly Catholic but also includes Protestants, Jehovah's Witnesses and Seventh Day Adventists. The body of a person without relatives in Australia is usually returned to relatives in the Philippines. In the situation where a Filipino woman is married to an Australian man, it is the Australian family who organises the funeral.

4.112 In the Philippines, it is usual to hold a three-day vigil for the deceased. Family and friends stay with the body with either lights or candles for the whole period. The expense of doing this in Australia is too much for the families to bear but they would be satisfied with a 24-hour vigil. However, this practice is currently not catered for as it would be too expensive to hold a vigil in a funeral parlour and the community is unsure whether there are regulations preventing them from moving the deceased to another location such as a home or a community hall for such a vigil.

4.113 Culturally, it is considered a bad omen to talk about funerals so there is a level of ignorance in the community regarding pre-paid

funerals, the regulations regarding moving a body from the funeral parlour to another place for a vigil, and funerals in general. The Filipino community relies on the funeral director to advise and direct them.

Muslim Communities

4.114 In Melbourne, the Committee received testimony, which was coordinated by the Islamic Council of Victoria, from representatives of Muslim communities.⁵⁹

4.115 Concerns were raised about the necessity of conducting an autopsy and delays in issuing the death certificate, which is necessary for removal of a body from a home or hospital to the mosque where ritual bathing and wrapping is performed. Although these issues are also a concern for other groups within society, they are of particular concern to Muslims given the religious requirement for burial as soon as possible after death.

4.116 The Muslim community in Melbourne is generally satisfied with the level of family participation available through commercial funeral service providers. However, their preference is to manage funerals and burials of family and community members through Muslim funeral directors working from mosques. These services are provided on a non-commercial basis and there is co-operation between mosques where there may be a shortfall in equipment, hearses, lack of cool room facilities, and so on.

4.117 Iraqis in the Shepparton district are Shia Muslims. In the Muslim community, the symbolic washing and wrapping of a deceased person must be carried out as soon as possible after death. As there are no

facilities in Shepparton for this to occur, a body is sent to Melbourne for preparation and burial. As the preparation is done by Sunni Muslims in their facilities, this is not entirely culturally appropriate.

4.118 Memorial visits to the grave of deceased relatives are also important to the community and this cannot easily occur when the bodies are buried in Melbourne or repatriated overseas. As the community is growing and settling in the Shepparton district, they would like to develop burial facilities in the local area.

4.119 The Islamic Council of Victoria would not like to see any changes that would prevent families and communities from continuing to play an active role in the burials and funerals of their deceased loved ones, their family members and members of their communities, given how important this religious obligation is to a devout Muslim. Therefore, it is important that the self-managed structure of funerals in the Muslim community remains so that the family is present to ensure their loved one is treated in a respectful and dignified manner. If there were regulation that would prevent this from happening, it would be seen as not being in the best interests of the Muslim community.

Tongan Community

4.120 In Shepparton, the Committee received testimony from a representative of the Goulburn Valley Pacific Islanders Association⁶⁰ who outlined some of the issues for the Tongan community in the area. The Tongan community have easily adjusted to most Australian customs in regard to funerals. However, it is important for the community to conduct a vigil over a deceased person especially on the first night of the death.

4.121 The first night vigil is the time in which family and friends say goodbye and may be quite noisy and continue until early morning. Given the structure and timing of Australian funeral rituals, it is difficult for a funeral business to cater for the needs of the Tongan community in conducting such an overnight vigil. As with the Filipino community, the Tongan community are unaware of the regulations applying to the removal of a body from a funeral parlour to a more suitable place to hold a vigil.

Traditional Christian Groups

4.122 In Shepparton, the Committee received testimony from representatives of the Brethren⁶¹, a traditional Christian group, to supplement the written submission previously supplied.

4.123 As the Brethren conduct a very small number of funerals per annum⁶², they are concerned that any changes to legislation or the introduction of licensing may prevent them from carrying out the service they provide on a non-profit basis for their community members. They also feel that any type of registration procedure which may be introduced as a result of this inquiry should be carried out by a government body rather than an industry association.

4.124 The Brethren feel that they meet or exceed current procedures and standards in regard to occupational health and safety and infection control. They are regarded as bona fide funeral directors by the cemeteries they deal with and the coroner in respect of releasing bodies into their care. However, a minor but important criticism of the Coroner's Office made by the Brethren was the lack of sympathy with

which the bodies are presented when the Brethren funeral directors go to collect them.

SUMMARY

4.125 Community perceptions of ethical standards within the funeral industry are difficult to gauge due to a general community reticence to discuss issues of death and funerals. As a result of this, there is a view that many people assume that there are licensing requirements for funeral directors. The media has an important role to play in informing and educating the community about the funeral industry.

4.126 Consumer education about the funeral industry is available from a variety of sources: State and Commonwealth government agencies, individual funeral directors, and industry associations. Educated consumers are able to make informed decisions and, therefore, would be less likely to require protection from unscrupulous practitioners.

4.127 Consumers with complaints concerning the funeral industry, apart from those regarding the purchase of goods and services, do not have a dedicated complaint resolution procedure to follow. Internationally, New Zealand, Canada and America have established complaint resolution procedures covering all aspects of the funeral industry.

4.128 The planning schemes of local authorities appear to be working well. Although residents may be concerned about the location of a funeral business, anticipated traffic, parking problems and loss of amenity, an established business causes very few if any complaints to local authorities.

4.129 Specific religious and cultural communities provided information to the Committee regarding their needs in regard to funeral rites and whether they were being fulfilled by the current operations of the funeral industry.

Endnotes

¹ Daniel, A.E. (1983) *Power, privilege and prestige: Occupations in Australia*. Longman Cheshire: Melbourne.

² AARP is the leading organization in America for people aged 50 and over. In 1998, AARP conducted a telephone survey of 757 people titled 'Consumer Behavior, Experiences and Attitudes: A Comparison by Age Groups'.

³ A Gallup poll conducted in 2000 in America ranked funeral directors in the top 15 professions for honesty and ethics.

⁴ The Wirthlin Group surveyed 1,002 consumers aged 30 and older in September 1999.

⁵ Jennifer Cox, *Hansard*, Public Hearings, Shepparton, 3 August 2004.

⁶ Gwen Sessions, *Hansard*, Public Hearings, Shepparton, 3 August 2004.

⁷ AFDA submission, Appendix 3, October 2004.

⁸ Four Corners, *The Coffin Chasers*, ABC, 14 October 2002.

⁹ For example: Gray, D., 'The Dying Game', *The Age*, 15 November 2004; Hannan, E., 'Grave Concerns', *The Age*, 20 December 2003; Haberfield, I., 'Call to probe 'shonky burials'', *Sunday Herald Sun*, 27 April 2003.

¹⁰ The *Australian Funeral Director* 17(4) reported that Victoria held its first Funeral Service Media Awareness Day on 8 August 1996 with 40 participants.

¹¹ Kate Bell, AFDA, email communication, 3 March 2004.

¹² *ibid.*

¹³ Prices Surveillance Authority (1992) *Investigation Into Funeral Prices*. Report no. 39. pp 10-11.

¹⁴ This situation also occurs in NSW where a NSW government website gives a link to AFDA members under the heading 'NSW Funeral Directors'.

¹⁵ This booklet is available at <http://www.coronerscourt.vic.gov.au/> under Resources, then Publications Reports and Statistics.

¹⁶ This suggestion was first made to the Committee by Jonathan Hepner of Jonathan Hepner Ltd at the public hearing held in Geelong, 27 July 2004.

¹⁷ Bill Stuart, Consumer Services and Subscriptions Manager, Australian Consumers' Association, email communication, 26 October 2004.

- ¹⁸ Mark Floyd, Mark J Floyd Funerals, *Hansard*, Public hearing, Shepparton, 3 August 2004.
- ¹⁹ Nelson Bros Bereavement Resource Centre, John Allison Monkhouse Support Services and Tobin Brothers Community Education Department all hold extensive library material available to the public.
- ²⁰ *AFDA News*, 6(1), Summer 1986.
- ²¹ Kate Bell, AFDA, email communication, 3 March 2005.
- ²² Hermanson, S. (2000) *The Deathcare Industry*. AARP Public Policy Institute, USA.
- ²³ Consumer Affairs Victoria (2004) *Discussion paper: What do we mean by 'vulnerable' and 'disadvantaged' consumers?* CAV, Melbourne.
- ²⁴ Melinda Brodie, Senior Policy Officer, NSW Office of Fair Trading, email communication, 18 November 2004.
- ²⁵ Office of Fair Trading, Queensland <http://www.consumer.qld.gov.au/oft> Accessed 28 January 2005.
- ²⁶ Family Funeralhome Association, Canada <http://www.familyfuneral.org/aboutUs.shtml#top> Accessed on 22 July 2004.
- ²⁷ Funeral Service Association of British Columbia, Canada. <http://www.bcfunerals.com/page.php?pagelid=MjM%3D> Accessed 17 September 2004.
- ²⁸ *ibid.*
- ²⁹ Obituaries Today <http://www.obituariestoday.com/PrePlanning> Accessed 16 September /2004.
- ³⁰ Memorial Society of Edmonton and District, Canada <http://www.angelfire.com/my/edmemsociety/page8.html> Accessed 7 August /2004.
- ³¹ Office of Fair Trading (2001) *Funerals: A report of the OFT inquiry into the funerals industry*. United Kingdom. pp 20-21.
- ³² Woodroffe, G. (2002) Last rites of the Funeral Ombudsman Scheme. *The Ombudsman*. No. 19. p 1.
- ³³ Funeral Ombudsman Scheme (2001) *Annual Report*. Newcastle upon Tyne, England. p 3.
- ³⁴ Federal trade Commission, USA <http://www.ftc.gov/bcp/online/pubs/buspubs/funeral.htm> Accessed 22 July 2004.
- ³⁵ Funeral Ethics Association, USA www.fea.org Accessed 23 July 2004.

³⁶ Russ Allison, Vice President, Cemeteries and Crematorium Association of Victoria, *Hansard*, Public Hearings, Melbourne, 18 October 2004.

³⁷ Tony Favier, Submission, 23 August 2004.

³⁸ 'Body switch anguish', *Sunday Herald Sun*, 24 February 2002, p 9.

³⁹ Chris Quinn, Quinn Funerals, *Hansard*, Public Hearings, Geelong, 27 July 2004.

⁴⁰ Carol Smith, Submission, 1 February 2005.

⁴¹ Victorian Government Submission, 14 April 2005. p 9.

⁴² Richard Fitzpatrick, Government Liaison Section, ACCC, email and telephone communication, November 2004.

⁴³ Australian Competition and Consumer Commission

<http://www.accc.gov.au/content/index.phtml/itemId/323019/fromItemId/378010> Accessed 17 August 2004.

⁴⁴ Robyn Grooby, FDANZ Executive Officer, email communication, 8 February 2005.

⁴⁵ Alberta Funeral Services Regulatory Board, Canada <http://www.afsrb.ab.ca/complaint.htm> Accessed 16 February 2005.

⁴⁶ Martin Tobin, AFDA, *Hansard*, Public Hearings, Melbourne, 19 October 2004.

⁴⁷ The information and definitions in this section were sourced from the website of the Department of Sustainability and Environment on 24 January 2005.

⁴⁸ The Victorian Planning Provisions is a comprehensive set of standard planning provisions and provides a standard format for all Victorian planning schemes. It provides the framework, standard provisions and State planning policy. The planning authority (usually the municipal council) must provide the local planning policy content, including a Municipal Strategic Statement, and select the appropriate zones and overlays from the VPP, for inclusion in their planning scheme.

⁴⁹ Kim Burrell, Tuckers Funeral and Bereavement Service, *Hansard*, Public Hearings, Geelong, 27 July 2004.

⁵⁰ The issues relating to planning requirements for funeral parlours have been sourced from appeal determinations made by the AATV and VCAT and discussion with planning personnel from a number of metropolitan local councils.

⁵¹ AATV determination in the case of *M. Dubock Pty Ltd v Maroondah City Council* (1995/33602).

⁵² AATV finding in *Nelson Bros Funeral Services Pty Ltd v City of Werribee* 3 AATR 47.

⁵³ Dr Robert Montgomery, AATV Appeals Nos. 1991/31870 and 1991/37500.

⁵⁴ Peter McKinnon, Team Leader Town Planning, Shire of Campaspe, email communication, March 2005.

⁵⁵ All metropolitan councils were contacted in January 2004 and invited to provide information. The eighteen councils which provided information to the Committee are Banyule, Booroondara, Cardinia, Casey, Hobsons Bay, Hume, Kingston, Manningham, Maribyrnong, Maroondah, Monash, Moonee Valley, Mornington Peninsula, Nillumbik, Stonnington, Whittlesea, Wyndham and Yarra City.

⁵⁶ As there were no major issues identified by the metropolitan councils, a selection of rural city councils and regional shire councils was invited to provide information. The councils which provided information are the Shire of Campaspe, Colac Otway Shire Council, the Shire of Corangamite and Loddon Shire Council.

⁵⁷ Brian Ashen, Chair, Buddhist Council of Victoria; Venerable Phuoc Tan, Monk from Quang Minh Temple, Braybrook; Venerable Thel Thong, Cambodian Buddhist Association of Victoria; and Venerable Miao Lai, Fo Guang Shan, Melbourne, *Hansard*, Public hearings, Melbourne, 18 October 2004.

⁵⁸ Virginia Contreras, Ethnic Council of Shepparton and District, *Hansard*, Public hearings, Shepparton, 3 August 2004.

⁵⁹ Rowan Gould, Executive Officer, Philip Knight, Advisor, Islamic Council of Victoria; Mortada Haggag, Services Manager, Lysterfield Mosque; Mehmet Atasever, Funeral Services Manager, King Street Mosque, Broadmeadows, *Hansard*, Public hearings, Melbourne, 22 November 2004.

⁶⁰ Leiona Cocker, Goulburn Valley Pacific Islanders Association, *Hansard*, Public hearings, Shepparton, 3 August 2004.

⁶¹ David Shemilt and David Grace, The Brethren, *Hansard*, Public hearings, Shepparton, 3 August 2004.

⁶² Over the past five years, the number of burials throughout Victoria that the Brethren have conducted has averaged 19 per annum.