

SUBMISSIONS

Organisation	Position	Name
Charles Crawford & Sons	Director/Manager	Mr Terry Crawford
Nelson Bros Funeral Services	Business Manager	Mr Adrian Nelson
Private Citizen		Mr David Shemilt
Funeral Finery		Ms Sylvia Johnson
Cemeteries and Crematorium Assoc of Victoria	Vice President	Mr Russ Allison
Victorian Independent Funeral Directors Association	President	Mr Simon Mulqueen
Australian Workers Union		Ms Tonya Stevens
Mortuary & Funeral Educators Pty Ltd		Mr Jeffrey Mullenhour
Australian Institute of Embalmers	Chairman	Ms Jennifer Burge
Australian Funeral Directors Association	Victorian Secretariat	Ms Kate Bell
Private Citizen		Mr Harley Dickinson
Private Citizen		Mr Neil McDonald
Service Skills Victoria	Executive Officer	Ms Barbara Hawkins

Organisation	Position	Name
Council on the Ageing	Executive Director	Ms Sue Hendy
Over 50s Mutual Friendly Society Limited	Chief Executive Officer	Mr Rick Curtis
Sids and Kids Victoria	Counsellor, Family Services & Community Education Unit	Mr Kevin Carlin
Royal Children's Hospital, Melbourne	Acting Chief Executive Officer	Mr Steve Firman
Private Citizen		Ms Carol Smith
Royal Women's Hospital, Melbourne	Coordinator, Reproductive Loss Services	Ms Helen Kane
Funeral Finery		Ms Sylvia Johnson
Private Citizen		Mr Tony Favier
R.F Verey & Son Funeral Directors		Mr Jack Adriaans
J.J. Kell & Son	Owner/Director	Ms Jenny Bibby
Mulqueen Family Funeral Group	Managing Director	Mr Simon Mulqueen
Southern Cross Funerals	Director	Mr Ken Hull
Russell Brothers Funeral Directors	Managing Director	Mr Geoffrey D. Russell
Taverna Funerals		Ms Lorraine Taverna
Phelan Funerals		

Organisation	Position	Name
Syd Peek & Daughter Funeral Directors		
Valley Funerals		
William Matthews Funerals		
Drysdale & Peninsula Funeral Services		
Victorian Independent Funeral Directors	The Secretary	
Victorian Government	Minister for Consumer Affairs	Minister Marsha Thompson, MP
Conway Funeral Home	Funeral Director	Mr Tony Conway

WITNESSES

27th July 2004 - Geelong

Mr W. Crawford, co-director, Charles Crawford and Sons

Mr P Martin, Graeme Robertson Funerals

Mr J. Hepner, chief executive officer and Ms L. Yeomans, office administrator, Jonathan Hepner Ltd

Mr M. King, Managing Director, Kings Australia

Mr W. Sheahan, Drysdale and Peninsula Funeral Services and Victorian Independent Funeral Directors Association

Mr C. Quinn, proprietor, Quinn Funerals

Mr K. Burrell, Tuckers Funeral and Bereavement Service

3rd August 2004 – Shepparton

Mr B. Walsh, Brian Walsh Funerals

Mr M. Mohamed, Ms V. Contreras, Ethnic Council of Shepparton and District

Ms L. Cocker, Goulburn Valley Pacific Islanders Association

Mr R. Hall, Kittle Brothers Funeral Directors

Mr M. Floyd, Mark J. Floyd Funerals

Mr S. Mulqueen, managing director, Mulqueen Family Funeral Directors

Mr P. Cox and Mrs J. Cox, Peter Cox and Sons
Funeral Directors Pty Ltd

Mrs G. Sessions and Mr A. Sessions, Sessions Family Funerals

Mr D. Shemilt and Mr D. Grace, The Brethren

Mr N. Brock, Valley Funerals

18th October 2004 - Melbourne

Mr E. Worthington and Mr Bernard Morey, Bereavement
Assistance Limited (BAL)

Mr B. 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

Mr R. Allison, Vice President, Cemeteries and Crematorium
Association of Victoria

Mr P. Williams and Mr A. Nelson, Nelson Brothers Funeral Directors

Mr R. Memory, General Manager, Distribution and Customer
Marketing and Mr B. Pyke, General Manager, Corporate Marketing,
State Trustees

Mr S. Mulqueen, President, Victorian Independent Funeral
Directors Association

Mr I. Gibson, Director White Dove Ladies Funeral Services

19th October 2004 - Melbourne

Mr M. King, Kings Funeral Services, Geelong, Mr J. Fowler, Le Pine Funeral Services; Mr R. Marsh, Bledisloe Australia; Mr M. Tobin, Tobin Brothers Funerals; Ms K. Bell, Australian Funeral Directors Association (AFDA) and Mr M. Tobin, Tobin Brothers Funerals

Ms J. Burge, Chairman, Australian Institute of Embalming
Ms E. Young, Company Secretary of the Australian Institute of Embalming

Ms T. Stevens and Mr D. Cragg, Australian Workers Union

Mr J. Mullenhour, Educator, Mortuary and Funeral Educators

Mr N. Woff, Manager, Funeral Plan Management

22nd November 2004 – Melbourne

Mr Rowan Gould, executive officer – Islamic Council of Victoria

Mr Philip Knight, advisor – Islamic Council of Victoria

Mr Mortada Haggag, services manager – Lysterfiled Mosque

Mr Mehmet Atasever, committee member, funeral services manager
King Street Mosque, Broadmeadows – Broadmeadows Turkish Islamic Society

The following extracts from the Minutes of Proceedings of the Committee show divisions that occurred during the consideration of the draft report on Monday 31st October 2005.

Mrs Jeanette Powell, MLA moved that:

“The Inquiry into Regulation of the Funeral Industry report not be adopted at this meeting due to the absence of members of the Opposition.”

This motion was not seconded.

The Committee discussed tabling dates and noted that adoption of the report at this meeting would allow the Committee to table the Report in both Houses of Parliament on 17th November.

Ms Lisa Neville, MLA moved that:

“Given the adequate notice to Committee members of the finalisation of this report prior to this meeting, that the Report be adopted, taking into account changes to be taken in by the staff.”

This was seconded by Mr Dale Wilson, MLA.

The Committee then divided:

Ayes 3	Noes 1
Ms Heather McTaggart, MLA	Mrs Jeanette Powell, MLA
Ms Lisa Neville, MLA	
Mr Dale Wilson, MLA	

The motion was carried.

Minority Report – Inquiry into Regulation of the Funeral Industry

It is with some regret that the Liberal and National Party members of the Family and Community Development Parliamentary Committee find it necessary to write a minority report on *the Inquiry into Regulation of the Funeral Industry*.

In general terms, many of the findings and recommendations are supported. However, we do not believe the case was made for the further regulation of the funeral industry and we believe that increased regulation will lead to increased costs, which will ultimately be born by families.

We also believe that such regulation will disadvantage small funeral director operators, particularly in rural and regional areas. In our view this may well lead to business closures and funeral services not being readily available in country areas as a consequence.

Liberal and National Party members also strongly reject the establishment of a Funeral Industry Council (detailed in Recommendations 5.3, 5.4, 5.5, and 5.6) which would impose the licensing of funeral directors and an authorised code of practice.

We believe this body would:

- **impose an un-necessary level of bureaucracy**
- **prove to be enormously costly**
- **impose unnecessary levels of regulation on the sector,**
and
- **mean the cost of licensing and compliance would be passed on to Victorian families.**

There is also a profound concern that issues which have come to light in relation to the operation of cemetery trusts and their relationship with funeral directors have not been considered as part of the committee's inquiry.

Finally, we believe that the impact on the funeral industry resulting from the closure of pathology services in country

Victoria should have also been considered by the committee in its deliberations. This did not occur, despite the issue being raised by Liberal Party and National Party members.

These matters will be discussed in detail as part of this minority report.

The terms of reference for the inquiry into the funeral industry required an examination of the adequacy of the current regulatory framework taking into account:

- the quantity and severity of complaints
- community perceptions and standards
- public and environmental health concerns
- occupational and employee health safety issues, and
- consumer protection and fair trading issues.

The following is a discussion of these issues, the evidence presented to the committee and the position of the Liberal and National parties in relation the findings and recommendation of the committee.

Consumer Affairs Victoria provides the following for consumer families of funeral industry services:

- conciliation services for consumer complaints
- a pro-active role in consumer protection involving the assessment of problem service providers
- promotion of activities to prevent breaches of the law
- prosecution of service providers under the appropriate legislation, and
- compliance and enforcement activities involving the auditing and inspection of funeral businesses.

The legislative framework and authority under which Consumer Affairs Victoria (CAV) acts in relation to the funeral industry is provided under provisions of the Fair Trading Act 1999 and the Funerals (Pre-paid Money) Act 1993.

CAV submitted to the Family and Community Development Committee through the Victorian Government submission that

over the four year period from January 2000 to January 2004, only 53 complaints about the funeral industry were received.

This represented 0.2% of total complaints received over this period and most complaints (according to CAV) were resolved effectively through conciliation.

CAV concluded in its submission that “***the patterns that have emerged from the complaints data do not suggest a significant level of dissatisfaction amongst consumers in relation to funeral directors’ services and the management of funeral funds.***”

In addition the complaints received by CAV are at a level where most can be managed through conciliation. This data does not suggest systematic industry problems”.

The final point made by CAV suggested that in relation to issues which could not be resolved between the consumer and the funeral director, there may be a need for better communication between funeral directors and consumers regarding rights and responsibilities in relation to funerals and funeral funds. This aspect has been addressed in the report of the committee and has the support of the Liberal and National parties.

However, given the evidence as detailed above, the Liberal and National Party members of the committee cannot support Finding 4.1, which in summary states that the number of complaints received does not provide a valid indication of problems existing within the industry. We do not believe there was enough evidence to support this claim.

However, we do support those recommendations which promote the communication of information to consumers in relation to complaints procedures (Recommendations 3.9 and 4.1), comparison of products, services and prices (Recommendation 3.8) and further information (Recommendation 3.10)

We also support the need for a central registry of pre-paid funerals to assist families with information about the existence and detail of funeral contracts (Recommendation 3.11)

The Victorian Workcover Authority through the Victorian Government submission raised the issue of allegations of practices in relation to the storage, handling and disposal of bodies which could have consequences for public and occupational health and safety, particularly if invasive procedures had to be undertaken when people have died from notifiable and infectious diseases or where their treatment prior to death had involved the use of hazardous substances.

The suggested action of VWA was that consideration should be given to the development of health and safety information and guidance on infection control.

These issues have been dealt with under Finding 3.2, Recommendations 3.2 and 3.5. These recommendations relate to the updating of government infection control guidelines and the identification of diseased persons who may carry an infectious disease.

The provision of professional training to ensure people working in the funeral industry have knowledge and understanding of the requirements of the industry is also addressed in Recommendation 3.6.

The Liberal and National Party members support these findings and recommendations.

It should also be noted that industry associations which are discussed at length in the committee report promote best practice and provide members with standards and guidelines which include a code of ethics and practice, detail as to the nature and standard of equipment required, procedures for the intrastate and interstate transfer of human remains and the development of infection control guidelines.

The Victorian Workcover Authority has the responsibility of enforcing Victoria's occupational health and safety laws to ensure the protection of employees.

In their submission through the Victorian Government submission, the VWA identified those areas in the funeral industry which had a potential to expose employees to risks to their health and safety.

The issues raised by the VWA in relation to the handling of bodies and infection control has been dealt with above and through the detailed recommendations already discussed.

The VWA further clarified in their submission that while interventions in the funeral industry (under legislation) are within the framework of their current business plan, no specific targeting of the sector is proposed. In our view, this is an indication that Victoria's Workcover Authority is not of the view that there are substantial problems in the funeral industry which would demand compliance or enforcement action.

The VWA did not suggest a need for further regulation or licensing of the funeral industry. In fact the VWA stated in their submission that ***"It is the VWA's view that the current legislative framework outlined above is adequate for employers to comply with their duties towards their employees and the public"***.

The Victorian Government submission to the inquiry acknowledged that there is a general lack of knowledge regarding the law as it affects the funeral industry or the costs which families should expect to incur.

We are satisfied that the recommendations of the committee in relation to the provision of information to families through consumer affairs and funeral directors will address this issue.

This Government submission further discussed the issues surrounding the case for a highly regulated funeral industry. The submission referred to the example of the United States, which has been highly regulated, but is now moving to deregulation and the removing of barriers to participation. The submission suggested that the rationale for this is that less restrictive regulation may result in greater benefits to consumer families, while still offering adequate protection.

The submission went on to explain that Victoria has few government imposed barriers to market entry of the funeral industry and that as such, "we can benefit from the experiences of other jurisdictions, where the benefits of regulation that nurtures competition have been recognised".

The need to ensure that people who threaten consumer confidence or pose public health or occupational health and safety should be held accountable was recognised in the submission.

To this end the Victorian Government outlined its action in the development of protocols to manage specific risks from exposures when handling bodies of persons who have died.

Recommendations in the report supporting the Victorian Government's development of protocols are supported by the Liberal and National Party committee members.

We also support the important role of Consumer Affairs Victoria taking action where they believe providers have acted inappropriately or outside the law to ensure consumer confidence.

The Liberal and National Party members' opposition to the establishment of a Funeral Industry Council is detailed at the beginning of this report.

We cannot emphasise enough our complete opposition to this proposal. It is also our view, taking into account the Victorian Government submission, that the Victorian Government has not made a case either for the establishment of such a body or the licensing and further regulation that such a body would impose upon the funeral industry sector.

The final area for discussion in relation to the findings and recommendations of the report, relates to the need for the accreditation and registration of embalmers.

We recognise that this is an area of great sensitivity, because it involves procedures being carried out on the remains of deceased people. We also recognise the need for those embalming the deceased to have the skills to perform such tasks.

There are currently adequate training courses available for those in the funeral industry who embalm the deceased. Additionally the development by the Victorian Government of protocols for the handling of bodies and infection control, will provide further guidance in this area. It should also be

recognised that many in the industry have developed high levels of competence in this area through experience and on the job training

Recommendation 5.2 calls for the accreditation and registration of embalmers with a two year transition period for its introduction. It is our view that during this intervening period the Department of Human Services should properly assess the need for mandatory training, the subsequent cost to consumers and whether its introduction would be of benefit to Victorian families.

In relation to the issue of pathology services in country Victoria. The committee received evidence from Conway Funeral Home in Wodonga about pathology services at Wangaratta Base Hospital.

The letter detailed issues within the Committee's Terms of Reference about the impact of the withdrawal of pathology services in country Victoria on the funeral industry. This letter is attached. Unfortunately Labor members of the committee were not prepared to consider this evidence or to hold hearings on this important matter.

At the beginning of this report, concern was raised about the interaction between cemetery trusts and funeral directors. This issue is squarely within the committees Terms of Reference and this matter was drawn to the attention of the committee in a letter date May 9, 2005 by the Hon David Davis to the committee chairman, the Hon Bob Smith. The letter is attached.

Further, the Auditor-General's recent report – *“Results of Special Reviews and Other Investigations”*, May 2005, reported on the *Cheltenham and Regional Cemeteries Trust-Review of expenditure and related matters*. At page 43, he drew attention to the payment of commissions to funeral directors and others to promote and refer business.

It is our view that this matter should have been thoroughly investigated and included formal public hearings. This did not occur. The chairman of the committee, the Hon Bob Smith wrote to the Hon David Davis on May 11, 2005 stating that “the

investigation of the matters raised in your letter would not assist the committee in finding ways to improve the current regulatory framework.

In closing the Liberal and National Party members of the committee found in meeting with Victorian funeral directors that they represent a highly professional group of service providers to the Victorian community in an area which is highly sensitive. It was obvious that Victorian Funeral Directors appreciate the responsibilities and the importance of providing a sensitive and respectful service for grieving families.

We thank all those who made submissions to the committee and the staff of the committee for their hard work and dedication.

Signed



Helen Shardey MP



The Hon David Davis MP



Jeanette Powell MP

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The Honourable David M. Davis, MLC

Shadow Minister for Health
Member for East Yarra Province

Monday 9th May 2005

Mr Bob Smith MLA
Chairman, Family and Community Development Committee
Parliament of Victoria
Level 8, 35 Spring Street
Melbourne Vic 3000

By fax and email

Dear Bob,

Re: Inquiry into the Regulation of the Funeral *Industry* – *need to address new evidence relevant to our terms of reference raised in the Auditor-General’s report Results of Special Reviews and Other Investigations tabled in Parliament last week.*

I write to you regarding the Family and Community Development Committee’s Inquiry into the Regulation of the Funeral Industry and relevant evidence that pertains directly to our terms of reference raised in the recent Report of the Victorian Auditor General, Results of Special Reviews and Other Investigations.

In the Auditor’s Report he raised issues that clearly involve funeral directors. One such issue involved the Cheltenham Trust which “illegally payed incentives to private businesses”. The Auditor said, “In the past three years, the trust paid a total of about \$40,000 to

funeral directors and others to promote and refer business (such as burials, cremations and purchase of monuments and memorials) to the trust contrary to the requirements of the Act.”

If the Auditor’s report is accurate this information is very relevant to the sections of our reference that deal with consumer protection and fair trading issues. These matters are firmly within the purview of all four of our particular terms of reference.

Submissions provided to the Committee to date do not appear to cover key issues raised in the Auditor’s Report.

Given that the Family and Community Development Committee have yet to finally conclude its inquiry or to adopt a report I consider it should examine the new and relevant evidence. Not to do so would in my view result in an incomplete and inadequate report. There is a need to learn from problems such as those pointed to by the Auditor and for us as a Committee, under our terms of reference, to report on policy approaches that may better protect the community.

Given also the extraordinary nature of the Auditor General’s findings the Committee should move quickly, this week if necessary, to examine this evidence, to request that witnesses attend to explain the evidence under oath.

After examining the Auditor’s report it is my view it is critical that key members and staff of the Cheltenham and Regional Cemeteries Trust, former members of the trust and the former Chief Executive Officer be asked to give evidence. Other witnesses who would be in the position to give relevant evidence include officials at the Environmental Health Unit in the Department of Human Services and those involved in the regulation of the funeral Industry.

I will move at today’s meeting that the Committee examine the Auditor’s report and that we take evidence under oath at a public hearing or hearings from key trust officers, departmental officials and the Minister for Health, Bronwyn Pike. This evidence should be heard as soon as possible.

I attach a copy of the Auditor's Report and a copy of our terms of reference.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'David M. Davis', with a stylized flourish above the name.

Hon. David M. Davis, M.L.C.
Shadow Minister for Health
Member for East Yarra Province

Cc all members of the Family and Community
Development Committee

Conway
Funeral Home

Tony and Monica Conway
20 South Street,
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Telephone: 02 6024 1093
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Email: conways1@bigpond.net.au
Member AFDA

7 July 2005

The Hon Robert Smith
Chairman
Family and Community Development Committee
Level 8
35 Spring Street
MELBOURNE VIC 3000

Dear Mr Smith

Until recently, as a Funeral Director in Wodonga, I have been able to have an autopsy carried out at the Wangaratta Base Hospital on the body of a deceased person, usually at the request of the State Coroner's Office.

Gribbles Pathology, who provide the pathology service at the Wangaratta Base Hospital, now advise that they will not always be performing autopsies at this hospital.

This means that I am now obliged, when an autopsy is required, to take the body to Melbourne and then return with the body once the autopsy is completed.

In some cases, this means that a deceased person from Corryong is required to be transported from Corryong via Wodonga to Melbourne and back to Corryong. This can lead to a delay of the funeral of the deceased for up to three to four days, plus extra costs on the government.

As you would imagine, this can lead to additional trauma being inflicted on the family of the deceased, particularly in circumstances where the Coroner's Office is involved.

I have been advised that this problem is not just related to the Wangaratta Base Hospital, but that Pathologists are now in many cases not conducting autopsies on the bodies of deceased persons.

In some cases, Pathologists are now brought to country areas on one day a week basis. This is totally unsatisfactory as it leads to even longer delays. The alternative is that the majority of these autopsies are now to be carried out in Melbourne. I might add they have been a great help to country Funeral Directors in the services they provide.

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As a Funeral Director, I believe that my time should be spent assisting families in their time of need. This additional requirement does make it much harder to provide the necessary personal attention and compassion for the family.

I would like your Committee to accept this letter as a submission to the Enquiry into the Funeral Industry which I understand is still current.

The Committee should be made aware that the service of Pathologists to provide autopsies is a vital part of the funeral industry. The current circumstances in country Victoria are totally unacceptable and are a further erosion of services available to country residents.

Yours sincerely


Tony Conway
Funeral Director