

Proposal for licensing in the funeral sector



Outline

We advocate for the establishment of a licensing system, based on the framework of the Security Industry Authority, and introduced for those working within the funeral sector in the UK. Oversight should be provided by an independent regulatory body (the Regulator).

1. Licensing Requirements

- All individuals employed in the funeral sector, in any capacity, should be required to hold a personal license. Additionally, all owners /operators of businesses providing funeral directing services should be required to obtain an additional company license.
- Compliance with the proposed Funeral Director Code 2024 'Serving the Public' code of practice should be a mandatory requirement for all license holders, both personal and company.

2. Disclosure and Barring Service (DBS) checks and training

- All people working in the funeral sector should be required to undertake a mandatory DBS check in order to be awarded a personal license.
- Anyone commencing employment in the funeral sector after the implementation of a licensing system should complete a mandatory online test within three months of commencing their employment.
- Training for the personal license test should be accessible to all funeral providers and not limited to existing trade associations.
- All training providers should be approved and licensed.

3. Criteria Development

- Details of criteria required to achieve either a personal or a company license will need to be established. This should be done through robust and comprehensive research into skills required, input from industry experts supplying suggested specifications, and public consultation.
- The Regulator will be responsible for and should determine minimum knowledge and competency standards required for attaining a personal license, and for establishing online competency tests.

4. Monitoring and compliance

- The Regulator should monitor compliance with licensing requirements in the funeral sector and maintain an up-to-date published list of all currently licensed individuals and companies.
- Individuals failing to achieve minimum standards of knowledge and competency will be denied a license and will not be allowed to be employed in the funeral sector, or to own or operate a company offering funeral related services.

5. Company License criteria

- The Regulator will be responsible for determining the criteria for holding a company license. The criteria should encompass aspects of business management (similar to that expected by HMRC and The Charity Commission when establishing whether an individual be permitted to manage a charity), a test of enhanced knowledge and understanding of the requirements involved in providing funeral services, and a fit and proper person test (FPPT) for the owner or operator of the company.
- The Fit and Proper Person Test Framework developed by NHS England in response to the recommendations made by Tom Kark KC in his 2019 review should be considered as a basis for a funeral related FPPT. (*See*

notes)

- Adopting similar criteria to that implemented by NHS England for a funeral related FPPT would be a sound basis for ensuring that only appropriate individuals are in a position of responsibility owning or operating a company offering funeral related activity or services.
- Some of the criteria of a FPPT test could be included for individuals seeking a personal license to work in funeral related activities. For example, the requirement to be of good character, and the requirement to have the qualifications, competence, skills and experience that are necessary for the relevant office or position or the work for which they are employed.
- It should be noted, however, that a prior conviction should not automatically disbar individuals from attaining a personal license. Instead, a restricted license could be issued, enabling their employment in roles where there would be no unsupervised interaction with bereaved people or with people who have died.
- The standard for individuals seeking a company license should be significantly higher. No person failing the FPPT should be permitted to either own or operate a funeral business, nor hold a position of responsibility in a funeral business owned or operated by another named individual.

6. Review and renewal

- A review system for both personal and company licenses should be implemented, with personal licenses subject to renewal at regular intervals (to be determined by the Regulator).
- Annual self-attestation to the Regulator should be required of all company license holders.

7. Revocation and consequences

- Revocation of a personal license by the Regulator should result in the individual being prohibited from working in the funeral sector in the future. There would be no impact on the holder of the company license of the company that employed the individual concerned.
- Revocation of a company license should result in the license holder being prohibited from working in the funeral sector in the future in any capacity, and could result in the permanent closure of their business.

Conclusion

By implementing these measures, we aim to ensure professionalism, accountability, and the highest standards of service in the UK funeral sector.

Notes

[The NHS England Fit and Proper Person Test for board members](#) became effective on 30th September 2023. It takes into account the requirements of the Care Quality Commission in relation to directors being fit and proper for their roles. It incorporates [Regulation 5 of the Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014](#) (the 'Regulations').

The regulation requirements are that:

- a. the individual is of good character*
- b. the individual has the qualifications, competence, skills and experience that are necessary for the relevant office or position or the work for which they are employed.*

- c. the individual is able by reason of their health, after reasonable adjustments are made, of properly performing tasks that are intrinsic to the office or position for which they are appointed or to the work for which they are employed.*
- d. the individual has not been responsible for, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) while carrying out a regulated activity or providing a service elsewhere which, if provided in England, would be a regulated activity.*
- e. none of the grounds of unfitness specified in part 1 of Schedule 4 apply to the individual.*

The grounds of unfitness specified in [Part 1 of Schedule 4 to the Regulated Activities Regulations](#) are:

- a. the person is an undischarged bankrupt or a person whose estate has had sequestration awarded in respect of it and who has not been discharged*
- b. the person is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order or an order to like effect made in Scotland or Northern Ireland*
- c. the person is a person to whom a moratorium period under a debt relief order applies under Part VIIA (debt relief orders) of the Insolvency Act 1986*
- d. the person has made a composition or arrangement with, or granted a trust deed for, creditors and not been discharged in respect of it*
- e. the person is included in the children's barred list or the adults' barred list maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006, or in any corresponding list maintained under an equivalent enactment in force in Scotland or Northern Ireland*
- f. the person is prohibited from holding the relevant office or position, or in the case of an individual from carrying on the regulated activity, by or under any enactment.*

The good character requirements referred to above in Regulation 5 are specified in [Part 2 of Schedule 4 to the Regulated Activities Regulations](#), and relate to:

- a. whether the person has been convicted in the United Kingdom of any offence or been convicted elsewhere of any offence which, if committed in any part of the United Kingdom, would constitute an offence*
- b. whether the person has been erased, removed or struck off a register of professionals maintained by a regulator of health care or social work professionals.*