

FEEDBACK ON CODE OF PRACTICE REVIEW AND DHS RESPONSES

Implementation issues raised	DHS response
<p>The Code should be adopted by entire sector to improve consistency.</p>	<p>It is not appropriate for the Code to be adopted by the entire cemeteries sector. The Code only applies to those trusts that engage in the sale or supply of memorialisation activities and who have a material impact on the market. For example a small trust who sells two plaques a year is unlikely to have a significant impact on the overall memorialisation market and therefore would not be required to comply with the Code.</p> <p>The department is undertaking further work to ensure that all trusts who should be subject to the Code are identified, and the department will write to these trusts requesting that the adopt and implement the Code.</p> <p>However in the interim, if there are specific trusts who are not currently a party to the Code, and whom the sector believes should be, this should be brought to the department's attention.</p>
<p>Heavily reliant on associations involved in the Code – concerned that non-members are unaware of it</p>	<p>The Code has been promoted to all trust members through the department's newsletter and through Cemeteries and Crematoria Association of Victoria (CCAV) meetings.</p> <p>Information regarding the Code is also readily available on the department's website.</p> <p>As noted above, the department is also undertaking further work to ensure that all trusts who should be subject to the Code are identified and asked to adopt and implement the Code.</p>
<p>Lack of understanding by the department and trusts in regards to bundling of fees.</p>	<p>In many cases, trust's current fee setting methodologies do not provide adequate transparency in regards to how their fees are built up.</p> <p>As part of the implementation of the common chart of accounts (in the largest 14 trusts that report under the Financial Management Act 1994 [FMA]), a costing worksheet tool has been developed to assist these trusts more accurately cost their services and to set appropriate fees for these services based on these costs. This costing worksheet outlines all of the key elements that these trusts should be including in their fees.</p> <p>Once the common chart of accounts has been implemented, these 14 trusts will be required to use this costing worksheet to determine appropriate fee levels for any new fees, and to use it to justify any requests to increase their fees above CPI.</p> <p>For those trusts that do not report under the FMA, the department has worked with the CCAV to develop a set of standardised 'masons permit fees', and a model to assist trusts in setting more appropriate masons permit fees. The department will be writing to trusts shortly about these matters.</p>
<p>6.2.1 (regarding percentage based fees) was a short term issue and should now be removed.</p>	<p>Section 6.2.1 has been amended to provide greater clarity about the limited circumstances under which percentage based fees are permitted.</p>

Implementation issues raised	DHS response
The requirement for staff to refer consumers to external suppliers requires ongoing staff training due to staff turnover.	All new staff who deal with the sale or supply of memorialisation products and services should receive training about the Code and its requirements as a matter of course. This particular requirement should simply be one component of this training.

Content issues raised	DHS response
<p>6.4.2 (notice period for change to specifications) minimum notice period should be increased from 20 working days to 60 or 90 days as this is the lead time for imported monuments, which accounts for about 80% of all monuments</p>	<p>Section 6.4.2 of the Code has been amended as outlined below.</p> <p>The minimum notice period for changes to specifications has been increased to 60 days, based on advice that this is the minimum lead time required for imported monuments.</p> <p>Whilst 60 days is now the default minimum requirement mandated by the Code, individual trusts may choose to adopt a longer notice period if they desire.</p> <p>As is currently the case, this minimum notice period will not apply where specifications are altered for health and safety reasons.</p> <p>It is also expected that where this minimum is not suitable, individual trusts and stonemasons will negotiate an acceptable alternative timeline between themselves on a case by case basis.</p> <p>Note that feedback on this matter during additional consultations indicated that to date this has not been an issue as no trusts have altered their specifications.</p>
<p>Audit of all major trusts in first year and then smaller trusts thereafter to make sure the Code is being complied with – this could form part of Trusts’ governance and compliance and be recorded in trust minutes</p>	<p>A Code of Practice is designed to be self regulating, compliance is not audited but rather is enforced by exception where breaches are identified and reported to the appropriate entity, in this case, the department.</p> <p>Section 1 of the Code has been amended to recommend that trusts incorporate monitoring and compliance with the Code into their trust governance framework.</p> <p>To improve overall compliance with and awareness of the Code, the department will include Code compliance as an element of trust governance to be included in trust governance training. A tender for the development and delivery of this training is currently being finalised.</p> <p>In addition the department has commenced a process to audit all gazetted trust fees that relate to memorialisation products and services.</p> <p>Note that to date, there have been no formal complaints regarding non-compliance with the Code to either the department or the Victorian Competition and Efficiency Commission (VCEC).</p>

Content issues raised	DHS response
<p>Any trust selling memorialisation products should display a sign of reasonable size in their reception area stating that 'The cemetery sells memorials but they can be purchased from alternative suppliers' – to address issue of trusts relocating sales area to a back room to avoid intent of the Code</p>	<p>The issue here is not the location of the trust's display space, as section 4.2 of the Code applies regardless of where their display is located.</p> <p>In this particular case this means that if a stonemason elects to utilise the trust provided display space, the trust would be required to provide equivalent space within their 'display room' regardless of where it was located.</p> <p>Note however that feedback provided during the review process indicates that to date no stonemasons have approached trusts to take up this option in regards to use of display space.</p>
<p>Well presented, relevant, practicable and easy to understand.</p>	
<p>Requirements related to private mausoleums should be included</p>	<p>Section 3 of the Code has been amended to clarify that the Code is applicable to the establishment and construction of all <i>private</i> mausoleums regardless of whether they are being established by the trust or an alternative supplier.</p>

Compliance issues raised	DHS response
<p>Section 6.1 still not being complied with - 'one major trust continues to supply even though the Code prohibits this practice'</p>	<p>Specific instances of non-compliance with the Code must be formally reported to the department to enable an investigation and action to be taken.</p>
<p>Completion of work certificates is not happening – discussed at FICC meeting that providing the Code stated this information must be available to memorialists or the holder of the ROI if requested this would suffice.</p> <p>Section 7.3 (regarding sign off on completed work) is not being complied with – consider rewording to require trust to allow mason of family member to sight the permit application to determine whether the trust has signed off on the completed memorial</p>	<p>Where trusts charges fees for the provision of specific services they must ensure that they fulfil their obligations in regards to the provision of those services in their entirety.</p> <p>Trusts must not charge fees or include components in their fees for services that they do not provide, or which they do not provide in full.</p> <p>Trusts should also note that it is good administrative practice to provide some form of written notification (completion certificate) to an applicant, confirming that their memorial or monument has been completed to the trust's satisfaction.</p> <p>Trusts should give careful consideration to the wording used in this signoff, and should be very clear about specifically what it is they are signing off on. Trusts should not provide signoff on any aspect of the memorial's construction or establishment that they themselves can not certify as fact.</p> <p>Trusts may also wish to consider obtaining a signed statement from the stone mason or other person who built the monument, confirming that it has been constructed in accordance with the relevant standards. Trusts may then wish to incorporate this third party signoff into their completion certificate.</p>
<p>Transparency of fees requires a lot of work and an audit or more time spent by department staff when approving fees.</p> <p>Standardisation of fee structure would assist.</p> <p>Need to make sure all costs borne by third parties are taken into account when setting fees (eg taxes paid by some trusts).</p>	<p>As noted above the department will be undertaking a review of all trust fees relating to those services where trusts are in direct competition with the private market.</p> <p>Also as previously discussed –</p> <ul style="list-style-type: none"> • a costing worksheet has been developed to assist the larger trusts with their fee setting, to ensure that these trusts include a range of additional components such as competitive neutrality costs or taxes when building up their fees; and • standardised masons permit fees have been developed in consultation with the CCAV.

Compliance issues raised	DHS response
<p>Complaints should in first instance be handled by FICC, if FICC unable to resolve then refer to the OSBC</p>	<p>Section 9 of the Code has been amended as outlined below.</p> <p>The department's preferred process for handling complaints or Code related matters is for issues relating to specific cemetery trusts to be raised with the department in the first instance. Given the department's statutory powers and functions under the Act it is best placed to assist in this regard.</p> <p>Sector-wide issues impacting the sector as a whole may be raised either through the department or through the FICC. Where matters are raised through the FICC it is expected that this committee would take the lead role in facilitating discussion, further consultation with the sector including non-CCAV trusts (as required) and resolution at a sector-wide level.</p>
<p>A number of trusts don't seem to be complying eg many still charging percentage-based fees</p>	<p>As noted in the Code, any fees applied by a trust in relation to bereaved parties use of alternative suppliers for goods and services should be clearly documented, and must not be percentage-based.</p> <p>The department has commenced an audit of currently gazetted percentage-based fees relating to alternative supplier's goods and services, and will be addressing these on a case by case basis with trusts.</p> <p>Note that percentage-based fees are still permitted where the fee relates to a good or service provided by the <i>trust</i>.</p> <p>For example where a trust purchases plaques through a preferred supplier for on-selling, they would apply a set percentage mark-up on these plaques to account for things such as overheads, competitive neutrality etc.</p>

Additional competitive neutrality issues raised	DHS response
Requirements related to private mausolea	Section 3 of the Code has been amended to clarify that the Code is applicable to the establishment and construction of all <i>private</i> mausoleums regardless of whether they are being established by the trust or an alternative supplier.

Frequency of future reviews	DHS response
Again in the next 12 months and then every two years.	<p>Given that the types of issues raised through this review process, and the resulting amendments to the Code were relatively minor, the department has determined that the next review will be conducted in two years time (June 2010).</p> <p>However if specific issues arise in the interim these should be brought to the department's attention and will be dealt with on an as-needs basis.</p>
Given extensive consultation, at most every three years, however would prefer every five years or more so as not to dissipate community, industry and DHS resources.	
Every two or three years.	
One more annual review followed by biennial reviews.	
Every year for next three years.	
Again in 2008, then pending the outcome of this review, possibly every two years.	

Other minor amendments to the Code

- Section 4.1
amended to clarify requirements regarding trusts' use of preferred suppliers.
- Section 6.2
amended to reflect the fact that the form '*Application to Establish or Alter a Memorial*' has been finalised and to provide details about where it can be accessed.
- Section 8.3
the heading has been amended to be consistent with terminology used throughout the Code.

Trusts / Organisations who provided submissions to the Review

- Bendigo Cemeteries Trust
- Cheltenham and Regional Cemeteries Trust
- Eltham Cemetery Trust
- Geelong Cemeteries Trust
- The Necropolis Cemetery Trust
- Cemeteries and Crematoria Association of Victoria
- Competitive Neutrality Unit, Victorian Competition and Efficiency Commission
- Funeral Industry Consultative Committee.
- Master Stone Masons Association of Victoria