

## **Single Regulator for the Bereavement Sector- Questions and Answers**

### Ministry of Government and Consumer Services

As many stakeholders are aware, the Ministry of Government and Consumer Services (MGCS) has been working to establish a single regulator for the bereavement sector. This regulator will combine the licensing and enforcement activities of the current Board of Funeral Services (BOFS) and the ministry's Cemeteries Regulation Unit (CRU) in a single Delegated Administrative Authority (DAA).

The following questions and answers provide information about the new DAA.

#### **Q. Why is a new regulator being created for the bereavement sector?**

- A. The Funeral, Burial and Cremation Services Act, 2002 was proclaimed in 2012. This act modernized the regulation of the funeral, transfer service, cemetery and crematorium sectors and makes provision for a single regulator.

With an increase in single locations offering multiple bereavement services, such as a funeral establishment owning a crematorium or a cemetery with a funeral home on site, it is more effective to have a single regulator for the entire sector which will create a one-window approach for both licensees and consumers.

#### **Q. What will the new regulator do?**

- A. The new single regulator for the bereavement sector will assume responsibility for the licensing and enforcement functions currently exercised by the Board of Funeral Services (BOFS) and the ministry's Cemeteries Regulation Unit (CRU).

#### **Q. What is a Delegated Administrative Authority (DAA)?**

- A. A DAA is a not-for-profit corporation that delivers a regulatory program for government. It receives its delegated authority under the Safety and Consumer Statutes Administrative Act, 1996. A DAA is fully funded through the fees it collects from the industry it regulates and it is governed by an independent board of directors.

This does not mean that the sector is self-regulating. The government retains responsibility for the legislation and regulations which are administered by the DAA. The delegating ministry maintains a strong oversight and policy role while a DAA assumes responsibility for day to day operational service delivery decisions (e.g. licensing, enforcement, complaints handling, education, inspection, etc.).

**Q. Is BOFS a Delegated Administrative Authority?**

- A.** No. BOFS is an Administrative Authority, which is different from a DAA. It is different because it derives its authority to act from the Board of Funeral Services Act rather than the Safety and Consumer Statutes Administration Act, 1996.

BOFS is similar to a DAA in that both are funded by fees collected from licensees. But, unlike DAAs, BOFS's governance structure is set out in the Board of Funeral Services Act (BOFS Act) rather than in separate incorporation documents. Unlike DAAs generally, BOFS does not have an administrative agreement between it and the Ministry. Administrative agreements are a precondition to an entity being designated under the Safety and Consumer Statutes Administration Act. These agreements set out the roles and responsibilities of both the DAA and the ministry.

**Q. When will the new DAA be active?**

- A.** The ministry is currently targeting 2016, as the year the new DAA will become active. A not-for-profit corporation, the Bereavement Authority of Ontario (BAO), has been established. This not-for-profit corporation includes members representing the key sectors concerned – funeral and cemetery, municipal, and religious sectors and has members from the Board of Funeral Services and the Ministry of Government and Consumer Services, as well as a member with previous DAA experience. This organization is in the process of taking the steps necessary to be in a position to assume responsibility for regulation of the bereavement sector.

**Q. What will happen to BOFS once the BAO is active?**

- A.** Once the BAO is active, the BOFS Act will be repealed and its regulations revoked, and BOFS will be dissolved as a corporation. BOFS is working closely with the ministry to work through transition matters.

**Q. What will happen to the CRU once the BAO is active?**

- A.** Once the DAA is active, the licensing and enforcement functions of the CRU would be transferred to the BAO. Responsibility for cemetery closures and abandonments, and burial sites would remain within the Ministry of Government and Consumer Services

**Q. What will happen to the BOFS compensation fund?**

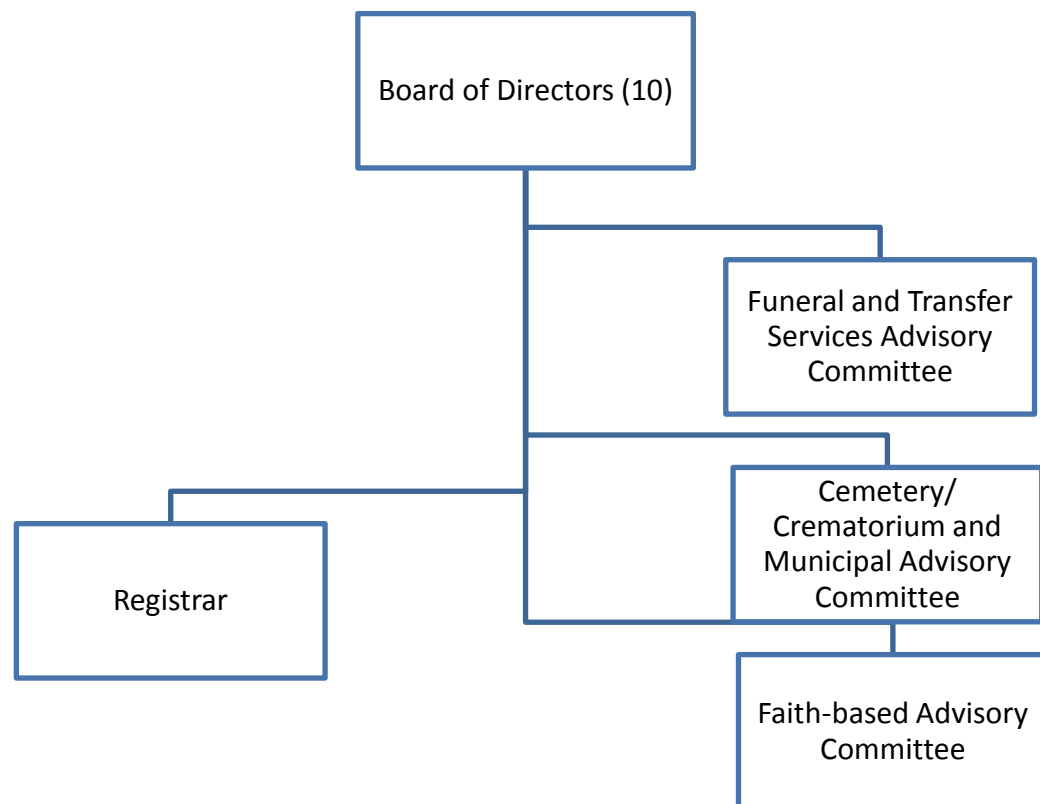
- A.** The compensation fund will be transferred to the BAO which will administer and oversee it. The funds will be available only for complaints in the funeral and transfer services sectors.

**Q. Will the BAO have the same governance structure as BOFS?**

- A.** The new DAA will have a different governance structure from that of BOFS in order to meet the needs of all sectors-- the cemetery/crematorium and funeral and transfer service sectors.

The figure following shows the current proposed governance structure of the BAO.

Proposed Governance Model:



At the time of transfer of responsibility to the BAO, it is envisioned that the governance structure will have a board of directors comprised of 10 directors, including the chair. Board members would be selected in one of three ways. Based on governance and skills-based competencies, be the chair of one of the sector advisory committees, or be appointed by the Minister of Government and Consumer Services. It is expected that the majority of the directors will be at arm's-length from industry and will not be involved in the bereavement sector. At least one director will have sensitivity to the broader religious community.

To provide the board with technical and stakeholder-specific input from the bereavement sector, three advisory committees will be formed. Each advisory committee will have representatives from the cemetery, crematorium, municipal,

funeral and transfer services and the faith-based sectors. Each committee chair will sit on the board of directors.

This proposed model also includes a Registrar with responsibility for licensing and compliance in the cemetery and crematorium services sectors, and funeral and transfer services sectors respectively. The Registrar would also be responsible for working with licensees on education and awareness activities to promote compliance as well as on sector-specific stakeholder outreach issues.

Appeals of licensing and compensation fund claim decisions would continue to be heard by the Licence Appeal Tribunal. Discipline, professional misconduct and licensing status would be referred to the appropriate Advisory Committee, which would then make recommendations to the Registrar.

**Q. Why will only three out of 10 directors be representing the cemetery/crematorium, funeral and transfer service and faith-based sectors?**

A. The majority of the directors on the board will be selected based on governance skills and key competencies. This will ensure that the members of the board can make decisions based on good governance practices. The Chair from each of the advisory committees, representing the cemetery/crematorium and municipal, funeral and transfer services and the faith-based sectors, will also sit on the board. This will provide sector input and feedback on board decisions, while maintaining balanced representation of the bereavement sector as a whole.

**Q. Will there be changes to the FBCSA or its regulations once the BAO is active?**

A. No substantive changes to the legislation are anticipated at this time. Minor regulation changes may be necessary to accommodate the move to the new DAA.

**Q. What will the transition to the BAO mean to consumers?**

A. The transition to a single regulator for the bereavement sector means that consumers will have a single point of contact for any questions or complaints they may have about funeral and transfer services or cemetery and crematorium

services. As there are no anticipated substantive changes to the FBCSA at this time, consumer rights under the Act will not change.

**Q. Will the transition to the BAO mean that licensing fees will increase?**

- A. The BAO will determine the license fees to be charged to licensees. License fees will be determined based on the services to be provided by the BAO and the cost of those services from year to year. It will be the responsibility of BAO management and its board of directors to control costs where possible and keep fee increases within reasonable parameters.

While it is not anticipated that licensing fees will increase as a direct result of transition to the BAO, if the need for a fee increase did arise in the future, the BAO would follow the fee increase process that will be set out in the Administrative Agreement between the ministry and the BAO. This process will include consultation with stakeholders in advance of any fee increase and is similar to the process currently in place under the BOFS Act.

By combining the work that is currently done by BOFS and the ministry's Cemeteries Regulation Unit, there may be opportunities to achieve efficiencies where there has been a duplication of process.

**Q. Where will the BAO be located?**

- A. The location for the new DAA offices has not yet been determined. An interim board of directors has been established, and the board will investigate and decide upon a suitable location for the offices of the Bereavement Authority of Ontario.