

FMSB Meeting

Wednesday 3 July 2024

Approved Minutes

Present: Robert Creighton (Chair), Sarah-Jane Turnbull, Lesley Allport, Mike Mack, Lorraine Bramwell, John Hobson, Alexis Walker, Anthony Blackman

Also present: Stephen Burke (FMC Chair), Beverley Sayers (FMC Representative), Helen Anthony (Executive Officer), Julie Perry (Operations Officer)

	Part 1 - Open session	Actions
1.	Introductory	
1.1	Welcome and introductions, apologies, declarations of interests	
	The Chair welcomed everyone, particularly Stephen Burke as the new Chair of the FMC Board, and Julie Perry, recently appointed as Operations Officer, and all introduced themselves.	
1.2	Approval of minutes of last meeting & matters arising not covered elsewhere	
	<p>The minutes of the meeting held on 24.4.24 were approved.</p> <p>Matters arising:</p> <ul style="list-style-type: none">• The FMSB noted that the FMC Board had approved the process for annual updating of the Standards Framework• The FMSB noted that the FMC accepted the recommendation that the Good Standing test be amended• The FMSB noted that updated Guide to Family Mediation for judges, magistrates and court staff had been approved by the FJC and will be endorsed by the President of the Family Division. The FMSB noted that the FMC would work with the FJC and the office of the President of the Family Division to ensure the guide is widely distributed to its intended audience, and to ensure that mediators are aware of the Guide. The FMSB noted that the President had also written a letter to parties to family proceedings, which the FMC hopes it will be able to share with mediators, for them to share with MIAM participants.• The FMSB noted that the Executive Officer was working to establish the full extent of non-compliance of the training course that took place at the end of 2023, and the extent to which the delegates were properly trained, with a view to ensuring those delegates who needed additional support	

	<p>received it. The FMSB expressed concern that it should not take on an inappropriate level of liability for remediating any deficiencies affecting the delegates, which should be entirely the provider's responsibility; but noted that the training provider was co-operating and recognised it did not have current approval to run courses. The FMSB noted that while the provider was no longer advertising future courses, the FMC approved course logo remained on its website. HA to work with RC and the provider to establish any gaps in delegates' training and to identify how to work with the delegates and their PPCs to produce tailored training plans. The FMSB noted the Training Panel was considering how to prevent this from happening again. It was suggested that this could include a declaration of compliance each time a course is advertised.</p>	
2.	Governance	
2.1	Reflections on Ways of Working	
	<p>The FMSB reflected on the way in which it worked.</p> <p>The FMSB agreed that it had improved its communication and engagement with mediators, but that further improvements would help mediators understand the extent and importance to the FMSB's work. The FMSB agreed that including a summary of its current work on the website and by agreeing a way in which mediators could inform the FMSB of issues they would like to be considered. The FMSB agreed it needed to be clear about which issues needed engagement with mediators, and how it worked to gain the input from mediators and FMC membership organisations (MOs).</p> <p>The FMSB agreed that its members and the FMC office staff worked well together and were supportive of each other.</p> <p>The FMSB noted that there were always issues of capacity both of its members and the support that could be provided from the FMC office. However, the FMSB noted that the profession as a whole had quite a lot of resources spread between the FMC and the MOs, and wondered whether there may be scope to extend capacity by working or reviewing its relationship with MOs.</p>	

	<p>The FMSB agreed it did not have a lot of data on which to base decisions.</p> <p>The FMSB agreed it was good at developing and establishing standards, as well as checking the standards were being met in certain areas (e.g. accreditation) but that there were some areas in which it was weaker at ensuring good practice and compliance with the standards. The FMSB agreed that further work on assurance was necessary, and noted that this had started with consideration of the role of the PPC.</p> <p>The FMSB noted that it could be bolder in some areas, and in particular with regard to preventing mediators from practising solo straight after coming off a Foundation Training Course. The FMSB agreed there was a difference between conducted role play in training exercises, and conducting a mediation with real clients, and therefore either training, or a post-training requirement, may be needed. The FMSB noted that the various accreditation reform workstreams were exploring ideas to try to address this issue. The FMSB noted that it would be easier to make changes in this area if it could enable supported practice.</p>	<p>HA & RC to consider any potential improvements to ways of working</p>
2.2	Workplan	
	The FMSB noted the updated workplan.	
2.3	Terms of Reference for Panels and Working Groups	
	<p>The General Principles of the Terms of Reference for the Panels and Working Groups were agreed.</p> <p>The Scope of Activities for the Registration and Promotion and DCA Panels, and the Accreditation Reform Working Group (ARG) were agreed, while those for the remaining Panels and Working Groups would be agreed in October.</p> <p>The FMSB asked the Panels that oversaw processes (i.e. Accreditation and Training Panels) to establish and monitor progress against performance criteria.</p> <p>The FMSB noted there were a number of issues relating to Child-Inclusive Mediation being discussed in the mediation community.</p>	<p>HA to ask remaining Panels to finalise review of Scope of Activities, including performance criteria for the Accreditation and Training Panels</p>

	<p>The FMSB noted that while many were about general policy some may have an impact on standards for mediators. LA, LB, AW, BS & MM agreed to have an initial discussion to identify the issues and ascertain what work may be necessary for both the FMC and the FMSB, and the extent to which the FMSB should take a lead.</p>	<p>LA, LB. AW, BS & MM to discuss CIM issues (LA leading)</p>
3.	Items for Decision	
3.1	Complaints	
	<p>The FMSB discussed the complaints review, and thanked AB and HA for its scope and depth. The FMSB noted that a key point to learn was that mediators have a varied approach to complaints management and that supporting them to manage complaints well would benefit the public, mediators and the FMSB.</p> <p>The FMSB noted that anonymisation was a time-consuming activity, and considered whether it was worthwhile. The FMSB noted that anonymisation helped ensure there was no conflict of interest between the mediator and panel, and that the panel couldn't draw inferences from names. The FMSB also noted that sometimes it was possible for panel members to become aware which mediator the complaint was about, whether through errors in anonymisation or through the circumstances of the complaint meaning that the mediator is easy to identify. The FMSB noted that anonymisation still had value, even though it was time consuming and sometimes imperfect. The FMSB agreed to ask mediators to anonymise material before submitting it to the FMSB.</p> <p>The FMSB noted the continued value of learning from complaints, and encouraging and supporting mediators to do the same. The FMSB noted that it was therefore important to continue ensure learnings are recorded and published in the annual complaints report, except for any urgent learning from complaints that should be shared as quickly as possible with mediators.</p> <p>The FMSB considered whether the FMSB Chair should sit on complaints appeals instead of any independent FMSB member. The FMSB was minded to change the process to reflect this, but noted consequential amendments may be needed, including a change to how complaints about the FMSB's processes would be handled. HA & JP to explore options and make recommendations.</p>	<p>HA to consider how the FMC may support mediators in managing complaints</p> <p>HA & JP to amend templates to request mediators anonymise complaints docs</p> <p>HA & JP to explore options re FMSB Chair role and make recommendations</p>

	<p>The FMSB discussed the difficulty of complainants not clearly specifying what their complaint is about, and the FMSB identifying potential breaches of the Codes of Practice or Standards Framework that were not specified in the complaint, which sometimes occurred once a mediator produced documentation in response to the complaint. The FMSB agreed it was important to ensure a mediator had the opportunity to respond to concerns. The FMSB agreed this needed further exploration. HA & JP to consider options and make recommendation.</p> <p>The FMSB agreed that the recommendations from the complaints review should be added in to the FMSB's workplan.</p> <p>The FMSB agreed that the review would be circulated to the FMC Board once finalised, and then published via the Newsletter and website.</p>	<p>HA & JP to explore options re specification of complaints and make recommendations</p> <p>HA to add recommendations in to workplan & circulate review once finalised</p>
3.2	CIM: DBS Checks	
	<p>The FMSB discussed whether mediators who are registered to conduct Child-Inclusive Mediators should be required to have enhanced DBS checks, now that the Ministry of Justice has issued guidance that employers or other organisations can access these on mediators' behalf.</p> <p>The FMSB noted that obtaining (and maintaining) the checks would require mediators or their employers to incur extra costs, and employers/contractors may have to review contracts to see if they needed to be amended, although the FMSB thought it likely that most employers would require CIM mediators to comply with FMC Standards, rather than specify what those standards are.</p> <p>The FMSB noted that the public was likely to expect that CIM mediators have had the highest level of check possible, and that mediators had been calling for the requirement to be introduced.</p> <p>The FMSB noted that any unspent criminal offences that are revealed on enhanced DBS checks (with or without a barred list check) should already have been disclosed to the FMSB under the FMC's Good Standing requirements. If a mediator has not disclosed</p>	

something to the FMSB when they should have, this is grounds for the FMSB to initiate a complaints and disciplinary process about the mediator concerned. There is precedent for this to result in the Complaints Panel considering why the matter was not declared, and then applying the Good Standing test, which requires consideration of the offence, whether it has any relevance to or bearing on mediation, the circumstances in which it is occurred, whether it is likely to be repeated, and any mitigating circumstances. This will mean that mediators whose DBS checks do not come back blank are given the opportunity to explain their situation to the FMSB and demonstrate that they can conduct CIM safely.

The FMSB agreed that in order to protect children, Child-Inclusive Mediators should be required to have an enhanced DBS check, with a check of the children's barred list when this is allowed.

The FMSB discussed the frequency of the checks that would be required, noting that checks looked at historical records, but that it was possible for people to subscribe to an update service that is updated with any new criminal records. The FMSB noted that the update service cost less than £13 per year, and so would be cheaper than requiring a mediator to provide a new certificate (which is a minimum of £38) once a year. The FMSB agreed that it was important that the information about criminal records is as up to date as possible and therefore agreed to require mediators to subscribe to the update service.

The FMSB agreed to ask *the FMC Board* to approve the necessary changes to the Standards Framework at its meeting in August, *and endorsed the approach to implementation outlined in the Executive Officer's report (subject to the finalisation of specific details).*

The FMSB noted that the office would need to make arrangements to check certificates, and to check periodically the update service to ensure no changes had been recorded. The FMSB noted that the FMC would need to review its Privacy Policy and check procedures so that suitable arrangements were in place to ensure that information about any criminal records was held appropriately. HA & JP to propose process and set these out clearly for mediators.

HA to add to FMC agenda

HA & JP to propose process

	The FMSB agreed to keep a watching brief on whether the policy had an impact on the number of CIM mediators.	
4.	Reports	
4.1	Chair's Report	
	<p>The FMSB agreed some minor amendments to the Scope of Practice for mediators working towards accreditation document. The FMSB agreed that it should be sent to training providers, PPCs, included on the FMSB website and the FMC newsletter. The FMSB noted that this document has been produced as request from mediators for clarification, and so its publication should be welcome.</p> <p>The FMSB noted the updated MIAM Guidance, and welcomed the proposal to issue this on an interim basis, whilst inviting mediators to submit queries/issues for consideration, which the FMSB can consider ahead of issuing final updated guidance later in the year. The FMSB noted that mediators had already raised some additional issue (including whether mediators should disclose MIAM notes to other providers with the permission of the MIAM participant, and amendments to how much mediators could should discuss other non-court dispute resolution options with participants who would not be able to afford them) and these would be noted in the communication inviting views.</p> <p>The FMSB noted that there were still questions in the mediation community about the new Family Procedure Rules and the amended court form page that mediators are asked to sign, but that the MIAM Guidance was aimed at trying to address these.</p>	RC & HA to update Scope of Practice doc
4.2	FMC Report	
	<p>The FMSB noted the draft minutes of the FMC meeting held on 12.6.24, and in particular the additional items that had been added to the FMC workplan: revisiting data that is needed, whether mediators should be required to have emergency continuity plans, and to consider how to introduce in to the Standards Framework a requirement not to bring the mediation profession in to disrepute.</p> <p>The FMSB also noted that the FMC had decided not to proceed with interviewing the one candidate for the independent FMSB vacancy at present, in order to try to attract a wider, diverse range of possible members.</p>	

	The FMSB noted that the FMC would be writing to the next Justice Minister to set out its key asks; the FMSB asked that when discussing funding, this included reference to the importance of legal aid.	
4.3	Executive Officer's Report	
	The FMSB noted the Executive Officer's report.	
5.	Updating & Discussion	
5.1	Registration & Promotion Panel	
	The FMSB noted the draft minutes of the Registration and Promotion Panel meeting held on 6.6.24. The FMSB welcomed the establishment of this new Panel and noted the importance of its work.	
5.2	DCA	
	<p>The FMSB noted the draft minutes of the Domestic and Child Abuse Panel meeting held on 15.5.24</p> <p>The FMSB noted that Panel was exploring funding options to develop a mediation specific screening tool, but in the meantime was starting work on this as a Panel, in order that the work could be progressed ahead of funding being secured. The FMSB noted that some grants are available for charities only, and welcomed an offer from the Family Mediation Trust which is a registered charity, to assist with such an application.</p>	
5.3	PPC Panel	
	The FMSB noted the draft minutes of the PPC Panel meeting held on 20.5.24, as well as the notes from the consultation meeting held on 17.6.24. The FMSB noted that the PPC Panel was due to report the results of its work on roles, responsibilities and career paths of PPCs in the autumn.	
5.4	Accreditation Panel	
	The FMSB noted the draft minutes of the Accreditation Panel meeting held on 1.5.24.	

5.5	Accreditation Policy Development	
	<p>The FMSB noted the draft minutes of the ARG meeting held on 5.6.24 and the meeting between the FMSB and Resolution about an additional pilot, held on 25.6.24.</p> <p>The FMSB noted that the ARG had carried out an exercise reviewing competencies, as part of its work to map competencies against proposed learning blocks. HA to circulate to FMSB once complete.</p>	<p>HA to circulate learning blocks/competencies mapping exercise to FMSB members</p>
7.	Future Meeting Dates	
7.1	<p>FMSB Dates 2024:</p> <ul style="list-style-type: none"> • 16 October (Online) • Joint FMC/FMSB Strategy Meeting: November, TBC 	