



FMC Manual

of Professional Standards and Self-Regulatory Framework

September 2014

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Part 1: The FMC Accreditation Framework

Introduction

This document describes the proposed requirements and process for gaining and renewing FMC accreditation as a family mediator, to come into operation from 1st January 2015 onwards. FMC accreditation is designed to be the standard qualification for family mediators in England and Wales, and embraces the current APC and Law Society schemes. As well as being required to conduct publicly-funded mediation, it will increasingly be needed for all mediation where referrals have been made for matters relating to separation and divorce that would otherwise go to court.

1. Title and eligibility

The designation **FMC Accredited Family Mediator (FMCA)** is awarded to family mediators who have (a) passed the assessments on an FMC-approved initial training course, (b) completed the post-training requirements, and (c) passed the final assessment of professional competence. Requirements (b) and (c) are summarised below. **Transitional arrangements**, providing exemptions from one or more of these components for previously-accredited, trained or experienced mediators are detailed in Appendix 4; in principle, anyone accredited to undertake legal-aided family mediation, or under the Resolution or FMA schemes, will gain FMCA provided they meet current practising and CPD requirements. Accreditation is currently for a period of three years, after which an application must be made for renewal that demonstrates that the mediator satisfies the conditions in section 3.

Award of FMCA status requires mediators to have basic competence in children and financial issues and to be able to undertake all-issues mediation (this requirement will not be applied to children-only or property and finance-only mediators who qualified under previous schemes). Post-FMCA, mediators may choose to specialise in one or other area or undertake all-issues mediation, provided the FMC Code of Practice is followed. Some specialist areas of mediation – for instance relating to direct consultation with children or child abduction – will require additional training and qualifications.

After 1st January 2015, mediators who wish to be added to any register approved by the Ministry of Justice or FMC for carrying out family mediation or for providing mediation information and assessment meetings (MIAMs) will need to have achieved FMCA status. Mediators who have already been approved to conduct MIAMs will be able to continue to do so until 31st December 2015, after which they will need to have gained FMCA.

The Law Society's family mediator accreditation scheme will apply the same standards as those required for FMCA. Subject to agreement by the FMC Family Mediation Standards Board (FMSB), Law Society accredited family mediators will automatically qualify for FMCA status.

FMCA family mediators may use the letters 'FMCA' or designation 'FMC Accredited Family Mediator' and any trade mark which may be agreed for the use of FMCA mediators.

Retaining FMCA status is subject to:

- remaining in membership of an FMC member organisation

- practising in accordance with the FMC Code of Practice
- Meeting the requirements to renew accreditation (these are explained in section 3).

2. Requirements for gaining FMC accreditation

2.1 Post-training requirements and restrictions

Mediators who wish to gain FMC accreditation will need to do so within three years of completing initial training. In exceptional circumstances this may be extended to up to five years with endorsement from the mediator's Professional Practice Consultant (PPC). Mediators who have not gained accreditation within this period will need to undertake further training as advised by the FMC.

Between completing training and becoming eligible for accredited status, mediators will need to do the following (and keep the relevant records and commentaries for the final assessment as detailed in appendix 1):

- Have at least ten hours one-to-one, principally face-to-face support from their PPC, with sessions recorded in a log countersigned by the PPC. This includes the PPC contact outlined below, but does not include (a) any time spent co-mediating with the PPC or observing the PPC mediate, or (b) the normal four hours per year of PPC contact expected of all mediators.
- Have (as the first of these sessions) a post-training review with the PPC. This may be organised by the provider of the initial training or by the mediator independently. The PPC will review the mediator's readiness to mediate and if necessary agree additional measures for gaining experience before starting to mediate.
- Before acting as a sole or lead mediator or representing themselves to the public as a family mediator (and see a. under 'Until mediators gain FMCA status' below), register with the FMC as working towards accreditation (this will normally be done via one of the FMC member organisations).
- Before starting to mediate, **either** observes **or** co-mediates in a mediation session conducted by an FMCA mediator, and produces an evaluative account of the session.
- For their first case as a sole or lead mediator, (a) have a pre-case discussion with their PPC before starting to mediate or to assess clients' suitability for mediation, and (b) hold a post-case review with their PPC. In the pre-case discussion, the PPC will if necessary identify any additional support that the mediator needs before starting the first session.
- Have at least one mediation session observed by their PPC (which must not be a session co-mediated with the PPC). This must be within two years of completing initial training and ideally should be near the beginning of the post-training period. More than one observation is encouraged, including observation of an initial assessment /consultation meeting. The PPC's written feedback on a minimum of one session needs to be included in the materials submitted for assessment.
- Take a minimum of three cases through to completion. These will need to be written up for assessment.
- Comply with the requirements for continuing professional development and ongoing PPC support (as applicable to FMCAs).

Until mediators gain FMCA status, they will need to:

- (a) Represent themselves appropriately to the public: a suggested format is '(Mediator) has completed initial training and is registered with the Family Mediation Council as working towards fully qualified status as a family mediator. S/he is supported by (PPC) as his/her Professional Practice Consultant.'
- (b) Enlist PPC or qualified colleague support if any elements of any case are beyond their capability.
- (c) Have any mediation outcome documentation, including memoranda of understanding and open financial statements, approved by their PPCs before being sent to their clients.
- (d) Have any court forms relating to their clients signed by their PPCs. This does not apply to mediators who were approved to conduct MIAMs before 1st January 2015, who may continue in this role until 31st December 2015.

2.2 Assessment of professional competence

Award of FMCA status is made following an assessment of a portfolio of work assembled from the period between completion of training and application (as described in section 2.1). The portfolio, which should normally be submitted in electronic form using widely-available software, must demonstrate that the mediator meets the FMC professional competence standards at a level that must be at least 'competent' and should show elements of progressing to 'proficient' (see appendix 3 for an explanation of these levels). The material required in the portfolio is detailed in appendix 1.

Completed portfolios must be sent to the FMC (via the office handling the administration of assessments) with the current application fee, which covers one assessment. Following submission, an initial examination of the portfolio will be made to ensure that it is clearly and legibly presented and includes the materials required in the outline above. Incomplete or incomprehensible portfolios will be returned to the mediator for amendment. An additional administrative fee may be payable for resubmission.

Portfolios that are deemed to be complete will be allocated to an assessor for formal assessment to the FMC professional competence standards. Assessors will be allocated to avoid conflicts of interest; where an assessor suspects that a conflict exists, s/he will discuss the matter with the scheme's chief assessor before proceeding with the assessment.

The assessor will make a rigorous and unbiased assessment of the portfolio to the professional standards. Any standards that are not met at the 'competent' level, or any failure to meet the portfolio requirements, will be clearly identified by the assessor, who will make one of three decisions:

- A. The mediator meets the required standards and is eligible for accreditation ('approved').
- B. Additional work is required on the portfolio that can reasonably be completed within six months, such as the addition of further explanations or an additional case-commentary ('accepted subject to additional work').

- C. Substantial work is required that is not likely to be feasible to complete within six months, typically because the work submitted falls substantially short of the professional competence standards or none of the cases are suitable ('competence not yet proven').

Assessors may make further enquiries if the portfolio suggests that the work submitted is not that of the mediator, or other forms of impropriety or plagiarism are suspected.

Portfolios will be moderated through examination by the scheme's Chief Assessor or by an experienced assessor nominated by him or her. Portfolios that appear to be borderline will be examined in depth and discussed with the first assessor. Assessors may also contact the mediator for further explanations.

Mediators will normally be informed of the assessment decision within six weeks of submitting the portfolio. If the portfolio is deemed not yet proven or is accepted subject to additional work, the reasons for this will be communicated clearly and precisely. In either case mediators will be encouraged to resubmit at the appropriate point (and where to discuss their portfolio with their PPC).

The Family Mediation Standards Board may examine a sample of portfolios as a check that the overall process is operating consistently and to the required standard. This does not constitute an additional assessment and will not delay assessment decisions being communicated to mediators.

2.3 Appeals against assessment decisions

Mediators who believe that their portfolio has been wrongly deemed 'not proven' or requiring additional work may make an appeal to the FMC, stating clearly the grounds for the appeal. Mediators are strongly encouraged to discuss potential appeals with their PPC, and will need to explain the reason if the PPC is not supporting the appeal. Mediators and PPCs are encouraged to each make a short written statement in support of the appeal (no more than 500 words), but no material will be accepted for addition to the portfolio.

Appeals must be made within three months of the assessment result. A fee is payable for an appeal; it will be refunded if the appeal is successful.

The FMC will investigate where there are valid grounds for the appeal. Acceptable grounds include the use of criteria that do not reflect the professional standards or code of practice, or the guidance set out in the published portfolio requirements; the criteria have been interpreted incorrectly; and the assessors have missed or misinterpreted material included in the portfolio.

When an appeal is approved to go forward, the portfolio will be re-examined by an assessor who has not previously been involved in its assessment. The assessor will have sight of the original assessment decision and the appeal submission, unless there are overriding reasons relating to the nature of the appeal that the reassessment should be carried out without knowledge of one or both. The decision on appeal will be final.

2.4 Award of FMCA status

The FMC Family Mediation Standards Board will be notified of the names of all mediators who have passed the assessment process. FMC Accredited Family Mediator status will be awarded provided that the mediator is in current membership of an FMC member body and is not in breach of the Code of Practice.

3. Renewing accreditation

3.1 General requirements

Accreditation is held for a period of three years following successful assessment or renewal. At the end of the three-year period, the mediator will need to make an application for renewal if s/he wishes to retain accreditation (mediators who are granted FMCA based on existing approvals may initially be asked to reapply after a shorter or longer period in order to avoid all renewal dates occurring in the same month).

The basic requirements for reaccreditation are (a) an adequate record of continuing development; (b) adequate dialogue with a Professional Practice Consultant; and (c) a minimum level of practice. Mediators must also be in current membership of one of the FMC member organisations, and not have had their accreditation revoked under the disciplinary process. Details of these requirements are given below, and a reapplication form, on which all applications for reaccreditation must be made, will be provided by the FMC.

3.2 Continuing development

The mediator must provide a completed continuing development record (as included with the reapplication form), which demonstrates that adequate steps have been undertaken to keep up-to-date and maintain the ability to practise competently. The record needs to describe (briefly) the activities that were carried out, why these were undertaken (i.e. their relevance to practice), and the benefits to clients and to practice that were gained.

The mediator should demonstrate keeping up-to-date with the following, as relevant to his or her practice:

- Changes in family law
- Changes in pensions, benefits and personal taxation
- Developments in family mediation practice and theory.

Development activities may of course cover other areas such as acquiring new skills, learning about particular aspects in greater depth, gaining knowledge of complementary fields, and advancing practice and theory.

Continuing development can be achieved through a wide range of means, including accredited and non-accredited courses and conferences, practice-based activities such as co-mediation, observation and action-based learning, on-line learning and research, reading, research, and higher education programmes. There are no restrictions on the kind of activities that can count, but it is important that

they are relevant to the mediator's practice, result in relevant learning and benefits, and taken together provide an adequate level of updating. There are no requirements for development activities to total to a particular number of hours, although for guidance it is unlikely that less than ten hours per year engaged in specific development activity will be sufficient. Development should be timely, for instance when changes in family law are announced mediators will be expected to update themselves sufficiently quickly so that they are able to continue to provide accurate information to clients. Activities would normally be expected to be spread across the three-year period (if the period includes a substantial career break or other period of absence from practice, the mediator will need to explain how s/he has ensured that s/he is sufficiently up-to-date on returning to practice).

The mediator is encouraged to discuss development activities with his or her PPC. However, the activities that are chosen and undertaken are the responsibility of the mediator, and do not need to be endorsed by the PPC. Mediators are strongly advised to record and evaluate activities as they take place rather than waiting until the point of reapplication.

3.3 Professional Practice Consultants

The mediator must provide a record of adequate support from a PPC. This will normally not be less than four hours per year, at least two of which must be individual face-to-face sessions (the remaining hours can be remote or through a small-group session, but not a lecture or seminar). It is the responsibility of mediators to ensure that their PPC support is sufficient for the needs of their practice; this may require more than four hours of contact per year.

The PPC must endorse the application as (to the best of his or her knowledge) a true and fair record of the mediator's development activities, PPC contact and hours of practice, and sign a statement to the effect that there is no reason under the FMC Code of Practice or the rules governing award of FMCA that the mediator should not be accredited.

3.4 Minimum hours of practice

A minimum level of practice is expected in order for the mediator to maintain his or her face-to-face mediation skills. This should normally be not less than fifteen hours per year of direct mediation, excluding information and assessment meetings or work involved in preparation and recording.

3.5 Levels of activity below the recommended minima

If the levels of PPC contact or mediation are below those stated above or there are any years with little or no continuing development activity, the mediator should provide an explanation and if relevant a proposed action plan to ensure that an acceptable level of competence is maintained. Other than where there is a valid reason such as maternity or paternity leave, illness, bereavement, or a planned career break, activity below the recommended minimum will be followed up; mediators should note that it is their responsibility to find the minimum level of work.

Levels of activity should match each other, so that for instance while PPC support and development activities will not be compulsory during a break from work, the mediator should show how s/he has ensured that s/he is sufficiently prepared and up-to-date before starting to practise again.

3.6 Late and insufficient applications

Applications can be accepted up to six months after the end of the three-year period, provided that there is a reasonable explanation for the lateness (for instance illness, bereavement or other unforeseen circumstances). Mediators who know that they will be away or indisposed when accreditation expires should reapply in good time to meet the deadline. Mediators on extended periods of leave may apply before or during the period of leave; the FMSB will ensure that mediators who have a valid reason for not practising are not disadvantaged if their reaccreditation date falls within the period of leave.

Late applications will not result in an extended period of accreditation, so if for instance accreditation expires on 31st January 2018 but the application is not made until 31st March, the new period of accreditation will run to 31st January 2021. Late applications after the six-month period, or any applications that are late without good cause, will be treated as if accreditation has lapsed.

Where an application does not meet the requirements set out above, the FMSB can ask for additional information, ask the mediator to propose an action plan that will result in the requirements being met (see section 3.7 below), or, following unsuccessful recourse to these measures, refuse to reaccredit. The timescale for resolving matters relating to insufficient applications will normally be a maximum of six months, after which accreditation will lapse. This period will be extended if delays are caused by matters beyond the control of the mediator.

The FMSB will ensure that the above allowances are not abused, for instance by mediators who deliberately submit an application that is both late and weak.

3.7 Lapsed accreditation and action plans

Accreditation will lapse if an application has not been received by the due date, a late application is received without adequate explanation, or the application is insufficient and the relevant matters remain unresolved. Mediators may of course choose not to reapply either to take an extended career break or because they no longer expect to practise as a family mediator.

Mediators who wish to reapply after their accreditation has lapsed for a shorter or longer period will need to put forward an action plan that will bring them to the required level of competence to practise at a proficient level. In developing the action plan, the mediator should refer to the FMC professional standards and code of practice, as well as (for mediators who have been out of practice for a substantial period) the current training requirements. The contents of the action plan will depend on individual circumstances and could vary for instance from essential updating and additional PPC support, through to substantial retraining and/or reassessment. The FMSB will want to see that the action plan is credible in terms of when the mediator last practised and the level (if any) of updating that has been maintained. The FMSB may negotiate changes to the action plan if necessary. Following approval of the action plan, the FMSB may reaccredit either immediately or when evidence has been produced that some or all of the agreed actions have been carried out.

Mediators who have been out of practice for a significant length of time and who have not maintained a sufficient level of ongoing development should be aware that they may need to undergo full retraining and reassessment.

3.8 Appeals against refusal to reaccredit

Mediators who are refused reaccreditation after making a valid and complete reaccreditation application may appeal to the FMC, clearly stating the grounds for the appeal. Mediators are strongly encouraged to discuss potential appeals with their PPC, and will need to explain the reason if the PPC is not supporting the appeal. Mediators and PPCs are encouraged to each make a short written statement in support of the appeal (no more than 500 words). A fee is payable for an appeal; it will be refunded if the appeal is successful.

When an appeal is approved to go forward, the FMC FMSB will convene an appeals panel that has not been involved in the decision to refuse accreditation. The panel will examine the decision-making process leading to the withdrawal or refusal of accreditation. The decision on appeal will be final.

Mediators who have had membership of a MO terminated should note that a successful appeal against refusal of accreditation will not automatically require that MO to reinstate their membership.

Appendix 1

Portfolio contents

Portfolios must include the following:

An application form, which includes:

- The mediator's contact details and the name(s) of any practice(s) or service(s) with which s/he works.
- The FMC membership organisation that the mediator is a member of or registered with.
- The name and contact details of the mediator's PPC (and any previous PPCs if relevant, together with the dates for which they were engaged).
- A declaration signed by the mediator confirming that:
 - a) there are no past, current or known future reasons why s/he should not be practising as a family mediator
 - b) The materials contained in the portfolio are his or her own work.
 - c) s/he will comply with and practise in accordance with the FMC Code of Practice
 - d) S/he accepts that the assessment decision made by the FMC is final, subject to the appeals process detailed in this document.

A contents page for the portfolio.

A standard format for this will be required by the FMC, which will include a grid for cross-referencing portfolio contents to the professional standards.

A statement from the mediator's PPC that:

- confirms the accuracy of the mediator's log of the PPC sessions
- confirms the case commentaries submitted in the portfolio are authentic, that the mediator has taken the lead in them, and that the mediator has obtained permission from the clients to use them
- endorses the mediator's competence to practise independently to the requirements of the FMC professional competence standards
- Confirms that the material submitted is entirely the mediator's own work.

Observation of a mediation session by the mediator

An account reflecting on and evaluating a mediation session by a FMCA, observed by the mediator, must be included in the portfolio.

Observation of the mediator by the PPC

The PPC's feedback for the observed mediation session must be submitted, accompanied by an account by the mediator that:

- sets the context for the session (if it is not part of one of the case commentaries below);

- reflects on the mediator's approach in the session; and
- Responds constructively to any points raised by the PPC.

Case commentaries

Three cases are needed where the mediator has taken the substantive lead, and full or extensive agreement has been secured. Cases must have started not later than two years before the date of submission of the portfolio (in exceptional circumstances a further year can be granted with the approval of the mediator's PPC).

The cases must include at least one that is all-issues mediation, two with mediation of children issues, and two that include memoranda of understanding and open financial statements. Between them the cases must show evidence of successful, high-quality mediation that demonstrates the ability to mediate cases through to completion, including both financial and children's issues, showing use of the full range of mediation skills identified in the professional standards and portfolio guidance.

The cases must include at least two examples of initial consultations or assessment meetings.

Each commentary must include a brief background to the case and a summarised account of the process of each mediation session, including the mediator's reflection on their interventions. At least one case – which should normally be an all-issues case - must include a complete set of case notes, session records and correspondence. Case commentaries must be anonymised, and permission obtained from the clients to use them. A template will be provided for this purpose.

The mediator can make reference to additional cases if these are needed to demonstrate that the professional competence standards have been met.

Reflective account

A reflective account must be submitted (typically 1,500-2,000 words) drawing on the mediator's practice experience. The account should where possible include reflection on cases that did not go to completion and what was learned from them. The account must include evidence of managing high conflict cases. The mediator must demonstrate a real sense of the work undertaken, highlighting key achievements, skills and knowledge gained since completing mediation training and any evidence that the mediator wishes to highlight to assessors that is not covered elsewhere within the portfolio. Inclusion of references to mediation reading and theory are likely to enhance the account.

Case study questions

A set of case-study questions are available at (web site to be added). The mediator will need to select three of the current five cases and answer the questions on them. When reflecting on these questions applicants should, wherever possible, draw on similar or related case examples from their own practice to include in their answers. The suggested response length is 200–400 words per question.

The questions are not intended to elicit a single 'right answer', but are instead designed to enable the mediator to show that proper consideration has been given to the situations described, drawing on knowledge and practice experience. The answers allow understanding to be demonstrated relevant to the professional standards that may not be apparent from cases handled to date.

Personal development planning and review

This includes (a) a personal development record covering the period since completing initial training, Outlining learning experiences (including learning from practice) and the learning and development gained, and (b) a plan for the mediator's future development post-accreditation. The record should be in the same format as provided for reaccreditation.

Appendix 2

The FMC professional competence standards for family mediation

Introduction

These standards apply to the work of family mediators generally, with specific application to assessment for accreditation. They are designed to apply across the contexts in which family mediators work – e.g. voluntary sector, private practice, law firms, sole practitioner, co-mediation etc. They aim to avoid assumptions that limit the context in which they can be applied (or make them hostage to changes in regulations, funding regimes, etc).

Note that the term ‘participants’ is used to denote the mediation clients rather than being inclusive of the mediator or anyone else who may be involved in the mediation.

A. Theoretical underpinnings

A1 Understand and draw on theories-in-use that inform the practice of mediation

These include:

- *theories concerning the impact of separation, loss and conflict on families and individuals*
- *theories of child development and the impact of separation and other family changes on children and young people*
- *theories of conflict, co-operation and competition*
- *theories of communication and engagement*
- *key processes for resolving family disputes.*

A2 Understand the ethical basis and key principles of family mediation

This includes:

- *key principles of mediation including independence of the mediator, ‘without prejudice’, child focus, fairness, voluntariness, client competence, confidentiality and its limits, impartiality and neutrality, and participant self-determination within the relevant legal framework*
- *the impact of the mediator’s personal beliefs, values and style*
- *distinguishing between the process of mediation and employing other forms of intervention.*

A3 Understand the key methods and techniques employed in family mediation

These include:

- *different types of intervention and when it is appropriate to use them*
- *methods that enhance communication in the mediation process*
- *techniques for dealing with conflict, power imbalance and impasse*
- *ways of bringing the perspective of children and young people into the mediation process.*

B. Professionalism and ethics

This section applies as relevant throughout the mediator's work.

B1 Work within legal and professional guidelines and the limits of personal capability

This includes:

- *working in accordance with the Family Mediation Council's Code of Practice and with the procedures of the organisation(s) of which the mediator is a member*
- *operating within the law and following any legal requirements and processes*
- *only undertaking work that is within the mediator's competence and capacity, seeking guidance or recommending alternative sources of support where necessary.*

B2 Maintain the ability to practise competently and ethically

This includes:

- *maintaining an adequate and up-to-date understanding of legislation, policy developments, research and practice relating to the field of family mediation*
- *maintaining an adequate level of support from a Professional Practice Consultant (PPC)*
- *taking responsibility for personal learning and development, including identifying areas for development, acting to meet learning objectives, and learning from practice.*

B3 Respect the needs and individuality of participants

This includes:

- *maintaining sensitivity to the needs of individual participants*
- *acting in accordance with the principles of equality and diversity*
- *responding to and addressing cultural and gender issues effectively and sensitively*
- *taking into account, and acting with sensitivity towards, any issues of mental health, learning disability or other potential barriers to participation in mediation.*

B4 Balance the need for confidentiality with that for safeguarding

This includes:

- *applying and upholding the principle of confidentiality and respecting the privileged nature of family mediation, other than where there are overriding and ethically sound reasons to do otherwise*
- *responding appropriately and effectively to any domestic abuse, safeguarding or child protection issues.*

B5 Act with integrity and fairness

This includes:

- *acting in an even-handed manner*
- *acting with openness, transparency and integrity.*

C. Mediation practice

C1 Explain mediation to participants

This includes:

- *being clear about the difference between an initial consultation or assessment meeting and a mediation session*
- *explaining the principles, potential and limitations of mediation*
- *explaining the different methods of mediation that are available and how they would work.*

C2 Assess the suitability of mediation for participants

This includes:

- *assessing, initially and on an ongoing basis, suitability for mediation in respect of (a) the dispute, (b) the participants, and (c) all the circumstances of the case*
- *helping the participants to decide on the appropriateness of mediation for their situation*
- *signposting participants to complementary or alternative services where appropriate*
- *ensuring that participants are aware of their right to seek independent legal advice.*

C3 Check eligibility for financial support

This involves identifying any public or other funding that is available and, where appropriate, carrying out and recording accurate financial checks for eligibility.

C4 Assess and respond to domestic abuse and child or other safeguarding issues

This includes:

- *screening effectively with each participant separately for domestic abuse or harm to themselves, children or others*
- *identifying any potential for unreported domestic abuse or harm*
- *providing appropriate information on sources of assistance and protection from harm, including emergency remedies*
- *notifying appropriate outside agencies, and the mediator's PPC, where necessary.*

C5 Provide relevant information about services and options available to participants

This includes, at the level appropriate to the participant and the situation:

- *providing information about family law and its processes*
- *providing unbiased information about other relevant means of family dispute resolution*
- *providing information about sources of assistance for parents, children and families*
- *maintaining (and explaining to the participant) the distinction between information and advice.*

C6 Establish the environment, agenda and ground rules for mediation

This includes:

- *setting up mediation as appropriate for participants' needs*
- *creating a safe and neutral environment for mediation*
- *identifying and agreeing the issues that will form the agenda for discussion*
- *establishing the principle of balanced participation, and agreeing how this balance will be maintained throughout the process*
- *clarifying issues of, and limits to, confidentiality.*

C7 Use effective skills and interventions during the mediation process

These include things such as:

- *using different types of question appropriately*
- *using relevant listening, communication and mediation skills to aid mutual understanding and rapport, help participants to move forward and to overcome blocks in progress*
- *facilitating participants' lateral thinking, problem solving and option development.*

Further guidance on the skills that will be looked for during assessment are provided in the portfolio guidance document.

C8 Maintain progress towards resolving issues

This includes:

- *managing the discussion of matters in a way that facilitates effective progress*
- *managing effective financial disclosure*
- *recognising and dealing effectively with impasse*
- *managing strong emotions and conflict sufficiently to allow the mediation process to move forward*
- *managing power imbalances to avoid detriment to either participant.*

C9 Produce an appropriate and agreed outcome statement

This includes:

- *ensuring that all mediated outcomes follow a clear rationale, are reality-tested, and are approved by both participants*
- *using appropriate language and drafting formats*
- *ensuring congruence between 'without prejudice' mediation summaries and open financial statements*
- *ensuring that only appropriately open facts are included in open financial statements*
- *drafting financial settlements that are capable of legal implementation and accord with current legislation*
- *setting out any matters that have not been resolved.*

C10 Record decisions and maintain participant files

This includes recording, at the appropriate points in the process:

- *the assessment as to the suitability of mediation*
- *participants' agreement to mediation*
- *any ground rules that are established*
- *the location, timetable and practicalities of mediation*
- *details and outcomes of each session, including any proposed actions (for participants and the mediator) and matters to be taken forward to the next session.*

C11 Review individual cases and overall practice

This includes:

- *identifying any significant personal learning points from cases*
- *initiating case discussions with PPCs*
- *contributing as needed to reviews of individual cases and to overall service provision.*

Appendix 3

The level required at the point of assessment

The assessors will be looking for a level of performance that is at least 'competent' as indicated below, but also shows development towards the 'proficient' level. The table can also be used as an aid to tracking development, for instance in PPC discussions.

	Knowledge	Standard of work	Autonomy	Coping with complexity	Perception of context
Novice	Minimal, or 'textbook' knowledge without connecting it to practice	Unlikely to be satisfactory unless closely supervised	Needs close supervision or instruction	Little or no conception of dealing with complexity	Tends to see actions in isolation
Advanced Beginner	Working knowledge of key aspects of practice	Straightforward tasks likely to be completed to an acceptable standard	Able to achieve some steps using own judgement, but supervision needed for overall task	Appreciates complex situations but only able to achieve partial resolution	Sees actions as a series of steps
Competent	Good working knowledge of practice and key principles	Fit for purpose, knowing when to seek support for more complex issues	Able to achieve most tasks using own judgement, referring to PPC/qualified colleagues for support where needed	Copes with complex situations through deliberate analysis and planning	Sees actions at least partly in terms of longer-term goals
Proficient	Depth of understanding of practice and underlying principles	Fully acceptable standard achieved routinely	Able to take full responsibility for own work	Deals with complex situations holistically, decision-making more confident	Sees overall 'picture' and how individual actions fit within it
Expert	Authoritative knowledge of underlying principles and deep tacit understanding of practice	Excellence achieved with relative ease	Able to take responsibility for going beyond existing standards and creating own interpretations	Holistic grasp of complex situations, moves between intuitive and analytical approaches with ease	Sees overall 'picture' and alternative approaches; vision of what may be possible

Adapted from the Dreyfus model of skill acquisition: see Dreyfus, H & Dreyfus, S (1986) Mind over Machine. New York: Free Press.

Appendix 4

Transitional and non-standard arrangements for award of FMCA

The following measures are available for mediators who have relevant training, recognition or experience when the new framework comes into force, or have trained or gained recognition outside the UK. Transitional arrangements will normally cease by 31st December 2016 at the latest.

1 Family mediators currently approved to undertake legal-aided work or who have FMA or Resolution accreditation

Mediators who are currently approved to undertake legal-aided work (whether through the APC scheme, the LSC/UK College scheme, or the Law Society scheme), or hold accreditation under the Family Mediators' Association or Resolution schemes, will transfer directly to FMCA provided that they are in current full membership of an FMC member organisation as a practising family mediator – including meeting the requirements for CPD and for PPC support. Mediators within this category who are not currently approved to undertake legal-aided work may be restricted from undertaking legal-aided work without a further assessment.

2 Family mediators who have trained pre-changeover but do not come into category 1 above (including those who are MIAMs-approved)

This measure applies to mediators who have, pre-changeover, passed a family mediation initial training course that was provided by an FMC member organisation or that has been approved for family mediation by the College of Mediators. This training will be treated as if it had been approved by the FMC, so mediators can register to start working towards FMCA in accordance with the normal regulations.

Where mediators within this category already have some PPC-supported experience in working towards APC or Law Society accreditation, or have approval to conduct MIAMs, this can be used as part of the required post-training development. Mediators should be aware that there are some additional requirements in the new scheme for the assessed portfolio, and should discuss what they need to do with their PPC.

Mediators who fall within this measure have three years from the date of their initial training, or for MIAMs-approved mediators until 31st December 2015 if longer, to achieve FMCA. An extension of up to a further two years may be granted if there is good reason and the extension is supported by the mediator's PPC. Approval to undertake MIAMs expires on 31st December 2015 for mediators who do not achieve FMCA.

3 Family mediators who have taken non-validated/non-approved courses in England and Wales

Any family mediation courses that have not been approved by the FMC or come under measure 2 above will be considered on an individual basis. Mediators wishing to have these courses considered as fulfilling all or part of the requirements for initial training will need to provide the following:

- The names of the training provider and course tutors, and if relevant the validating body.
- The dates of the course.
- Full details of the course content and duration, the teaching and practice methods used, and how it was assessed. If this is not in an official course document, it needs to be endorsed by the course tutor.
- Any certificate or proof of completion from the course.

The FMSB can decide to accept the course as covering the initial training requirements; accept the course but require evidence of additional learning to make up any deficiencies (which could be provided by a suitable conversion course, short course or other forms of learning, depending on what gaps need to be covered); or reject the course as providing insufficient coverage of family mediation as represented by the FMC Professional Standards and Code of Practice. Courses will normally be rejected if the FMSB considers that the gap between the course content and the FMC's requirements is too large to be made up by easily-available training or other sources of learning.

Mediators whose training has been approved as acceptable, with or without additional learning, will need to register as working towards FMCA, and complete within three years of their training. Where additional learning has been asked for, this needs to be demonstrated and approved by the mediator's PPC before the portfolio can be submitted for assessment.

Non-validated courses from within England and Wales will only be considered if they were taken before the end of 2014, and only for mediators being assessed for accreditation before 31st December 2016. An extension of up to a further two years to gain accreditation may be granted if there is good reason and the extension is supported by the mediator's PPC.

4 Family mediators who have trained outside England and Wales

The treatment of these courses will initially be on the same basis as in measure 3 above, except that there will be no cut-off date for considering courses. The FMSB will keep a register of its decisions under this measure and ensure that applicants from the same programme, or with the same family mediation qualification, are treated consistently.

The FMSB will be particularly mindful of (a) applicants' knowledge of family law, welfare benefits, family support provisions and other relevant matters as they relate to England and Wales, and (b) for applicants who do not have English as a first language, the need for an appropriate level of spoken and written English (or Welsh for practising exclusively in Wales). Unless the mediator is proposing to

work exclusively with a community whose native language is not English or Welsh, this latter needs to be at a native or near-native level (CEFR level C2).

If more than occasional applications are received from the same course or qualification that is provided outside England and Wales and is conducted in English or Welsh, the FMSB should encourage the provider to gain FMC approval for it through the normal processes.

5 Experienced mediators who do not come into category 1

Family mediators who have substantial current or recent experience – normally those who have at least three years' continuous experience as a family mediator in England or Wales and who, if they had been accredited, would meet the reaccreditation requirements – can apply to be exempted from foundation training or to proceed directly to submitting a portfolio for assessment.

The FMSB will consider applications individually at the point of registration. Applicants should normally demonstrate the above practising requirements, including the stipulated level of PPC support, along with adequate initial training as indicated in measures 2, 3 or 4. Initial training does not need to be recent provided that the applicant can provide evidence of having kept up-to-date.

Mediators admitted under this measure need to meet the standard portfolio requirements, except for the additional ten hours of PPC support. Applicants should however ensure that they have sufficient PPC support to complete the tasks required for the portfolio.

This measure will cease after 31st December 2016.

6 Family mediators who have accreditation from outside of England and Wales

The basic treatment of family mediators who have professional accreditation, qualified status or state registration from outside England and Wales is the same as for measure 5, except that there will be no cut-off date.

The FMSB will apply the same considerations about language and the English and Welsh context as in measure 4, and will also record decisions with a view to maintaining consistency.

The FMSB will work towards establishing mutual recognition processes for schemes outside of England and Wales, with a conversion requirement specific to each scheme.

Part 2: Initial Training and Course Approval

Introduction

This document sets out the requirements and process for FMC approval of initial training courses for family mediators. Section 1 covers the minimum requirements for courses, and Section 2 the process for approval. These requirements come into force on 1st January 2015.

1. Minimum requirements for family mediation initial training courses to be approved by the FMC

These are the minimum requirements that all family mediation courses, including those run by FMC member organisations, need to comply with in order to enable mediators to be approved as eligible to progress to accreditation. Providers seeking course approval will need to provide details that demonstrate how their courses meet these requirements, as detailed under each section below.

1.1 The provider

There is no restriction on the type of organisation that can provide family mediation training, provided that the minimum requirements set out in this document are met.

Applications can be accepted from providers in England and Wales, as well as from outside of England and Wales for courses run in English or Welsh. Non-England and Wales providers who intend or expect that some of their course participants will want to practise in England or Wales are encouraged to gain FMC approval for their courses.

Providers will need to provide details of their legal status, contact details and where applicable registered office; whether the organisation is part of a parent organisation or group, or if it is applying as a consortium, details of the members of the consortium; the person responsible for the application to whom correspondence is to be addressed; and the person with authority to authorise the application.

Providers will need to demonstrate that they have adequate resources and financial capacity to meet the above requirements, including ongoing support for participants as described in section 1.6.

Providers will need to include brief details of previous family mediation courses that they have run and (where applicable) which organisation these have been approved by. Providers without previous experience of running family mediation courses should include details of similar courses that they have run or are currently running.

1.2 Entry to courses

Entrants to courses should demonstrate:

- The ability to work at graduate level, either through possession of a degree or equivalent-level professional qualification, or experience of work in a role that requires an equivalent level of thinking and application.
- The ability to understand and use an adequate level of written and spoken English (or Welsh for courses in the Welsh language). Providers should note that unless the mediator is proposing to work exclusively with a community whose native language is not English or Welsh, this will need to be at a native or near-native level at the point of accreditation (CEFR level C2).
- The ability to work with conflicts and manage interpersonal relationships at a professional level, gained either through typically two or three years' experience as a professional dealing with families, or a similar amount of time as a mediator or non-adversarial dispute resolution practitioner in another field.

Providers will need to show how they are applying, or intend to apply, these principles to course admission. In particular they should demonstrate how they will operate fair and equitable access, while ensuring that potential participants are adequately prepared for the course.

Providers must provide accurate information to prospective course participants. In addition to information about the course, this includes accurate information about the process post-training to gain accreditation (FMCA) via the FMC or Law Society, including the implications in terms of the level and cost of Professional Practice Consultant support that will be required.

1.3 Level of course

Family mediation courses should reflect as a minimum the requirements for level 5 as described in the level descriptors of the Qualifications and Credit Framework, Framework for Higher Education Qualifications or Credit and Qualifications Framework for Wales. Providers may choose to pitch their courses at a higher level provided that the other requirements stated here are adhered to. Courses may optionally be validated or credit-rated by a university or recognised awarding body, but this is not currently a requirement for FMC approval.

Providers will need to include a summary of learning objectives and course content that accords with the minimum level requirement and supports participants to demonstrate learning outcomes in accordance with 1.4 below.

1.4 Course content

Providers should refer to the FMC Professional Competence Standards and the Code of Practice in developing their course content and assessment criteria. The Competence Standards are geared to a level of practice some time after training, but courses should cover the principles, knowledge, techniques and skills stated or implied in the Standards, including applying them in a simulated environment. Providers should note that the Standards include pre-mediation information and assessment, and initial training must now cover these areas as separate MIAMs training will cease after the end of 2014.

Courses must cover knowledge of children and property/finance aspects, and ensure that participants can carry out a simulated all-issues mediation and produce outcome statements relating to both children and property/finance.

Courses must provide an adequate opportunity for skills development through role-play and other relevant techniques. Each participant must play the role of the mediator several times over the duration of the course and be provided with adequate feedback, such that s/he has a fair and adequate opportunity to demonstrate the relevant learning outcomes.

1.5 Duration and teaching methods

The minimum requirements for initial training courses are:

- At least 60 hours of contact time, excluding time spent on reading or other private study, completion of assignments and preparation for assessment. This must be spread over a minimum of eight days with sufficient intervening periods to enable reflection, private study and preparation for assessment. Up to half the contact time may be substituted by structured on-line or distance learning supported by adequate one-to-one or small group tutor support. A variety of teaching methods must be used so that participants have an opportunity to learn the required principles and theory, reflect on and discuss principles and approaches, apply theory to practice, and develop the relevant skills.
- At least 30 hours of the above time to be spent on skills development, generally through role-play exercises as described in section A4 above.
- Courses must run with sufficient participants to support adequate skills development. Normally this will mean a minimum of six participants on any course.

Providers will need to include a summary of the course programme or programmes that are expected to be used, demonstrating how they meet the above requirements. Providers should note that there is a large amount of content to cover, including development and assessment of skills. A 60-hour course will need to be carefully designed, with good use of the intervening periods for remote study, to ensure that participants have a fair opportunity to reach the required standards.

1.6 Assessment

All the key areas of the FMC Professional Competence Standards must be assessed at a level appropriate for a classroom/simulated environment, with all needing to be demonstrated to a satisfactory standard for the course to be passed. Participants must be adequately proficient in handling both children and property/finance matters to pass the course.

The provider must use assessment methods that are valid and sufficient for the learning outcomes to be assessed, operate assessment in a way that is robust and consistent, and avoid placing barriers in the way of participants that do not reflect the criteria being assessed. Assessment must include observation of each participant undertaking the role of the mediator in a simulated situation, as well as written exercises that as a minimum require drafting of a memorandum of understanding.

Formal assessment must either be carried out or moderated by a person who has not been involved in training the participant who is being assessed. If assessment is carried out by the trainer, moderation must include detailed sampling of every participant's work.

Where a participant fails to meet the standard required to pass the course, the provider must provide support to enable the participant to retake the relevant assessment(s) on at least one further occasion. This support can include advice to gain additional training or experience if this is necessary. Providers must act in participants' interests by providing fair and unbiased information and advice that is geared to giving participants the best chance to pass the assessment. Providers' obligations under this requirement can cease twelve months after the end of the course.

Providers will need to include a summary of the assessment methods and tasks that are proposed, including how assessments will be moderated.

1.7 Staffing

At least 80% of the course must be taught by core trainers who (a) are FMC or Law Society accredited family mediators and (b) who either have a teaching or training qualification at a minimum of England and Wales level 4, or have previously acted as a core trainer on at least two comparable mediation courses. The same requirements apply to assessors.

All courses must (a) involve a minimum of two trainers and (b) have a maximum ratio of six participants per trainer for all practical exercises. Staffing must take account of the requirement for independent assessment or moderation described in section 1.6.

Providers will need to include details of each of the core trainers and the assessors that they propose to use, demonstrating how the above criteria are met.

1.8 Certification

Participants who have passed all the course assessments will be issued with a certificate stating their achievement.

Any other records, for instance confirming attendance or providing credit for partial achievement, will be clearly distinguished from full certificates and include a statement to the effect that they do not represent completion of initial training as required by the Family Mediation Council.

1.9 Post-training review with a Professional Practice Consultant

Before proceeding towards accreditation with the Family Mediation Council, it is a requirement that all mediators must have a post-training review with an FMC-approved Professional Practice Consultant (PPC). Providers may optionally wish to (a) aid participants who have not already done so to find a PPC, and (b) to include the cost of this review in the course fee. Providers must be clear in their literature whether this service is included or whether participants need to arrange their own PPC support.

Providers should ensure that participants are aware of the requirement to register with the FMC, normally through one of the FMC member organisations, before acting as a sole or lead mediator or representing themselves to the public as a family mediator.

2. Course approval

2.1 Requirement for course approval

Approval from the Family Mediation Council is needed for courses to be accepted as providing the initial training needed for family mediators to start working towards FMC accreditation.

Approval will be normally for a period of three years, after which reapproval will be needed as described in section 2.4 below. All current courses pre-dating this procedure will need to be submitted via the initial approval process as described below. Exceptionally, approval can be for a shorter period after which stated conditions must be met. Reapproval will also be required if the legal entity of the provider changes.

2.2 Responsibilities and conflicts of interest

Course approval is the responsibility of the FMC Family Mediation Standards Board (FMSB), either directly or via delegated authority to a course approval panel or executive. No person involved in considering an application for course approval or reapproval may be, or have been within the last three years, a trustee, board member, employee, trainer or assessor of the organisation submitting the application.

2.3 Initial approval

The intending course provider must submit an application that describes how the minimum requirements detailed in section 1 will be met. Providers will be encouraged to discuss their application with a person appointed by the FMSB before submitting it.

On receiving an application, the FMSB will appoint two reviewers within a period of ten working days. Reviewers must be independent of the provider submitting the course; this will include not having acted as a trainer or in a similar capacity for the provider organisation within three years of the submission date. The reviewers will examine the application and make recommendations within a further ten working days. The reviewers may make one of the following recommendations:

- The course is approved
- The course is approved subject to minor conditions being met
- The course is not approved
- More information is needed before a recommendation can be made.

In the case of non-approval, the reviewers must make clear which requirements have not been met and make recommendations for bringing the application to a satisfactory standard. Reasons for non-approval must be endorsed by the FMSB and communicated to the applicant.

The FMSB will communicate its decision to the applicant within ten working days of receiving the report from the reviewers. Where further information is requested, the applicant may provide this directly to the reviewers.

Applicants who have not been successful in their first application will normally be encouraged to address the points that resulted in rejection and resubmit their application.

The FMSB will consider appeals on the basis that the reasons given for rejection were not in accordance with the requirements stated in this document. On appeal, the application will be treated as a new application and sent to two further reviewers under the procedure described above. The FMSB's decision following appeal will be final.

Following approval, the applicant undertakes to provide access to all course and assessment materials (including web-based materials and platforms), training and assessment sessions, assessed work, trainers and participants should the FMSB wish to conduct an inspection. The FMSB will give at least ten working days' notice before making any inspection.

The FMSB may set fees for course approval, resubmissions of unsuccessful applications, and appeals. The appeals fee will be refunded if the appeal is successful.

2.4 Re-approval

Reapplications must be made in sufficient time to enable any planned courses to run before approval expires. Reapplications cannot be made more than 42 months after the date of the original approval.

Reapplications should focus on any changes that have been made or are proposed since the original application, including changes to staffing. They should also be accompanied by:

- A concise report on the provision that has taken place since the last approval, including any changes that have been made as a result of learning by the course team
- The success rates achieved by participants
- The names of participants on each course
- Feedback from course participants on each course.

The procedure for handling reapplications will be the same as that for initial applications.

Re-approval will normally be for a period of three years.

Where re-approval is required within any three-year approval period because of a change in legal entity, the applicant should initially provide details of the new organisation together with a summary of the material changes that this entails. The FMSB will decide whether a full reapplication is required at this stage.

Part 3: Requirements for assessors for FMC Accreditation

Introduction

This document sets out the basic requirements for assessors for FMC Accreditation (FMCA). Equivalent requirements will apply to Law Society assessors for family mediation accreditation, with different arrangements for oversight. The FMC and the Law Society will work towards a common pool of assessors with, wherever sensible and feasible, common training and updating.

Definition and essential requirements

FMCA assessors are appointed by the FMC Family Mediation Standards Board (FMSB) to carry out the final assessment of candidates for FMCA status. The assessment role is at present limited to examining documentary evidence provided by the candidate and his or her PPC as well as where needed questioning candidates; it does not extend to observing them mediate.

The basic role of the assessor is to examine the evidence that the candidate has put forward and assess it against the requirements for FMCA, as expressed in the FMCA document and associated portfolio guidance. Assessors are also involved in re-examining evidence on appeal, and may be asked to assist with moderating assessments and providing feedback to PPCs individually or jointly on their contribution to candidates' evidence.

Appointment, training and updating of assessors

The FMSB is responsible for appointing a Chief Assessor who also acts as the scheme's moderator, and for appointing assessors in conjunction with the Chief Assessor. Assessors must be recruited from across the family mediation community and appointed on an open and fair basis according to criteria determined by the FMSB. The minimum requirements for assessors are that they:

- hold FMCA status
- have been practising continuously as a family mediator for at least three years
- currently act, or have acted for at least two years, as a PPC
- have current membership of an FMC MO
- are supported by their PPC in becoming an assessor.

Assessors must be provided with adequate training to enable them to carry out their role to an acceptable standard. Initial training may take the form of a one-day course, one-to-one mentoring, or distance learning followed by discussion. Training must cover:

- The basic principles of work-based assessment, including validity, robustness, consistency, authenticity of evidence, fairness, and accessibility.
- The requirements of the FMCA scheme and their implications for assessment.

- Interpreting the FMC professional competence standards and assessing against them to the required level.
- Applying the FMC Code of Practice to assessed work.
- Practicalities of assessing portfolios.
- Resources and support for undertaking the role.
- Ongoing professional requirements as an assessor.

Following initial training, the assessor will be provided with one-to-one support by the Chief Assessor (or another experienced assessor nominated by him or her) to help in assessing his or her first portfolio(s). The Chief Assessor will sign off the new assessor when s/he is ready to assess unaided. Trainee assessors who are not signed off after co-assessing three portfolios and believe that they are ready to assess unaided may ask for a second opinion for their next portfolio, which will be considered by the FMSB along with that of the Chief Assessor. Beyond this, continued support towards signing off as an assessor will be at the FMSB's discretion.

Assessors must keep up-to-date with any changes in the FMCA scheme and in recommended assessment practice. Updates may be provided in the form of meetings, short courses or briefing sessions, electronic or paper-based materials, or online conferences. The FMSB will provide, and assessors are responsible for reading and if necessary gaining clarification on, details of changes to the scheme.

In addition to updating requirements specifically for assessors, all assessors must remain accredited (FMCA) including meeting the minimum requirements for practice as a family mediator and for contact with their own PPC.

Oversight of assessors

The FMSB is responsible for the competence and conduct of assessors, via the FMCA Chief Assessor.

The main means of oversight is via examining assessed portfolios along with the assessment decisions. The Chief Assessor (or his or her nominee) will carry out a brief second check of all portfolios, and examine any that appear to be borderline in greater depth. Borderline portfolios, and those where there appear to have been problems with the assessment, will be discussed with the first assessor. Assessors may also ask the Chief Assessor to check interpretations or specific points. The FMSB will also examine a sample of portfolios as a check that the overall process is operating consistently and to the required standard. This does not constitute an additional assessment and will not delay assessment decisions being communicated to mediators.

Assessors who appear to be having difficulties with assessment will be offered additional support. The FMSB reserves the right not to use the services of any assessor who is consistently requires a high level of monitoring, who repeatedly fails to follow the FMCA scheme requirements, or who causes unnecessary delays in the assessment process.

Part 4: Common requirements for Professional Practice Consultancy

Introduction

This document sets out the basic requirements for Professional Practice Consultancy and the training, registration and oversight of Professional Practice Consultants when the revised system of accreditation comes into operation in 2015. The training of PPCs is the responsibility of individual FMC member organisations (MOs), while registration and oversight is the responsibility of the FMC Family Mediation Standards Board (FMSB).

Definition and essential requirements

Professional Practice Consultancy is relationship of support and oversight between a Professional Practice Consultant (PPC), who must be an experienced, FMC-accredited and currently practising family mediator, and another family mediator who may be FMC accredited, registered as working towards accreditation ('registered'), or neither accredited nor registered. Family mediators are required to have a specified minimum level of initial and ongoing PPC support as a condition of registration and accreditation.

The PPC's role includes acting as a mentor and sounding-board for the mediator, and providing a second professional opinion when requested by the mediator, the FMC or the mediator's MO, for instance in response to a complaint or difference of opinion. It also involves maintaining oversight of the mediator's work insofar as is possible within the stipulated minimum requirement for PPC contact. While it is not a policing role, the PPC must draw the mediator's attention to any matters that may lead to contravention of the FMC Code of Practice, and, should the mediator continue to contravene the Code in spite of the PPC's advice and warnings, to reporting such contraventions to the mediator's MO for consideration under its complaints and disciplinary procedures. PPCs are also encouraged to discuss with their mediators (and, if necessary to arrive at a decision on acceptability, raise with the MO concerned) any issues which, while they do not directly contravene the Code, could be considered borderline in terms of good practice.

PPCs must act confidentially, and in line with data protection requirements, in relation to their mediators and to any information they are privy to about mediation clients, while making clear that there are limits to confidentiality where there is risk of harm, money laundering, serious breach of the Code of Practice, or where directed to reveal information by a Court.

The PPC cannot be held responsible for any failings in the mediator's work unless they result from a clearly substantiated neglect of these duties. MOs should note that PPCs cannot be considered sufficiently independent to carry out a formal investigation of a complaint against a mediator whom they support and supervise, though as stated above they may be asked to provide a second opinion to aid informal resolution.

Where a mediator voluntarily changes his or her PPC, the new PPC must contact the outgoing one to check the reason for end of the previous PPC relationship and acquaint him/herself with any practice issues or concerns on the part of the previous PPC.

PPCs also have additional duties in relation to mediators who are registered as working towards FMC accreditation (FMCA), including supporting portfolio development, observing mediation, approving documentation, and signing Court forms. These are detailed in the accreditation framework document.

PPCs must act in accordance with the FMC PPC Code of Practice and the Guidelines for PPCs.

Recruitment and registration of PPCs

Each MO is responsible for providing PPC training courses and recruiting mediators to them. MOs must recruit on an open and fair basis. Each MO may set its own criteria for accepting course participants, subject to ensuring that the criteria used do not discriminate on any of the grounds excluded by current employment legislation and require as a minimum that potential PPCs:

- hold FMCA status
- have been practising continuously as a family mediator for at least three years
- have current membership of an FMC MO
- are supported by their own PPC in training as a PPC.

Mediators who successfully complete the required PPC training (see below) must apply to the FMC to be placed on the register of PPCs. Once registered, PPCs are recognised by all MOs and eligible to work with members of any MO.

PPCs are engaged by business entities (including sole practitioners) to work with individual mediators or groups of mediators. A PPC must not work as such with a mediator, firm or service when a conflict exists that may inhibit the PPC from providing impartial advice and support, or from acting appropriately in the case of mediators deviating from the FMC Code of Practice. This includes but is not limited to situations where the mediator has a close personal relationship with the PPC, or is in another economic relationship with the firm or service that would allow it to place undue pressure on the PPC.

PPCs must re-register every three years to practise as PPCs, normally at the point when they renew their FMC accreditation.

Training and updating of PPCs

MOs may provide PPC training individually or jointly. Initial PPC training must consist of at least 15 guided learning hours and be delivered in a way that includes time for questioning, clarification and discussion between participants (whether face-to-face or remotely). Courses must provide up-to-date coverage of the following topics:

- The role and responsibilities of the PPC, both in relation to general practice and in relation to accreditation, reaccreditation, and complaints
- Implications of the FMC Code of Practice, professional competence standards, and complaints procedure in relation to the PPC role
- Understanding and applying the FMC PPC Code of Practice and guidance
- Approaches and practicalities for professional practice consultancy
- Balancing supporting aspects of the role with the need to maintain professional standards and public protection
- Potential conflicts within the PPC role and matters that the PPC cannot take responsibility for
- Resources and support for undertaking the role
- Contracting and insurance
- Ongoing professional requirements as a PPC.

The course must include an assessment of each participant's understanding of the topics covered, which must be passed before the participant can be registered as a PPC. The format of this assessment is open to providers; it could for instance take the form of short written answers, response to case-studies, or an online or multiple choice test. If the assessment is conducted verbally, the provider will need to keep a record of the discussion signed by the trainer and the participant; if operated remotely, the provider must ensure that the prospective PPC's identity is authenticated, for instance by having the test witnessed by his or her PPC or administered by a responsible and impartial person.

The FMC, in conjunction with MOs, will also provide or facilitate the organisation of updating events and resources for PPCs; these may include national, regional and online events, as well as electronic and paper-based resources and helplines. The FMC is responsible for ensuring that the PPCs on its register are kept up-to-date with changes in relevant aspects of the FMC's self-regulatory framework and recommended good practice for PPCs. PPCs are responsible for ensuring that they keep up-to-date with the information provided the FMC and by MOs in relation to these matters. They must normally attend at least one updating event specifically for PPCs each year, which may be a national, regional or synchronous online event, and undertake a minimum of five hours' updating annually that is directly relevant to their role as a PPC (including the event).

In addition to these updating requirements specifically for PPCs, all PPCs must remain accredited (FMCA) including meeting the minimum requirements for practice as a family mediator and for contact with their own PPC. PPCs must also act as a PPC for a minimum of four hours per year (i.e. the equivalent of supporting one mediator), which may be averaged over three years.

Oversight of PPCs and the professional practice consultancy process

The FMC FMSB will establish a line of responsibility to a named person or a panel for overseeing the activity of PPCs registered with it. This responsibility includes:

- Maintaining the register of PPCs and making it available to all MOs.
- Monitoring that PPCs are meeting the ongoing requirements to practise as a PPC.
- Responding to and investigating complaints about PPCs.
- Deselecting PPCs found to be in neglect of their responsibilities, via a fair and consistent process with possibility of appeal.

PPCs must re-register every three years, normally at the same time that they renew their FMC accreditation. In addition to the ongoing requirements for FMCA, they will need to demonstrate the following:

- Compliance with the minimum updating requirements for PPCs stated above (PPC development activities should be added to the form for continuing development, and commented on in the same way).
- Evidence of at least twelve hours of PPC activity, equivalent to acting as a PPC to one mediator, over the three years. The MO may ask to see summary records of this activity.
- Confirmation from their own PPC that s/he still supports their continuing in the PPC role.

Where PPCs fail to meet these requirements, they will normally need to attend a refresher course (or full PPC course if a refresher is unavailable) provided by a MO.

Each MO must maintain a register that ensures that each member who practises as a family mediator (whether or not accredited or registered as working towards accreditation) has a current PPC, and provide this to the FMC. Where a member's PPC changes, the MO should ensure that the new PPC contacts the previous PPC to check the reason for end of the previous PPC relationship and acquaint him /herself with any practice issues or concerns on the part of the previous PPC.

Part 5: Complaints and disciplinary processes and withdrawal of accreditation

Initial responsibility for both complaints and disciplinary processes rests with the member organisations (MOs) of the Family Mediation Council (FMC). The FMC maintains control over common standards, acts as an adjudicator where MOs' processes and interpretations are challenged, and is also ultimately responsible for decisions about accreditation (FMCA).

1. Member organisations' responsibilities

(a) Complaints and claims of breach of the FMC Code of Practice

Each FMC member organisation (MO) is responsible for dealing with complaints against its members that are escalated beyond their practices or employers, as well as any claims that their members are otherwise in breach of the FMC Code of Practice. Complaints (including claims of breach) may be made by mediation clients (including persons attending mediation information and assessment meetings or other initial consultations), by other mediators (including PPCs), or by others affected by or privy to the member's actions. Complainants do not need to be affected personally by the actions of the member where they are making a claim that the member is in breach of the FMC Code of Practice. The MO may after considering the grounds of the complaint refuse to investigate complaints that do not involve potential breaches of the Code of Practice, or appear to be vexatious or of a purely personal nature.

The MO will have a complaints procedure that provides details of the types of complaints that it can consider, how complaints will be investigated, by whom, and the timescales that it will adhere to for acknowledging and adjudicating on complaints. The complaints procedure will conform with the requirements below, and will be provided to all members and to all persons who have notified the MO of their intent to make a complaint.

The MO will include provisions for investigating, insofar as is practicable and subject to reasonable time limitations, complaints against former members where the complaint arose during their period of membership, and concluding the investigation of any complaint where the member resigns during the investigation. These provisions are necessary to prevent mediators from avoiding investigation and possible disciplinary action while continuing or returning to practise with another MO. Where the investigation upholds the complaint and considers that it is a disciplinary matter, the MO must refer the case to its disciplinary panel as if the mediator was still in membership.

The MO is responsible for requiring its members to inform their clients of their right to escalate a complaint to a named MO of which the mediator is a member if they are unable to resolve it with the mediator or their firm or service provider. This information should be provided at least verbally and preferably in writing at the initial meeting, and in writing before the agreement to mediate is signed. The agreement to mediate must include a clause where both clients consent to release of the mediation file to the MO (and if necessary the FMC) should either client wish to escalate a complaint.

The member must also ensure that clients are aware that the MO complaints procedure does not prejudice the right to seek civil remedy.

The MO will normally only investigate a complaint relating to the standard of service provided by the member if the complainant has already exhausted the member's own complaints procedures (including those of any firm of service provider for or via whom the mediator provided the service that the complaint concerns).

The MO may require that escalated complaints are normally submitted in writing, but must offer appropriate support to complainants who are unable to express themselves sufficiently clearly in writing. The MO must obtain consent from the complainant that all matters relating to the complaint can be shared with the member and the member's PPC. Where the complaint is from a mediation client, the MO must obtain consent from the complainant to examine the client's file (this consent should normally already be available if the mediator has followed the requirement above that consent is incorporated in the agreement to mediate).

Where appropriate, and before the complaint reaches the stage of formal investigation, the MO may ask the member's PPC to discuss the complaint with the member and produce an opinion that is shared with the member and the MO. The MO must however be aware that there is an established working relationship between the PPC and the member, and avoid placing the former in a situation where there is a conflict of interest. To be clear, a member's PPC cannot be considered sufficiently independent to make a formal investigation of the complaint.

The MO will not make a charge for investigating complaints.

The MO panel investigating the complaint must be constituted to avoid any conflict of interest. Should any panel member become aware of a conflict of interest, s/he will immediately step down from the investigation.

The MO must investigate the complaint without presupposition or bias, and enable both the complainant and the member to present their cases fairly. The member must have access to the allegations made by the complainant, must be allowed to share them with his or her PPC, and must be allowed to make a full reply.

In arriving at its decision the MO must apply the FMC Code of Practice and where relevant the FMC Professional Competence Standards.

If the complaint is upheld, the MO may require the member to make appropriate redress, including if needed the return or remission of any fees. The complaints panel may also recommend that the member is referred for disciplinary action.

The MO must have an impartial process, independent of the initial investigation, for considering appeals against complaints, both by complainants and by members. The appeals process should be accessible, but should state the grounds on which appeals will be accepted for consideration.

The MO must inform the parties to an appeal that, having exhausted the MO's internal procedures, they may take a complaint to the FMC for further consideration. The FMC will limit its consideration to whether the MO has complied with the requirements set out in this document and has followed its own documented complaints procedure.

The deliberations of the MO in respect of the complaints and appeals processes must remain confidential, except that (a) where disciplinary action is to be taken they must be provided to the disciplinary panel, and (b) where the decision is referred to the FMC they must be provided to the FMC to aid with further consideration.

(b) Disciplinary processes

Each FMC member organisation (MO) is responsible for disciplinary processes in respect of its members. Disciplinary processes commence when an investigation has taken place under the complaints procedure in response to a complaint or a claimed breach of the Code of Practice, and the decision is made to refer the member for disciplinary action. Disciplinary processes must also be pursued in the case of former members referred from the complaints procedure, so that the outcome can be notified to the FMC and if necessary the mediator's accreditation revoked.

The MO will convene a disciplinary panel when a referral is made for disciplinary action. The disciplinary panel must be constituted to avoid any conflict of interest. Should any panel member become aware of a conflict of interest, s/he will immediately step down from the decision-making process.

The role of the disciplinary panel is to consider what action is necessary to protect the public, to restore confidence in the profession, and where appropriate to ensure that the mediator is competent to continue practising. The panel will not re-investigate the matters giving rise to the complaint or breach that resulted in referral.

In reaching the penalty or remedial action to be applied, the panel must consider the consequences or potential consequences, level of intent, level of negligence and level of competence displayed by the member. In particular:

- If allowing the member to continue to practise would constitute a significant risk to clients, members of the public, or other professionals or co-workers, the minimum penalty must be suspension. If this is due to lack of competence, additional training or directly supervised practice may be required as appropriate before the member can be reinstated. If due to deliberate dishonesty or gross negligence, membership must normally be terminated.
- If in the panel's judgement there is no risk or the risk is minimal, the member may be allowed to continue in membership subject to either or both of a formal warning or, in cases where his or her level of competence is a contributing factor, additional training or supervised practice. A second formal warning for the same or a closely related reason, or three formal warnings overall, can constitute sufficient grounds for termination of membership.

Where the handling of the complaint giving rise to the disciplinary action is subject to an appeal, any disciplinary action should be held in abeyance until the outcome of the challenge is known. The exception is where the penalty is suspension or termination of membership, when suspension should apply until the appeal (and any subsequent referral to the FMC) has been decided.

The MO must have an impartial process, independent of the initial investigation, for considering appeals against disciplinary measures, both by complainants and by members. The appeals process should be accessible, but should state the grounds on which appeals will be accepted for consideration.

The MO must inform the parties to an appeal that, having exhausted the MO's internal procedures, they may take a complaint to the FMC for further consideration. The FMC will limit its consideration to whether the MO has complied with the requirements set out in this document and has followed its own documented disciplinary procedure, and whether any sanction that has been applied, or any decision not to apply a sanction, is fair and proportionate.

All disciplinary measures taken against members and former members must be reported to the FMC.

(c) Co-operation and common standards

Each MO must co-operate with the FMC and with the other FMC MOs in upholding professional standards, investigating complaints and ensuring that members are fit to practise. This includes sharing relevant information where it is legal to do so, following or taking account of decisions made by other MOs, and following FMC recommendations in relation to complaints and disciplinary processes.

2. Family Mediation Council responsibilities

(a) Appeals against member organisations' complaints and disciplinary procedures or disciplinary decisions

Where a complainant or member has exhausted the relevant MO's appeals processes, s/he may refer to the FMC Family Mediation Standards Board (FMSB) for adjudication on one or more of the following grounds:

- The MO's complaints or disciplinary procedure did not conform with the requirements set out in this document.
- The MO deviated from its own complaints or disciplinary procedure.
- The MO's decision was contrary to the FMC Code of Practice and where relevant the FMC Professional Competence Standards.
- The MO failed to take account of all the relevant evidence that was provided.
- In disciplinary cases, the MO's decision was not in proportion to the nature of the misconduct. The FMSB will consider whether a penalty is too harsh or lenient in relation to the guidelines given in section 1(b), but it will not normally consider specifics relating to requirements for further training or supervision.

Where the FMSB accepts that the matter referred for adjudication is within its area of competence, it will convene an adjudication panel to examine the matter. The adjudication panel must be constituted to avoid any conflict of interest. Should any panel member become aware of a conflict of interest, s/he will immediately step down from the investigation.

The adjudication panel will normally require to see all the evidence and records relating to the original investigation and decision-making process. It may not hear or examine any new evidence or carry out a reinvestigation of a complaint or matter giving rise to disciplinary action, although it may ask for clarification from the complainant, the member, or the MO.

If the adjudication panel finds that the MO's processes or interpretations were deficient, it will recommend that the MO changes its decision to the extent that would have applied had the correct procedures been followed. It may also recommend changes to the MO's complaints or disciplinary procedures to make them consistent with the requirements set out in section 1 above.

If the adjudication panel finds that a disciplinary penalty is unduly harsh or lenient in relation to the guidelines provided in section 1(b) it will recommend that the MO changes its decision accordingly. The panel may also recommend to the FMSB that a mediator who holds or is registered for FMCA and who is guilty of serious or recurring misconduct, but whose membership has not been revoked by his or her MO, has his or her accreditation removed.

(b) Removal of accreditation

Where an MO revokes or suspends a mediator's membership as a result of a disciplinary procedure, the FMSB will normally withdraw or suspend accreditation in accordance with the MO's decision regardless of whether or not the mediator is a member of another MO. If, in exceptional circumstances, the panel decides not to withdraw accreditation from a mediator whose membership has been terminated, this will not affect the MO's decision and will only enable the mediator to remain accredited if s/he is also a member of another MO. The panel may decide at its discretion to require a mediator whose membership has been suspended to undergo reassessment before s/he can be readmitted to FMCA status.

The FMSB will also normally remove accreditation from any mediator whose former MO would have revoked membership for disciplinary reasons save that the mediator had already resigned from the MO.

(c) Appeals to the FMC against withdrawal of accreditation or refusal to reaccredit

Mediators who are members of one or more MOs and whose accreditation has been withdrawn, who are refused reaccreditation after making a valid and complete reaccreditation application, or who wish to restart working towards accreditation after being debarred from doing so, may appeal to the FMC, clearly stating the grounds for the appeal. Mediators are strongly encouraged to discuss potential appeals with their PPC, and will need to explain the reason if the PPC is not supporting the appeal. Mediators and PPCs are encouraged to each make a short written statement in support of the appeal.

(no more than 500 words). A fee is payable for an appeal; it will be refunded if the appeal is successful.

When an appeal is approved to go forward, the FMC FMSB will convene an appeals panel that has not been involved in the decision to withdraw or refuse accreditation. The panel will examine the decision-making process leading to the withdrawal or refusal of accreditation. The decision on appeal will be final.

Mediators who have had membership of a MO terminated should note that a successful appeal against withdrawal of accreditation will not require that MO to reinstate their membership.

(d) Sharing details of disciplinary penalties with MOs

In order to prevent mediators from avoiding the consequences of cumulative disciplinary penalties, or from avoiding any requirements for additional training or supervision, the FMC will keep a time-limited register of disciplinary penalties and remedial requirements that have been applied, and at its discretion share details of the penalties and requirements applying to any individual mediator with any or all of its MOs.