

## Family Mediation Survey, Autumn 2017



The autumn family mediation survey had a good response from mediators, with 126 responses. The mediators who completed the survey were broadly representative of mediators on the register in terms of accreditation status and membership of FMC Membership Organisations (MOs).

### Mediators' Background and Practices

What is your professional background?

			Response Percent	Response Total
1	Solicitor		58.68%	71
2	Counselling		6.61%	8
3	CAFCASS		4.13%	5
4	Other : (Including most commonly: mediator, barrister, social work)		38.02%	46






Do you practice

			Response Percent	Response Total
1	full time?		27.50%	33
2	part time?		72.50%	87

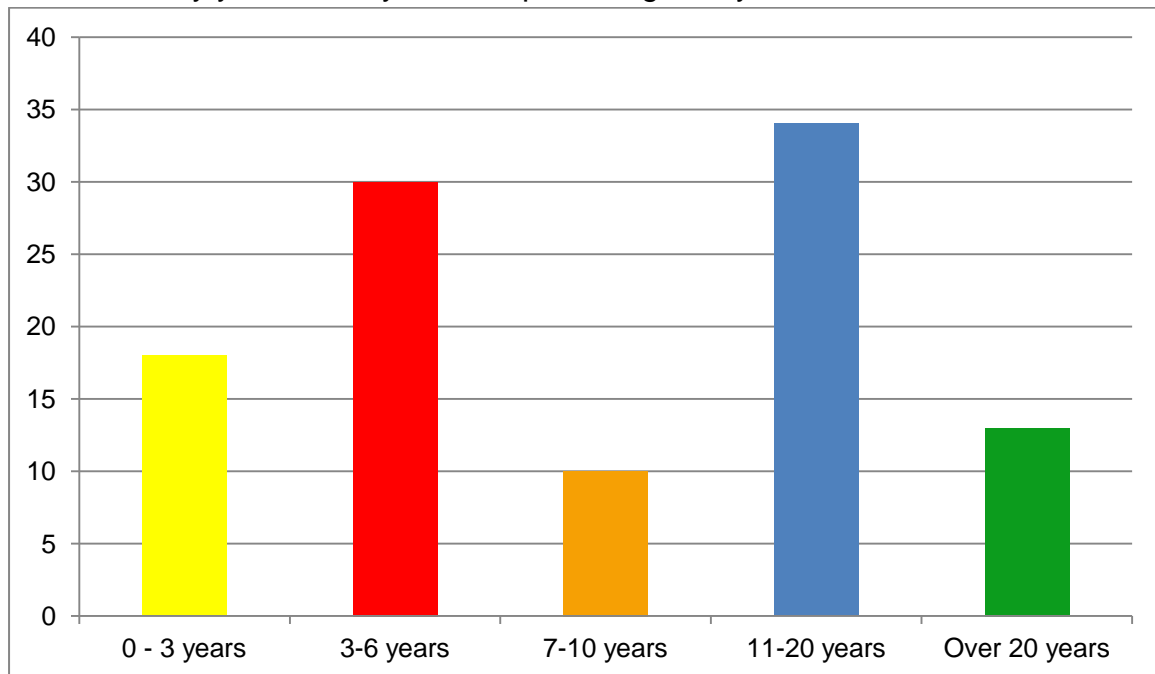
If you practice any types of non-family mediation, please tell us what these are.

			Response Percent	Response Total
1	Elder		6.06%	2
2	Community		45.45%	15
3	Workplace		48.48%	16
4	Employment		21.21%	7
5	Commercial		30.30%	10
6	Personal injury		0.00%	0
7	Defamation		0.00%	0
8	Other: SEN (most commonly) , Intergeneration, Probate		30.30%	10

### Do you practice

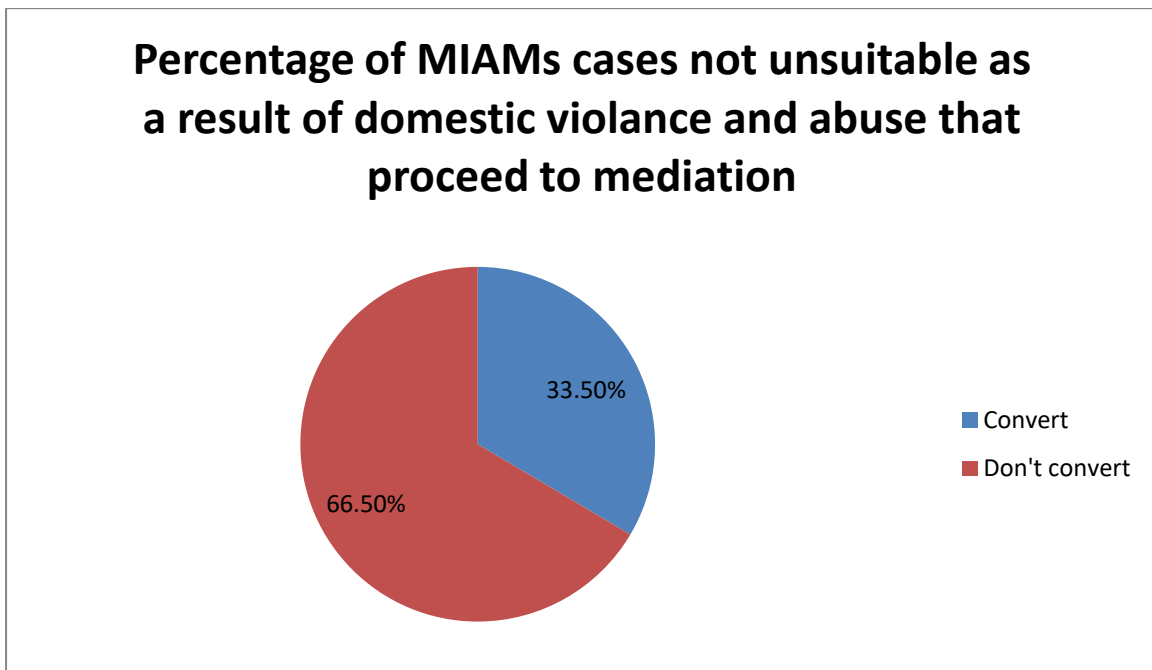
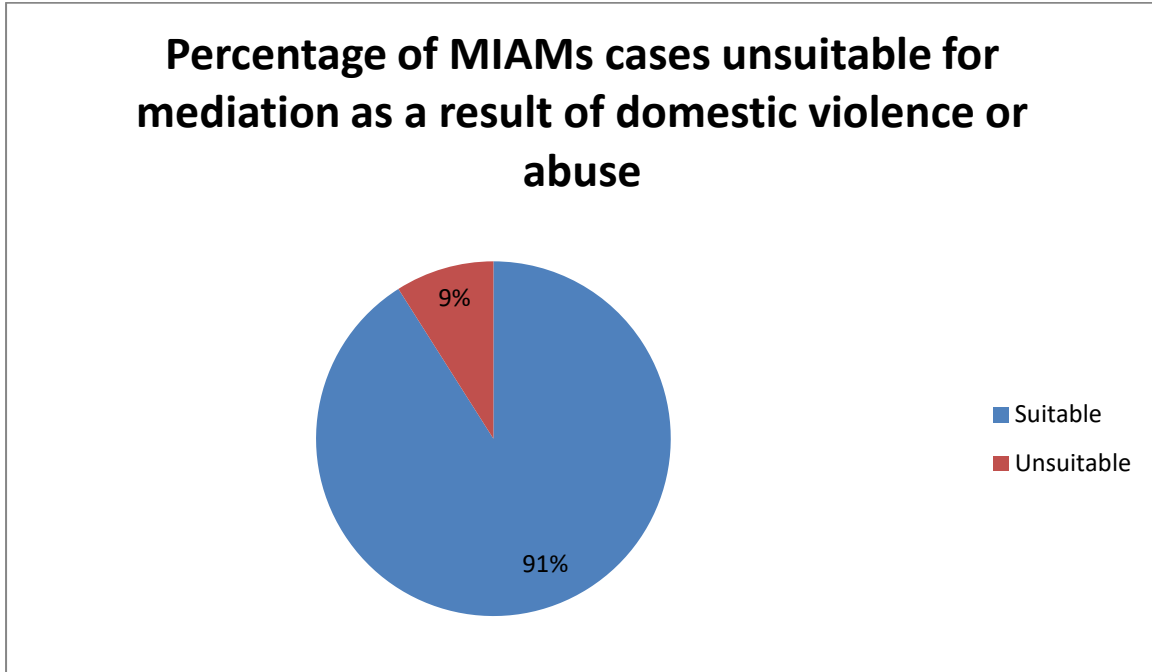
			Response Percent	Response Total
1	as a sole practitioner?		36.07%	44
2	for a for-profit mediation firm?		18.85%	23
3	in a legal practice?		38.52%	47
4	for a charity or not for profit firm?		15.57%	19
5	Other:		6.56%	8

### For how many years have you been practising family mediation?



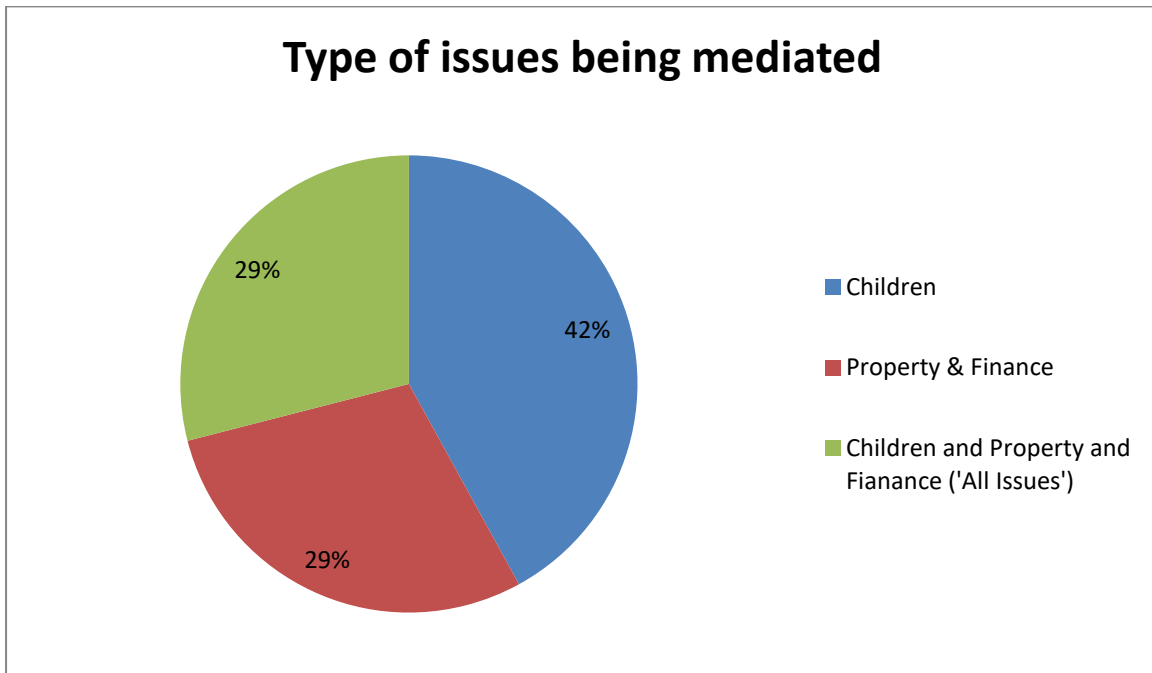
## Volume of MIAMs and conversion from MIAMs to mediation

Between them, 116 respondents to the survey had carried out 6471 pre mediation assessment meetings MIAMs in the last 6 months.



## Volume and type of mediation

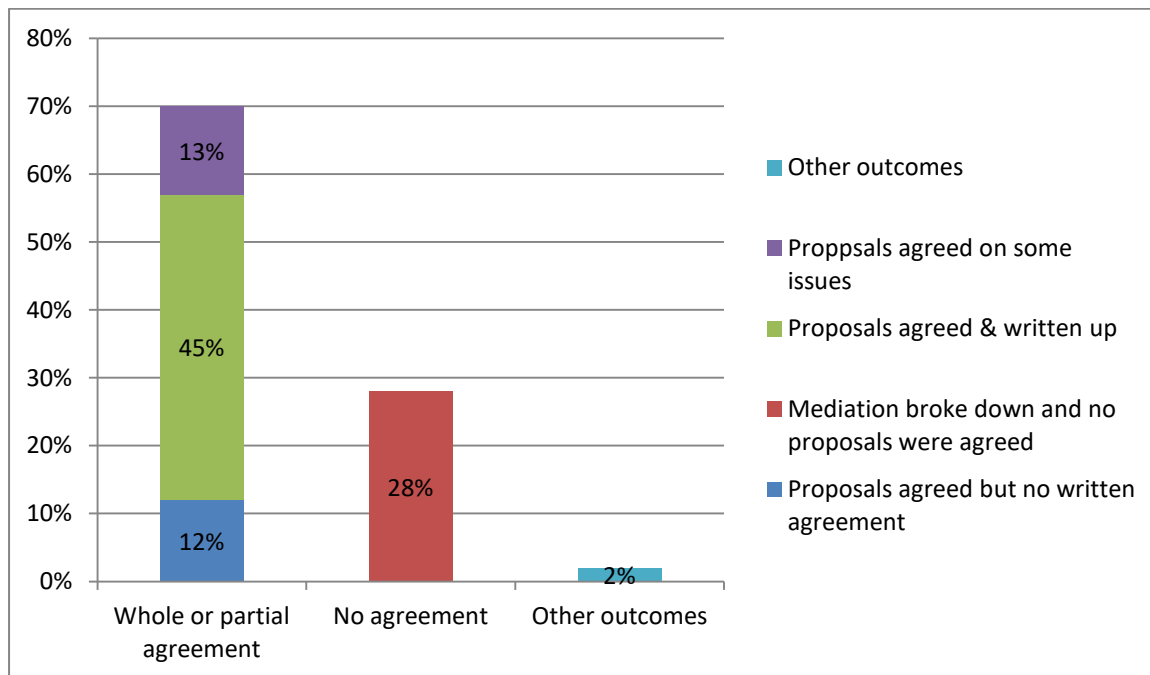
Based on the number of mediations conducted by the respondents (1971) over the last six months, the number of mediations conducted by registered mediators over the course of a year can be estimated to be 37,000. (This can be tested against other statistics available to see if it is a reasonable estimate).



Although 38% of cases involved children aged 10 or above still living at home, children were only consulted in 14% of these mediations.

In 13% of the mediations which took place, there had been physical violence within the family.

## How successful is family mediation?



### After mediation has concluded

Only a small number of respondents knew what happened to cases after they had produced an MoU. Of those that did know, respondents most commonly said that 50-60% of participants got a consent order. Other outcomes were only rarely mentioned (eg parenting plan).

Mediators followed up using specific feedback forms, through e-mails and telephone calls (i.e. individually followed up) or through solicitors. Some didn't follow up once agreements were written up.

### Family mediation not involving separating couples

One third of family mediators have conducted mediations in the last 6 months concerning families but not the breakdown of a couple's relationship. About half of these mediators had carried out small numbers of cases (i.e. one or two) and a handful had carried out a 5-10. Those cases most commonly concerned grandparents, but also included inheritance or sibling disputes.

## **Private vs Public Funding**

54% of respondents didn't work in a service which had a legal aid franchise.  
46% of respondents did.

A low number of respondents (32) answered the question relating to the percentage of public vs privately funded cases that they mediated. Of those that did, half said less than 25% of their cases were publicly funded.

In the last 6 months, the mediators who responded to the survey have carried out 32 legally aided CIM mediations. Many CIM practitioners with legal aid contractors said legal aid will not pay for CIM. Other respondents said it was not commercially viable as the LAA do not provide adequate funding to fit the amount of work/sessions required in order to do a professional job. One respondent said that his or her legally aided clients did not usually have children over the age of 10.

## **Cost of mediation**

The lowest fee that mediators charged was £62.50 per hour and the highest £480 per hour. The average was £194/hour including VAT.

However, the answers revealed a flaw in the question, as some people had answered per participant and others given a joint rate.

Some respondents had a range of charges, and one operated a sliding scale according to income.

## **Cost of supervision**

PPC support costs, on average, £103 per hour (inc vat where applicable).  
The lowest amount a PPC charged per hour was £25, the highest £400.

Some mediators have in house PPCs for which there is no cost and others have reciprocal arrangements with their PPC.

## **Awareness of other methods of dispute resolution**

Mediators' awareness of other methods of dispute resolution appears varied. When asked what other methods they were aware of, some said 'none' and others 'all of them'. Some respondents listed specific methods of dispute resolution including: arbitration, collaborative law, solicitor negotiation, private judge/FDR, CAFCASS interventions.

Mediators most commonly refer participants to solicitors.

The answers to this question need more careful analysis.

## **Features of successful and unsuccessful MIAMs**

Availability of funding, rapport with/confidence in mediator, being referred by pro-mediation solicitors and emotional readiness were all listed repeatedly as features of MIAMs cases which led to conversion to mediation.

Lack of trust in partner, wanting to punish, engagement of second participant, mediation not leading to a legally binding settlement and a belief that a judge will validate a participant's position are all features of cases which are less likely to convert to mediation (though note the last two points were only raised by respondents).






## **Enforcement of MIAMs rules**

Respondents' experiences of whether their courts are enforcing MIAMs rules are varied, with some saying courts don't appear to enforce these and others saying they do.


Responses to these questions will be used to pin point courts seemingly operating good practice and those where practice could be improved.

## Cases where there has been domestic violence or abuse in the family



Have you had any training about carrying out mediation in cases where has been domestic violence or abuse in the family?

			Response Percent	Response Total
1	Yes, face to face		70.34%	83
2	Yes, written guidance		33.90%	40
3	Yes, informal training		33.90%	40
4	No, I have not been able to access training		5.93%	7
5	No, I have not wanted training in this area		1.69%	2

Do you feel confident about assessing whether mediation is suitable in cases where there has been domestic violence or abuse in the family?



			Response Percent	Response Total
1	Yes		95.80%	114
2	No		4.20%	5

Do you feel comfortable in facilitating mediation where there has been domestic violence or abuse in the family?

			Response Percent	Response Total
1	Yes		81.36%	96
2	No		18.64%	22

## Training

Do you feel there are enough training opportunities available to meet your needs?

			Response Percent	Response Total
1	Yes		67.52%	79
2	No		32.48%	38

There are no obvious patterns in the range of further training or guidance that respondents would find beneficial. These answers needs further analysis in case a less obvious pattern can be identified.



## Promotion and Marketing

Lots of respondents suggested that different bodies could do more to promote mediation (including MoJ, courts, solicitors, the FMC, MOs, schools) and a few suggested specific measures. One respondent said a culture change was required. These responses need further analysis.

The vast majority of respondents feel confident in marketing their practice. Mediators ranked sources of referrals as follows:

Item	Overall Rank
Solicitor	1
Online - own website	2
Referred from friend/family member	3
Advice organisation (eg CAB)	4
Online - FMC website	5
Online - other website	6
Court	7
Other	8

## Follow up

Over 50 mediators left their e-mail addresses so that their answers in the survey can be followed up.