



FMC Newsletter

May 2018

The FMC board members are keen to hear the views of mediators about current issues in family mediation, such as the drafting of documentation at the end of mediation, and ways in which the Standards Framework can be improved. You are therefore invited to join the board on:

13th June, 4.30 – 6.00pm, Monument Place, London

This event will be held at the offices of Mills and Reeve, which the FMC would like to thank for its kind hospitality.

As well as offering the opportunity to speak to board members, this informal reception is an opportunity to meet other local mediators.

As numbers are limited, please e-mail executive@familymediationcouncil.org.uk if you are interested in attending. Places will be allocated on a first come, first served basis.

Recent FMC Developments

Meeting with the Family Justice Minister

The FMC has had a very positive discussion with Lucy Frazer QC MP, the Minister responsible for family justice, in an introductory meeting.

The Minister recognised the importance of enforcing the rules regarding MIAMs, and said that her team had taken steps to achieve this, including re-issuing Standard Operating Procedures to courts.

We brought to her attention the fact that legal aid rates for family mediators have not increased since 1997 and told her that auditors are disallowing payments for seemingly spurious reasons. We said that advice from the LAA and the actions of its auditors appeared inconsistent – with mediators suffering as the result. The Minister confirmed these latter points could be addressed.

The Minister warmly welcomed the work that the FMC is doing to give more authority to documentation that is produced at the end of a mediation, and encouraged us to keep her up to date with developments. Work is at an early stage, and it will take some time for this complex issue to be considered. In the meantime, mediators are

reminded that, in preparing any such document, they must act entirely within our standards (and the Code of Practice), and must make sure that they recommend that participants each get independent legal advice.

We are grateful to the Minister for taking the time to meet us and are looking forward to being able to work with her and the Ministry of Justice to increase separating couples' participation in family mediation.

Legal Aid Agency

At the end of April, the FMC met the Legal Aid Agency as part of its ongoing work to try to increase access to family mediation services. The FMC raised a number of issues with the LAA including payment for CIM, concerns about inconsistent advice from contract managers, harsh auditing practices and the LAA's communication with contractors.

The meeting was productive and we received some commitments from the LAA in response to our concerns – for example about training contract managers, and improving the mediation guidance. We are following up these agreed actions. In addition, we will shortly be starting an FMC Legal Aid Linked-in group. You will be able to use this to let the FMC know about any concerns or practical frustrations you experience as a legal aid contractor.

We have had a number of recent queries from mediators asking for copies of certificates confirming their accreditation, as these have been requested by the Legal Aid Agency. We reminded the Legal Aid Agency that mediators' accreditation status can be checked on the FMC Register. However, we have also decided that we will now issue certificates to accredited mediators. These will be phased in over the course of the summer.

We have also had a number of queries from mediators asking for confirmation of their accreditation status while their application for re-accreditation is being considered; during this time, you will remain accredited. However, if you are concerned that your re-accreditation date falls close to the date on which you have to show the LAA that you are accredited, you can apply for re-accreditation early.

MoJ, HMCTS, CAFCASS working group

The FMC and FMSB have formed a working group with the MoJ, HMCTS and CAFCASS to try to increase participation in MIAMs and ultimately mediation. This builds on some initial work that members of FMSB carried out to deliver training to court legal advisers; feedback from these sessions was positive and more training will be delivered.

Portfolios

The FMC has published new [portfolio guidance](#) and a new [template](#) to be used by mediators submitting their portfolios to the FMC when applying for accreditation. Mediators working towards accreditation who have not yet started to complete the existing template should use this version now; mediators who have started to complete their portfolio using the existing template may do so until 31.5.19.

The FMC also reviewed portfolio fees, which have remained the same for a number of years, but has decided not to increase these for the time being.

Amended Code of Practice and CIM standards

The FMC published an amended [Code of Practice](#) as well as its [Standards for Child Inclusive Mediation](#) in April. Mediators are reminded that they need to familiarise themselves with these documents if they have not done so already.

All Mediation Conference

John Taylor (FMC Chair), Robert Creighton (FMSB Chair) and Ewan Malcolm (FMC Director) presented a family mediation session “Professional Self-Regulation in Action” at the All Mediation Conference organised by the CMC. Delegates were asked to consider what other sectors of mediation could learn from the family mediation community’s experience of regulation and vice versa.

CIM in the Czech Republic

FMSB member Adrienne Cox recently spoke at a conference in the Czech Republic organised by the Office for International Legal Protection of Children. Adrienne was invited to tell delegates about the work that the FMSB has been doing alongside the FMC to introduce new standards for Child-Inclusive Mediation in England and Wales.

GDPR

The General Data Protection Regulation came into force on 25th May. Mediators need to be aware of the implications that this has for their practices. The [Information Commissioner’s Office](#) has guidance on GDPR which mediators may find useful.

Change of contact details

The FMC has a new address and phone number. Its new contact details are:

Family Mediation Council
International Dispute Resolution Centre
70 Fleet Street
London EC4Y 1EU

01707 594055

Developments from elsewhere

Legal Aid Agency

The LAA has published a number of new documents since the last FMC newsletter, including amended contracts which have been updated to reflect the GDPR which can be seen [here](#) alongside the relevant amendment notices and a new eligibility [Keycard](#). The LAA recommends that all its contractors subscribe to its update service and follow it on Twitter @LegalAidAgency to keep up to date with developments which are sometimes made at short notice.

Family Justice Council

The Family Justice Council-supported Pensions Advisory Group published two draft reports which are available [here](#). The first report reviews legal questions and the second reviews the assumptions used by experts when valuing pensions for the purposes of sharing or offsetting, and any desirable qualifications and regulation of the experts. The group is inviting responses to its consultation questions which are included in the reports – please e-mail these to Hilary Woodward at woodwardhd@cardiff.ac.uk by 18 July 2018 using the reply and consent form included on the website.

Board Briefing

Ewan Malcolm, FMC Board members and Chair of the College of Mediators comments on the 'consent order' debate.

All it takes for a mediation to begin to work, it seems to me, is a slight shift in perspective which allows everyone around the table to see the problem slightly differently.

It felt like this happened when our excellent Executive Officer Helen Anthony reported back in mid- 2017 about the FMC consultation on mediators drafting consent orders. The issue had arisen when we were updating the Code of Practice. Colleagues representing mediators from predominantly legal backgrounds proposed a change which would explicitly permit mediators (who considered themselves competent) to draft, for use as court documents, agreements reached in mediation. Other colleagues expressed the similarly-principled position that the role of an independent family mediator should not involve providing a legal service. This range of views was fully reflected in the helpful responses to the consultation.

The shift in perspective came with an elegant reframing of the issue based on the common purpose of all family mediators. I believe all mediators want to help their clients to resolve their differences. Resolution for people involved in litigation is generally about getting an enforceable court order to end the court action. The FMC agreed to reframe the question as 'How can mediation agreements be turned into enforceable court orders?'. This has allowed the discussion to move away from a

polarised debate about whether or not it is ethical for mediators to draft a legal document. It is good to move on from this controversy, which seems to have raged across the English-speaking mediation world for some times. An example of the complexities of different contexts is outline by the accomplished American family mediator Bill Eddy [here](#).

Now our strategic commitment is to work to change and update the processes for parties who need to turn their decisions reached in mediation into a court order. This work will take time and energy as we seek to build a consensus. We will need to maintain the requirement for compliance with the Standards Framework, and the Code of Practice, and we will also need to bear in mind that not all mediators will wish to undertake such drafting. I am excited that that we will be looking outward to make things better for our clients rather than arguing amongst ourselves about who can do what.

Upcoming events & training

The FMC aims to bring you information about training, courses and workshops related to family mediation, to aid professional development. Courses are also listed on our [website](#), where you will find more details about submitting events to be included.

- 5 June, NFM: [Introduction to Mediation](#), Birmingham
- 5 June, Anvers Mediation: Family Mediation and Legal Update, Manchester. For more information, please e-mail jancoulton08@gmail.com
- 5 - 6 June and 4 September: LADR, Professional Practice Consultancy Training, Birmingham. For more information please contact lesley.allport@ladr.net
- 7 June, FMA: [Solution Focused Mediation](#), Leeds
- 7 June, Anvers Mediation: How Do Family Mediators Define 'the Family'?, Manchester. For more information, please e-mail jancoulton08@gmail.com
- 15 -16 June, College of Mediators: Annual Conference - Dealing with High Conflict, London. For more information please email admin@collegeofmediators.co.uk
- 19 - 20 June, FMA: [Direct Consultation with Children](#), London (NB new CIM standards and updating requirements will apply from 1.9.18)

- 19 – 21 June, [FMA Refresher Training](#), London
- 21 – 22 June, NFM: [Child Inclusive Mediation Training](#), London (NB new CIM standards and updating requirements will apply from 1.9.18)
- 27 – 28 June, Resolution: [PPC Foundation Training](#), London
- 7 July, NFM: [Introduction to Mediation](#), London
- 13 July, Bath Street Seminars: Using Financial Information to create options in family mediations, Cheltenham. For more information please email nicholas@familymediator.org.uk
- 23 July, Anvers Mediation: Post Family Mediation Foundation Training - What Happens Next?, Leeds. For more information, please e-mail jancoulton08@gmail.com
- 1 August (and later dates), [NFM: Foundation Training](#), London/distance learning
- 10 August, Bath Street Seminars: Drafting Mediation Documents, Cheltenham. For more information please email nicholas@familymediator.org.uk
- 5 September, NFM: [Introduction to Mediation](#), Birmingham
- 5 - 7 September, FMA: [Foundation Training Course](#), Leeds
- 5 - 7 September, Resolution: Family Mediation Refresher Training, London. For more information, please e-mail louisa.grisdale@resolution.org.uk
- 6 September, College of Mediators: Professional Practice Consultant (PPC) Conference, London. For more information, e-mail admin@collegeofmediators.co.uk
- 12 September, College of Mediators: South East Mediation Network Meeting. For more information please contact magrob521@msn.com
- 13 September, NFM: [Child Inclusive Mediation Awareness and Understanding](#), London
- 14 September, Bath Street Seminars: Adapting the Model, Cheltenham. For more information please email nicholas@familymediator.org.uk
- 19 September (and later dates), Resolution: [Mediation Foundation Training](#), London

- 26 – 27 September, [FMA: Annual Conference](#), London
- 27 September, College of Mediators: Mediation Community Conference, Milton Keynes. For more information, e-mail admin@collegeofmediators.co.uk
- 4 October, FMA: [PPC Update of Theory and Practice](#), Leeds
- 4 October, NFM: [Child Inclusive Mediation Awareness and Understanding](#), London
- 4 October, FMA: Parental Alienation: [Recognition and Appropriate Responses in Mediation](#), London
- 6 October, NFM: [Introduction to Mediation](#), London
- 10 - 12 October (and later dates), FMA: [Foundation Training Course](#), Leeds
- 11 October, College of Mediators: North West Mediation Network Meeting. For more information please contact info@solutiontalk.co.uk
- 11 October, College of Mediators: South West Mediation Network Meeting. For more information please contact admin@collegeofmediators.co.uk
- 11 – 12 October, Resolution: [Dispute Resolution Conference 2018](#), Nottingham.
- 11 – 13 October, NFM: [Child Inclusive Mediation](#), London (NB this is Subject to FMSB Course Approval, a process happening in mid 2018)
- 18 October, Anvers Mediation: Post Family Mediation Foundation Training – What Happens Next?, London. For more information, please e-mail jancoulton08@gmail.com
- 18 October, Anvers Mediation: PPC Annual Update Theory & Practice, London. For more information, please e-mail jancoulton08@gmail.com
- 19 October, Bath Street Seminars: Working collaboratively in family mediation, Cheltenham. For more information please email nicholas@familymediator.org.uk
- 19 October, Anvers Mediation: Post Family Mediation Foundation Training - What Happens Next?, London. For more information, please e-mail jancoulton08@gmail.com
- 25 October, College of Mediators, Annual General Meeting Event, Milton Keynes. For more information, please e-mail admin@collegeofmediators.co.uk

- 1 November, NFM: [Diverse legal issues: 2018 Legal update training](#), London
- 2 November, Bath Street Seminars: Dealing with Impasse, Cheltenham. For more information please email nicholas@familymediator.org.uk
- 8 November, NFM: [Introduction to Mediation](#), London
- 8 November, NFM: [Diverse legal issues: 2018 Legal update training](#), Bristol
- 7 – 9 November, FMA: [Refresher Training](#), London
- 12 - 13 November (and later dates), FMA: [Foundation Training Course](#), Leeds
- 14 November, College of Mediators: North East Mediation Network Meeting. For more information please contact admin@collegeofmediators.co.uk
- 15 November, FMA: [PPC Update of Theory and Practice](#), London
- 16 November, Bath Street Seminars: Financial Disclosure in Mediation, Cheltenham. For more information please email nicholas@familymediator.org.uk
- 21 November, NFM: [Diverse legal issues: 2018 Legal update training](#), Newcastle
- 26 November, FMA: [Systemic Theory and Practice in Separation and Divorce Dilemmas](#), London
- 30 November, Bath Street Seminars: Facilitating Parental Communication, Cheltenham. For more information please email nicholas@familymediator.org.uk
- 30 November, NFM: [Diverse legal issues: 2018 Legal update training](#), Birmingham
- 1 December (and later dates), NFM: [Foundation Training](#), London/distance learning
- 6 December, NFM: [Introduction to Mediation](#), London
- Ongoing, NFM Training: [Professional Practice Consultancy Training](#) (distance learning)

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