

# Terms of Reference for the Family Mediation Standards Board ("FMSB")



## 1. Introduction

- a. The FMSB is a committee of the Family Mediation Council ("FMC") that is responsible to the Board of the FMC ("the Board") for advising the Board on the content of the FMC Standards and Self-Regulation Framework, and for its implementation. While decisions about the content of the Framework rest with the Board, operational decisions about matters set out in it are delegated to the FMSB.
- b. The FMC is a company limited by guarantee (company number 9560220). Its objectives are set out in Article 2 of its Articles of Association (the "Articles") as follows:

2.1	The Company's Objects are to promote for the public benefit assistance through mediation for adults and children who are affected by the breaking down of family relationships and so: <ul style="list-style-type: none"><li>1. prevent and/or alleviate poverty, hardship and distress caused by the breakdown of family relationships;</li><li>2. safeguard and protect good health, both mental and physical; and</li><li>3. preserve and maintain family relationships,</li></ul> in particular but without limitation by:
2.2	providing a collaborative forum for the Members working in the field of Family Mediation and by representing the views and interests of such professionals and such adults and children who benefit from Family Mediation;
2.3	developing and promoting professional standards for the training and practice of Family Mediation and to ensure adherence to and maintenance of such standards;
2.4	collating and providing advice and information on all aspects of family mediation;
2.5	developing, promoting and providing education and training in the practice of Family Mediation; and
2.6	advancing, promoting and carrying on study and research into family mediation and disseminating the useful results of such research.
2.7	providing the profession of Family Mediation as a whole, the Members, mediation services and Family Mediators with one unified body to make representations to government and other national interests and to promote Family Mediation to the media and others.

- c. Article 21 sets out the primary functions of the FMC. These functions include a responsibility, as appropriate, to establish and oversee a framework by which the

FMC delegates its powers to committees and/or employees under a proper system of control.

- d. Article 26 requires the FMC to establish the FMSB as one of its committees. The purpose of this document is to set out the framework and terms of reference for the FMSB.

## **2. Remit**

- a. In fulfillment of its objects, one of the roles of the FMC is to develop and promote professional standards for the training and practice of family mediation which are fit for purpose and to ensure that such standards are adhered to and maintained within a framework of self-regulation.
- b. With a view to fulfilling this objective, the FMC delegates to the FMSB responsibility to advise upon and oversee the implementation of, and adherence to those professional standards. In particular, the FMC delegates to the FMSB, in accordance with a Professional Standards and Self-Regulation Framework that the FMC shall from time to time publish ("the Framework"), the power to:
  - i. consider initial training courses for approval, to consider any appeals relating to courses that are not approved, and to monitor the ongoing quality of courses;
  - ii. institute and maintain a comprehensive, equitable and robust system for the accreditation of individual mediators including:
    - 1. making decisions on the accreditation of individual mediators (including reaccreditation and suspension or removal of accreditation);
    - 2. appointing, training and deselecting assessors;
    - 3. ensuring a common standard of assessment;
    - 4. considering appeals against decisions to refuse or remove accreditation; and
    - 5. maintaining a register of accredited mediators and those registered as working towards accreditation.
  - iii. seek to ensure that the Law Society Family Mediation Panel accreditation route operates standards comparable to those of the FMC accreditation process;

- iv. maintain and publish a register of Professional Practice Consultants who have completed training, including operating the registration, re-registration and de-selection procedures;
  - v. consider and make decisions on complaints and disciplinary matters that, in accordance with the Standards Framework, are referred to the FMSB and, where necessary, investigate and report to the Board on potential shortcomings in the procedures of Members of the FMC;
  - vi. monitor and report to the Board on any other functions of Members of the FMC that have a direct bearing on the quality of the Framework;
  - vii. maintain management information to enable the FMSB to carry out its responsibilities effectively and to provide statistics relating to the Framework;
  - viii. review the effectiveness and cost-effectiveness of the FMSB's operations; and
  - ix. carry out such other tasks and duties as are requested by the Board from time to time.
- c. It is important to note that, while the FMSB has the responsibility to advise on changes to the Framework, the Framework is the responsibility of the FMC and changes to it may be put into effect only with the approval of the Board.
- d. The FMSB shall agree with the Board an annual work plan and budget that enables it to fulfill its remit in an efficient and effective manner. The FMSB shall be accountable to the Board for the execution of its duties and for any expenditure it may incur.
- e. In performing his/her duties under these Terms of Reference, each member of the FMSB will observe and comply with the version then current of:
- i. "Day-to-day management and co-operation between the FMC and the FMSB";
  - ii. "Remit of the FMC & FMSB"; and
  - iii. the FMC Code of Conduct.

### **3. Membership**

- a. The FMSB shall comprise seven members.

- b. No member of the FMSB must:
  - i. be a Director of the FMC;
  - ii. be involved in the governance of a Member of the FMC.
  
- c. Three of the members of the FMSB must:
  - i. each be a current Family Mediation Council Accredited Family Mediator (FMCA); for avoidance of doubt mediators are not selected to represent their member organisations, but as members of the mediation profession as a whole;
  - ii. be selected so as to avoid dominance by members from one type of professional background; from one geographical region; or from one or two FMC member organisations;
  - iii. be selected to represent so far as possible the diversity of the community that the profession serves.
  
- d. Four of the members of the FMSB must not be practising family mediators, while having experience or knowledge that is relevant to the remit of a professional standards board.
  
- e. An individual may not be a member of the FMSB unless s/he:
  - i. is aged 18 or over at the date of his appointment;
  - ii. has signed a written declaration of his willingness to act in conformity with these Terms of Reference and the Articles;
  - iii. has signed the Code of Conduct of the FMC;
  - iv. accepts the versions of the “Day-to-Day Management and co-operation between the FMC and the FMSB” and of the “Remit of the FMC & FMSB” then applying.

#### **4. Appointment**

- a. The FMC shall set up an Appointments Panel to appoint members of the FMSB, consisting of:
  - i. the Chair of the FMC;
  - ii. the Chair of the FMSB;

- iii. a Director of the FMC, chosen by the Board;
  - iv. a member of the FMSB, chosen by the other members; and.
  - v. a person who is not a member or employee of the FMC or of any of its Members, but who has experience of appointing to committees of public or professional body committees.
- b. The FMC shall advertise FMSB vacancies via its Members and through whatever other channels are relevant to the recruitment of suitable non-mediator members.
  - c. Appointment of members shall be made following a selection process that is in accordance with good practice for public sector appointments and is fully documented.
  - d. Confirmation of the appointment of a member of the FMSB shall be subject to completion by him/her (to the satisfaction of 75% of the remaining members of the FMSB) of a probationary period of six months.
  - e. The FMSB will annually carry out reviews of the performance of the FMSB members, may (in conjunction with the Board) do so, from time to time, and will do so if so required by the Board.

## **5. Term of Office**

In order to ensure a reasonable balance between continuity of membership of the FMSB and refreshment of its members the following will apply:

- a. Members will normally be appointed for a term of three years, with the opportunity of re-appointment for a further three years. After six continuous years members will not be eligible for another term until three years have elapsed.
- b. The rotation of terms will be arranged so that as far as possible over time one third of the membership in each of the two categories (practising mediators and independents) is due for renewal or replacement each year.
- c. In exceptional circumstances - for instance to achieve 5.b. - a member's term may be extended for up to a year, but this will not take the form of re-appointment.

## **6. Termination of Membership**

- a. An individual will cease to be a member of the FMSB if:

- i. s/he comes to the end of his/her term of office in accordance with clause 5 above;
  - ii. s/he resigns by written notice to the Executive Officer of the FMSB;
  - iii. s/he is absent from three consecutive meetings of the FMSB without good reason;
  - iv. s/he is, in the opinion of the Board, or of the remaining members of the FMSB, guilty of conduct contrary to clause 2(e) above;
  - v. s/he fails to complete a satisfactory probationary period under clause 4(d) above; or
  - vi. s/he is found, under clause 4(e) above, to have (without good reason) performed to an unsatisfactory standard.
- b. In the event of a.iii, v. or vi. above, 75% of the other members of the FMSB must (in order to terminate the appointment of a member) resolve to remove the defaulting member, having first given him or her an opportunity to put his or her case against removal.
  - c. In the event of a.iv. above (in order to terminate the appointment of a member and as respectively appropriate), 75% of the Board or the remaining members of the FMSB must resolve to remove the defaulting member, having first given him or her an opportunity to put his or her case against removal
  - d. The Chair of the FMSB shall be responsible to the FMC for ensuring that appropriate action is taken in the event of members defaulting under a.iii., v. or vi. above.

## **7. Chair**

- a. The FMSB shall appoint its Chair from amongst its members.
- b. The individual appointed as the Chair of the FMSB shall serve as such until s/he ceases to be a member of the FMSB in accordance with clause 6 above, until s/he resigns, or until s/he is removed as Chair by a vote of 75% of the other members of the FMSB.

## **8. Executive Officer**

- a. The FMC shall appoint a person who is not a Director of the FMC to be the Executive Officer of the FMSB.

- b. The same person may serve as Executive Officer to both the FMC and the FMSB, provided that s/he is not a Director of the FMC.

## **9. Meetings**

- a. The FMSB shall meet at a frequency appropriate to discharging its duties effectively and economically. The Executive Officer shall give written confirmation of the meeting date and agenda at least seven days in advance of the meeting unless, in the opinion of the Chair, exceptional and urgent circumstances exist.
- b. If the Chair is absent from, or unwilling to take the chair, then the members of the FMSB shall appoint one of their number to preside at the meeting.
- c. The quorum for meetings of FMSB is four members (at least one of which must be appointed under paragraph 3c above).
- d. Matters arising at a meeting of the FMSB are to be decided where possible by consensus. If a consensus cannot be reached, a simple majority vote may be used with each member having one vote and, if there is an equality of votes, the Chair having a casting vote.
- e. The FMSB may invite one or more observers to attend its meetings on a one-off or ongoing basis as relevant. In addition, the FMC is entitled to send up to two of its Directors to attend meetings of the FMSB. The FMSB may hold closed sessions only when individual cases (e.g. complaints, accreditation, training course approvals) are being discussed, in order to maintain appropriate levels of confidentiality or commercial sensitivity. The FMSB may, if invited by the Board, send up to two of its members to attend meetings of the Board, as observer(s), subject to the Articles. Observers should be aware that they will be excluded from any part of the meeting as the Board may decide.
- f. If a meeting of the FMSB remains inquorate for 15 minutes after its scheduled starting time, or becomes inquorate for more than 15 minutes, the members present may, other than allowing additional time for members to travel to the meeting, act only to adjourn the meeting to such other time and place as they decide.
- g. If, at the adjourned meeting, there are again insufficient members present within 15 minutes from the scheduled starting time of the adjourned meeting to constitute a quorum, or the adjourned meeting becomes inquorate for more than 15 minutes, then those members who are present (provided that they number at least three) shall constitute a quorum for the purpose of allowing any business of the adjourned meeting to be conducted, subject to any decisions being approved at the next meeting by a majority of members.

- h. A resolution in writing signed by a majority of the members of the FMSB will be as valid as if the resolution had been passed at a meeting.
- i. Minutes of each meeting of the FMSB must be made and signed as an accurate record by the member who chaired the meeting. A copy of all minutes must be sent to the Executive Officer for distribution to all the directors of the FMC.

## **10. Conflicts of Interest**

Members of the FMSB shall deal with any conflicts of interest in accordance with Articles 18 to 20.

## **11. Delegation of tasks**

The FMSB may delegate specific tasks to any of its individual members or to a panel that includes at least one of its members. The FMSB will remain responsible for making decisions based on the advice or findings of any individual member or panel. At the point of making any such delegation the FMSB must set out in writing the terms of reference according to which the delegation is made.

## **12. The Role of the Board in relation to the FMSB and these Terms of Reference**

- a. In consultation with the FMSB, the Board may amend the Framework as described in paragraph 2b and set the strategic direction of the FMSB.
- b. After consultation with the FMSB, the Board may amend these Terms of Reference. It may make constitutional changes to the FMSB or replace it with an alternative structure only after it has:
  - i. conducted a thorough review that includes oversight from a source independent from the FMC and its Members;
  - ii. consulted publicly with the family mediation community and with key stakeholders;
  - iii. made provisions as necessary to minimise any detrimental effect that changes may have on the public or on the profession;
  - iv. obtained the agreement of its Members at a General Meeting of the FMC.
- c. Should the FMSB fail without good cause to discharge its duties and fulfil its remit, or act in a way that brings the FMC or the profession into disrepute or otherwise contravene the Code of Conduct, the Board shall inform the Chair of the FMSB in



writing of the remedial actions to be taken, and the timetable for doing so. Should the FMSB fail to comply with the direction of the FMC, the Board may dismiss the FMSB and initiate appointment of a new Standards Board.

- d. Without prejudice to clause 12(a), the Board shall not seek to influence the FMSB in relation to individual decisions that fall within its delegated authority.

### **13. Communication with the Board**

In order to assist communication with the Board:

- a. the FMSB will ensure that the Board has full access to minutes of FMSB meetings;
- b. the FMSB will provide to the FMC a summary of its activities, including its income and expenditure, at intervals agreed between it and the FMC;
- c. the FMSB will produce an annual plan and report detailing the FMSB's activities for the previous year, any matters arising and solutions that the FMSB intends to implement or for which it seeks the approval of the Board. The report will be made available to the Board and published on the FMC's website;
- d. the Board will inform the FMSB of any relevant decisions, advice or guidance agreed in Board meetings;
- e. the Board and the FMSB are each entitled to send up to two observers to each others' meetings in accordance with clause 9(e) above.

### **14. Review of these Terms of Reference**

These Terms of Reference will be reviewed annually by the Board, following advice from the FMSB.

Dated 10 August 2017