Legal Aid Agency/ Family Mediation Council Meeting Update – 31 March 2020

Following a meeting with the Legal Aid Agency, the FMC has the following update.

Monthly standard payments
We repeated the request already made in a letter to the Secretary of State that payments are made to contract holders at historical rates for a period so as to ease potential cash flow problems. We understand that this proposal is before the Secretary of State and we will update mediators as soon as we have a response.

Guidance on Signatures
Guidance has already been published covering the issue of obtaining signatures, the LAA confirming that electronic signatures are satisfactory. The LAA are looking to providing a Means7 form that could be electronically signed without Adobe.
In the event that an electronic signature could not be obtained an email from the client showing the following is satisfactory:

a. an intent to take up the offer of legally aided family mediation (not just the expectation),
b. plus the client's name with the intention that it is considered to be a signature, which should be contained in the body of the email.

FMC suggests the mediation provider sends an email to the client which could say:

- *I attach the form for the assessment of eligibility for legal aid which you must read. Please ensure that you check your contact information and especially the financial information provided by you. If any of it is incorrect then please let me know.*
- *If the contact information and financial information is right, then please read the declarations at the end of the form.*
- *If you are happy that the form is accurate and agree that you want your email to be treated as your signature then please copy and paste the following wording into an email to me:*
  "I have checked the legal aid form sent to me and have read the declarations on that form. I am happy for this email to be taken as my electronic signature and I understand that I am now applying for legal aid for family mediation."

The client must then copy and paste the above in to an e-mail to you with their name also typed in to the body of the email.

Whatever route to obtain the signature is obtained, the reason for this should be recorded on the case file.

Whilst the LAA indicated it would be as flexible as possible, there is no indication that it is changing the rule that a Means7 must be signed in the presence of the mediator, therefore the safest course of action is to get the assessment of means and Means7 form signed before the MIAMs take place.

Assessment of Means
The LAA is due to issue guidance about assessment of means this week (w/c 30th March).

LA Claim Submissions
The FMC raised a concern that services will not be able to submit their monthly LAA claim. The LAA asked how many mediators this applies to. If this applies to you, please e-mail Helen Anthony at executive@familymediationcouncil.org.uk as soon as possible so we can indicate to the LAA how widespread the problem is and help them find a solution.

On-Line MIAMs and Mediation
It was confirmed that video MIAM's and mediation are allowed within the FMC Code of Practice and that in exceptional circumstances telephone MIAM's and mediation could be undertaken. FMC have issued recent guidance to help clarify what these exceptional circumstances might be.

The LAA confirmed that if firms had to set up conference call facilities due to these current exceptional circumstances, this could be claimed as a disbursement. The telephone calls themselves could not be classed as a disbursement, simply the setting up of the conference call facility.

'Applications for mediation must be made in person' clause
We discussed the unique requirement that 'applications for mediation must be made in person'. This is the only legal aid area of work which requires this. This is separate to the requirement to sign the Means7 in the presence of a mediator.
The LAA are changing this requirement as it was an anomaly which is only present for legally aided family mediation. This change will be issued at the end of April beginning of May and at that point, legal aid family mediation contracts will harmonize with all other legal aid contracts in not requiring the application for mediation to be made in person.

Remote supervision
Guidance has been issued to indicate that remote supervision is allowed.

File reviews
File reviews guidance has not yet been issued but we understand that this will be issued shortly. FMC requested that if mediators are unable to provide files to supervisors, this file review requirement will be suspended.

Named mediation office
The requirement still stands that if contract work is not being provided from a named office the local area contact manager needs to be notified.