

FMSB Guidance on Information and Assessment Meetings During Coronavirus Social Distancing Period



The FMC Code of Practice states *'All assessments for suitability for Mediation should be conducted by a Mediator at meetings and, where possible, on a face-to-face basis.'*

Whereas many (if not most) mediators prefer to carry out such meetings 'in person', 'face-to-face' can also include online video connections, where mediators can see the person that they are speaking to.

The Code of Practice goes on to say *'Assessments, including statutory Mediation Information and Assessment Meetings, should not be carried out via voice only connections except where there are specific problems about access to an online video link. The Mediator must record in writing what those specific problems are.'*

This means that if it is not possible to use an online video connection, mediators may conduct information and assessment meetings via voice-only connection. The reasons for not being able to conduct a face to face meeting (in person or online) should be recorded on the file.

The FMSB recognises that whilst government guidance (or, potentially soon, the legal requirement) is to keep at a distance from others, there will be more occasions than usual when an information and assessment meeting cannot be carried out face-to-face (in person or using an on line video link) and that voice-only meetings may therefore be required more often. This may be because a potential client cannot access a smart phone or computer, or because mediators cannot.

Face to face information and assessment meetings are always preferable because research shows that 70% of communication is non-verbal. Voice-only connections provide no opportunity to read potential mediation participants' body language, or tell whether others are in the room attempting to exert control over them. Mediators must at all times, even in these challenging circumstances, assess for suitability in all usual areas, notwithstanding that the assessment meeting is being carried out in a different way. If a decision to proceed with mediation is made, the mediator must assess that there are no safeguarding concerns and no risk to either participant or child. To assist in this assessment, additional safeguarding measures should therefore be taken if participants proceed to mediation following voice-only assessment and information meetings. If mediation is to be conducted face-to-face (either in person once social distancing is no longer required, or via online video connection) after a voice only assessment meeting, then a separate individual safeguarding check should be carried out with each individual participant before mediation starts. Mediators should only mediate via a voice-only connection following a voice-only Information and Assessment Meeting in limited circumstances. In this situation, they should proceed with extreme caution and having sought guidance from their PPC.

Mediators carrying out information and assessment meetings via video connection should read the FMC's [Guidance on Online Mediation](#) particularly if they are trying this for the first time. The FMSB cannot recommend using any particular technology or video conferencing platforms but those unfamiliar with the range of software available may wish to know that other mediators have reported using Zoom, Microsoft Teams, Facetime and Skype.

Mediators who hold contracts with the Legal Aid Agency to carry out publicly funded mediation should note that the position is no different for LAA cases, save for the requirement to sign the CivMeans7 in the presence of the mediator. The LAA has this morning [said](#) that it recognises 'that operational circumstances due to coronavirus (COVID-19) may mean clients cannot attend your office in person' and that 'as such we would expect you to be reasonably able to send forms to your client for signature and return.' The FMC has asked for urgent clarification that this means the requirement for a Means7 form to be signed in the presence of the mediator has been waived for the time being.

FMSB

19 March 2020