

MIAMs Standards & Expectations

Introduction

The development of MIAMs standards and assurance is taking place in the context of wider consideration of the FMC's standards to reflect several interconnected themes:

- Understanding how family mediation defines itself as a profession;
- The way in which standards are defined in light of this;
- The consequential approach to assuring performance against the standards.

The essence of professionalism is that the practitioner has internalised the relevant standards of performance and behaviour, thereby consistently delivering ethical and principled practice. This leads to defining standards in a way that permits the exercise of professional judgement – rigorous statements of objectives and required outcomes, with appropriate flexibility about the manner of achievement. Assurance, therefore, is primarily a matter of demonstrating the attitudes, behaviours, skills and knowledge that give a rounded account of professional practice, rather than adherence to rigid protocols (e.g. through checklists or tick boxes).

The development work on MIAMs has pioneered this approach in family mediation. The result is a presentation in the form of Standards and Expectations, specifying a rigorous framework of well-defined mandatory outcomes (the 'whats') backed up by normative statements about excellent delivery (the 'hows'), and guidance on good practice. Mediators will conduct MIAMs informed by their understanding and internalisation of standards compliance, achieved through considered application of the expectations.

Scope of Standards

For clarity, these Standards, Expectations and Guidance apply to all pre-mediation meetings, not just statutory 'MIAMs'.

Terminology

'Standards' state mandatory requirements, and any non-compliance by a mediator would be a professional breach.

‘Expectations’ state excellent and normative practice for achieving Standards. Although ‘Expectations’ are not mandatory, any mediator whose practice departed from that described in ‘Expectations’ would be subject to professional challenge, and such mediators would need to justify how the Standards are being met to the fullest extent.

These two elements result in an ethical and principled framework, within which experienced mediators can use their professional judgment to meet the needs of their clients. Accountability is maintained through peer review, the requirement to obtain client feedback and the application of the FMSB’s full regulatory framework as described in the Assurance document.

Guidance

A separate Guidance document is available. This provides additional support for mediators, and should be read alongside these Standards and Expectations.

	Standards	Expectations
1.	Providing information	
	<p>At a MIAM, the mediator <i>must</i> share information with the participant about:</p> <ul style="list-style-type: none"> - the mediation process (including Child Inclusive Mediation) and the benefits and challenges of this - the suitability of mediation and other out-of-court ways of addressing issues arising from separation; - other appropriate support services and information relevant to the potential participants’ needs 	<p>When considering what information to share with clients, the mediator is expected to:</p> <ul style="list-style-type: none"> i. Include at the outset of a MIAM, information about confidentiality and other mediation principles that are relevant during the MIAM, so that the meeting can be conducted in accordance with these principles ii. Include information about remaining mediation principles and processes and how mediation works (including cost, timescale, client control, joint decision-making and co-parenting), so that potential participants fully understand the merits and benefits of taking that route iii. Describe the out-of-court alternatives and the court process, ensuring a rounded understanding of all options, so that potential participants can weigh these with the advantages of mediation and

		<p>thereby make an informed choice about how best to resolve issues arising from separation</p> <p>iv. Where relevant, provide information about</p> <ul style="list-style-type: none"> a. parenting post separation, including co-operative parenting b. the impact of separation on children (to include protective and risk factors to children’s wellbeing) c. the impact of parental conflict on children, both in the short and long term d. the importance of a child focused separation and benefits of child inclusive mediation where appropriate e. local services available (signposting) to support the potential participants including co-parenting, housing, financial information, debt services and domestic abuse support services f. other support including legal advice or therapeutic support for either child/parent g. how financial matters are dealt with in mediation and the necessity/importance of providing full and frank financial disclosure h. about what to expect from the next stage in the process and the likely time scale <p>v. Discuss which other services may be available to support potential participants and, where it is appropriate, provide details of these services.</p>
<p>2.</p>	<p>Obtaining information</p>	
	<p>At a MIAM, the mediator <i>must</i> obtain information from the participant about their circumstances and issues arising from separation.</p>	<p>When obtaining information, the mediator is expected to:</p> <ul style="list-style-type: none"> i. Use questioning and listening techniques as tools to screen for

	<p>Before a determination about safety and suitability can be made, the mediator <i>must</i> ensure that sufficient information has been obtained from potential mediation participants to enable:</p> <ul style="list-style-type: none"> i. Screening for and assessing the impact of domestic abuse of all kinds including coercive and controlling behaviour, emotional or psychological abuse, physical abuse, financial abuse, sexual abuse; ii. Screening for and assessing the impact of drug or alcohol addiction; iii. Screening for and assessing the impact of child abuse, or any other child protection and safeguarding concerns; iv. Determining the emotional readiness of the potential participants to engage in dispute resolution. 	<p>domestic or child abuse;</p> <ul style="list-style-type: none"> ii. Ask appropriate questions to enable them to assess each potential participant’s emotional readiness to mediate; iii. Clarify if other professionals are involved with the family, confirm contact details and seek permission from the potential participant to liaise with the other professional(s) if appropriate.
<p>3.</p>	<p>Assessing safety and suitability</p>	
	<p>At a MIAM, the mediator <i>must</i> assess the safety and suitability of mediation for the participant.</p> <p>Where a mediator has any doubt about whether mediation will be safe and suitable for potential participants, the mediator <i>must</i> consult their PPC. If, after this consultation, the mediator decides that mediation is safe and suitable, the mediator <i>must</i> record the reasons for this.</p> <p>When mediation is assessed as not safe or not suitable, or a potential participant does not wish to pursue this, the mediator <i>must</i> not mediate.</p> <p>As per the Code of Practice: At 5.2.2 - Where it appears necessary so that a specific allegation that a</p>	

	<p>child has suffered significant harm may be properly investigated, or where the Mediator suspects that a child is suffering or is likely to suffer significant harm, the Mediator <i>must</i> ensure that the appropriate agency or authority is notified. Wherever possible, the Mediator should make such a notification after consultation with his or her PPC.</p> <p>At 5.2.3 - The Mediator may notify the appropriate agency if he or she considers that other public policy considerations prevail, such as an adult suffering or likely to suffer significant harm. Wherever possible, the Mediator should make such a notification after consultation with his or her PPC.</p>	
<p>4.</p>	<p>Determining next steps</p>	
	<p>At a MIAM, the mediator <i>must</i> discuss and, where possible, identify with participants their next steps.</p> <p>Where the mediation process is assessed as safe and suitable, this <i>must</i> include preparing the potential participants for the mediation process.</p> <p>Where mediation is not being pursued, this <i>must</i> include signposting to other dispute resolution processes, intervention or support.</p> <p>Due to the mediator’s obligation of confidentiality to all MIAM participants there <i>must</i> be only one reason declared for mediation not proceeding – that after review with both potential participants the mediator considers that mediation is not suitable.</p>	<p>When mediation is assessed as safe and suitable and the potential participant wishes to pursue this, the mediator is expected to:</p> <ul style="list-style-type: none"> i. Determine the most appropriate model of mediation to use; ii. Determine whether specific steps are needed to enable participants to take part on an equal footing; iii. Determine the best preparation to assist the potential participants; iv. Decide whether any safeguards need to be put in place; v. Explain the next steps to provide clarity to potential participant <p>Where mediation is not being pursued, and the mediator signposts to other options as required, the mediator is expected to:</p> <ul style="list-style-type: none"> i. Provide information on other out-of-court options, where relevant – the Guidance describes the range of potential other

		<p>out-of-court dispute resolution services that may be available</p> <p>ii. Provide information about a court application including possible timings and its limitations, where relevant.</p> <p>As per 1. above, in all instances the mediator is expected to provide MIAM participants with details of other relevant support services.</p>
5.	Costs and legal aid	
	<p>At a MIAM, the mediator <i>must</i> inform potential participants of cost of mediation and, where relevant, assess for legal aid eligibility in line with Legal Aid Agency requirements.</p> <p>Where a mediator ascertains that a potential participant is eligible for Legal Aid the mediator <i>must</i> inform the potential participant of this and offer the participant the opportunity to access Legal Aid either through the mediator’s own service (if the service holds a contract with the Legal Aid Agency to provide family mediation) or by referring the potential participants to providers which can provide mediation funded by Legal Aid.</p>	
6.	Separate MIAMs	
	<p>The mediator <i>must</i> conduct MIAMS for each potential mediation participant separately.</p>	<p>The mediator is expected not to conduct a MIAM immediately following a meeting with any other person who may be a participant in the same mediation, unless conducted via a video call.</p> <p>The mediator is expected not to arrange MIAM which is to be followed immediately by a mediation session in the same case.</p>

7.	MIAM format	
	<p>At a MIAM, the mediator <i>must</i> ensure that the mode and duration of delivery ensures that all MIAM Standards are fully met.</p> <p>The mediator <i>must</i> deliver the MIAM face-to-face, either in person or via an online video connection, where possible. MIAMs should not be carried out via voice only connections except where there are specific problems about meeting in person or access to an online video link. The mediator <i>must</i> record in writing what those specific problems are.</p> <p>Mediators are entitled to be paid for a MIAM and may therefore bring a meeting to a close if it becomes clear that the meeting will not be able to be funded, but the mediator <i>must</i> signpost to any steps that are necessary in order to ensure the safety of adults or children where relevant.</p>	<p>The mediator is expected to consider the most appropriate way to deliver a MIAM taking in to account the safety and accessibility of different approaches.</p> <p>The mediator is expected to deliver MIAMs that are of sufficient length to cover all compulsory elements of a MIAM, which would usually be at least an hour. If the MIAM is less than an hour, mediator is expected to record the reason for this.</p>
8.	Inviting other potential participants to a MIAM	
	<p>At a MIAM, the mediator <i>must</i> seek to ensure that all participants are given the opportunity to be consulted and involved in the MIAM process.</p>	<p>After seeing a potential mediation participant, the mediator is expected to invite other potential participants to a MIAM except where:</p> <ol style="list-style-type: none"> a. the mediator does not have contact details for the second potential participant; b. in the professional judgement of the mediator, it is not safe or otherwise appropriate or suitable to do so. <p>If the mediator does not invite the second potential participant to a MIAM, the mediator is expected to record the reason for this.</p>