

FMSB Meeting

Wednesday 27th January 2021

Draft Minutes – Part 1

Present: Robert Creighton (Chair), Beryl Darling, Ian Hamer, John Hobson, Sarah-Jane Turnbull, Alexis Walker

Also in attendance: Helen Anthony (Executive Officer)

	Part 1 - Open session	Action
1.	Introductory	
1.1	Welcome and introductions, apologies, declarations of interests	
	The Chair welcomed everyone. There were no declarations of interest.	
1.2	Approval of minutes of last meeting & matters arising not covered elsewhere	
	<p>The minutes of the meeting held on 9.11.20 were approved.</p> <p>The FMSB noted that AW had attended an FJC working group meeting in December about mediation in public law family cases, and that the invitation had been extended to an FMSB member as the working group had indicated that it was beginning to consider the qualifications that mediators would require. The FMSB noted that meeting itself only touched on this issue briefly, and that the working group was still exploring issues around a potential pilot scheme. The EO will follow up with Claire Webb, the FJC Mediation Representative, to identify when it would be appropriate for the FMSB or the FMC to be further involved in this initiative.</p>	<p>HA to publish approved minutes</p> <p>HA to liaise with CW</p>
2.	Reports	
2.1	Chair's Report	
	<p>The Chair reported that he had attended meetings with the FMC's five Member Organisations (MOs), along with John Taylor (FMC Chair) and Allan Blake (FMC Independent Director).</p> <p>The meetings had been constructive and shown that the MOs continued to value the work of the FMSB. The FMSB noted that the MOs had identified their priority areas for further work by the FMC as the accreditation review, the promotion of mediation and better understanding outcomes of mediation through data gathering.</p>	HA to circulate note summarising MO meetings to FMSB
2.2	Executive Officer's Report	
	The EO reported that the first meeting with Sheep, which has been contracted to provide the FMC's online registration management system, was due to take place in the w/c 1 February, with the system due to be developed during	HA to update FMSB re progress on Sheep project following the first meeting

	<p>February and ready to commence the annual registration process in March. FMSB members asked for an update to be provided following the first meeting with Sheep.</p> <p>It was noted that Family Mediation Week had taken place in the third week of January and that while a formal review is yet to take place, early indications are that it was successful in raising the profile of family mediation especially among other professionals working with families. The FMSB thanked everyone involved for all their work. The FMSB also noted that HHJ Stephen Wildblood had written an article for mediators which had been published during FMW, and members asked to see a copy.</p>	<p>HA to circulate HHJ Wildblood's article to FMSB members</p>
2.3	FMC Report	
	<p>The FMSB noted the draft minutes of the FMC board meeting held on 2.12.20.</p> <p>The FMSB reflected that the joint meeting with the FMC held on 13.1.20 had been constructive and helpful in determining priorities for the year.</p>	
2.4	Panels & Working Groups	
	<p>The FMSB noted the draft minutes from the following panels and working groups:</p> <ul style="list-style-type: none"> • Accreditation Panel 26.11.20 (Anonymised) • Online WG Minutes 8.12.20 • MIAMs WG Minutes 9.12.20 • PPC Panel Minutes 1.12.20 • StRAWG Minutes 9.12.20 • Training Panel Reviewer Meeting 4.11.20 <p>The FMSB noted that panel and working group members were carrying out a significant amount of work, and thanked them for this.</p> <p>The Accreditation Panel Chair reported that whilst the panel was allowing for flexibility where mediators had not met requirements due to the coronavirus pandemic, generally speaking it was now enforcing the Standards more rigorously than when they had been first introduced. The FMSB noted that this was intentional, as it had been reasonable to allow mediators more leeway when the Standards had been first introduced.</p> <p>The Chair of the Online Standards Working Group noted that the group was focused on identifying necessary changes to the Standards Framework, ensuring the FMC's guidance is up to date, and identifying issues relating to online work that fall within the remit of the FMSB's panels. The FMSB asked the working group to consider whether</p>	

Accreditation review

The FMSB discussed how quickly proposals for a modular approach to the current accreditation could be decided and implemented. The FMSB agreed that whereas consultation with assessors was necessary, consultation with the mediation profession was not necessary as it was largely an administrative change, and one that would act as a pilot. The FMSB noted the need to ensure that administrative arrangements were properly considered.

The FMSB discussed the early steps that could be taken to strengthen the capability of PPCs to support mediators working towards accreditation with their portfolios. It noted that the PPC panel was working on recommendations regarding training and that the FMSB could expect to receive this at its next meeting.

The FMSB also noted that the Training Panel had started to explore the possibility of training providers supporting mediators working towards accreditation, following completion of their training. HA will prepare a note for the Training Panel regarding taking this issue forward.

Complaints

It was noted that the remaining issues to be discussed regarding complaints following the last FMSB meeting were: whether the FMC has sufficient resources to take on the responsibility for handling these; finalising the process for appeals; and whether further consultation with FMC member organisations was required.

The FMSB noted that the Executive Officer had carried out an exercise to consider the administrative resources required, and concluded that once the online registration system was in place, the FMC would have the administrative resources necessary to handle complaints.

The FMSB noted that further work was needed on the issue of appeals, to address the additional issue of the complaints process striking the right balance between disciplinary and reformative outcomes, and to check the position with FMC MOs. IH & HA would carry this work out.

The FMSB agreed to work to finalise a proposal on complaints to put to the FMC ahead of its meeting on 10th March.

Re-organisation of documents

The FMSB recognised that this was a long-standing and important workstream that is frequently crowded out by more urgent work. There are two parts to this work:

HA to prepare a note for the Training Panel re training providers supporting mediators WTA

IH & HA to work on remaining complaint issues

reformatting existing content (the format having been agreed in principle) and gap analysis leading to redrafting to improve quality and completeness of documents.

The FMSB considered the priority to which this work should be given. It was agreed that this work was not urgent, and so work on this should be paused in the first half of 2021 while other more urgent work would be carried out. However, the FMSB agreed that it should continue to incrementally improving document structures and addressing gaps as we deal with specific standards, eg. MIAMs.

MIAMs

The FMSB noted that there was a significant amount of discussion about the future role of MIAMs among family justice professionals, including working groups set up by the MoJ and the Court. The FMSB recognised the need to complete its work on MIAMs standards in the near future. The FMSB also noted the need to emphasise the standards that are already in place in relation to MIAMs.

The FMSB noted that the MIAMs Working Group had done an excellent job to make progress on drafting MIAMs standards and has nearly completed the first stage of its work - data collection and monitoring/assurance remain. The FMSB asked the MIAMs working group to aim to make proposals to the FMSB for its meeting on 24 March.

Online mediation and online training

The FMSB noted that last spring it put in place standards that were a temporary response to the pandemic and that it now needed to consider permanent arrangements for online working and online training. The FMSB noted that this work was largely being carried out by panels and working groups. The FMSB noted that the Online Standards Working Group had one more meeting planned, with its output being an overview report of the work to be done in specific areas (e.g. training) as well as any recommendations for changes to the Standards Framework/Code of Practice/Guidance which do not fall to specific panels or working groups.

Good Standing

The FMSB noted that the consultation on Good Standing was ready for publication. It was agreed it should be published immediately, with a deadline towards the end of February, with a view to a final recommendation on the introduction of the Good Standing test being made to the FMC for its March meeting if the consultation responses do not raise issues that require significant re-consideration. The FMSB noted that this would enable the good standing test to

HA to publish good standing consultation

be administered online as part of the 2021 registration process.

Ongoing work

The FMSB identified the need to describe the business case for data collection and use, get strong buy-in from the mediation community. The FMSB noted that this would need thoughtful preparation and potential academic support. The FMSB also noted that the online registration system could support the data collection process. The Chair had circulated a paper about data collection to FMSB members. FMSB members will comment on this, and the Chair will amend the paper in light of these.

The FMSB identified safeguarding as a critical issue, and that safeguarding issues were being addressed by the MIAMs Standards Working Group (for safeguarding at MIAMs stage) and the Training Panel (for ongoing CPD for all mediators). The FMSB noted that further consideration was needed to ensure all safeguarding issues were being addressed.

The FMSB noted the need to reconsider whether further work was needed in relation to Child Inclusive Mediation standards.

The FMSB noted the Family Solutions' Group recommendation that the FMC produce a standard form for a parenting agreement. This could carry the FMC logo as a sign of good practice. BD volunteered to lead work on this.

The FMSB noted that a number of themes that it needed to consider as it developed standards further. These were:

- PPCs – how to ensure a supply of enthusiastic, qualified mediators, and hold them to account for their performance in the role?
- Radical reforms to entry to the profession, foundation training and accreditation – needed as a way to expand the profession? It was noted that traineeships/apprenticeships are on StRAWG agenda but this work was not a priority at present
- How to ensure that members of the public can distinguish between services offering online mediation and whether a limit should be placed on the number of office addresses a mediator can list on the FMC Register
- The ongoing challenge presented by unregistered mediators

FMSB members to send comments to RC on data paper; RC to update paper in light of these

BD to lead work on standard form of parenting agreement

Broader topics for attention

The FMSB noted that across all of its standards, it tended to have fine if not excellent specifications, but ambiguous, weak or non-existent monitoring and assurance. The FMSB discussed whether it should develop a more robust position without imposing on mediators too many burdens and unproductive reporting and intrusive requirements, or whether it should not seek to do so, but rather rely on demonstrating and communicating professionalism and equivalence with other similar professions, which are not expected or required to provide detailed assurance on their activities.

The FMSB considered that this needed further discussion, but agreed that the ability to offer assurance about the work that mediators do was a key tenet of being able to promote mediation to the government, courts and the public. The FMSB re-emphasised that it was vital to have accurate data to be able to assess the effectiveness of mediation, and to have processes in place which demonstrate that mediators are meeting the high professional standards expected of them (see above re data collection). HA to circulate a summary (already prepared for MIAMs Standards Working Group) of potential options, often used in other professions.

Reflecting the above, the FMSB considered that the renewal of accreditation process may offer an opportunity to provide more assurance about the ongoing level of competence of mediators.

It was noted that there was still not a good understanding of mediation among the MoJ, courts, and CAFCASS, as well as potential referrers (e.g. Citizens' Advice Bureau), and there often appeared to be a sense that mediation was in competition with other services for families. The FMSB noted there was a need to increase effective engagement effectively with key external communities/professions/organisations with the aim of pro-actively convincing them of mediator professionalism; this would draw on the strength of our existing standards and the accreditation process, and on carefully targeted use of key information and indicators (see above). The FMSB noted that the FMC could take advantage of current reformist tide to help achieve this, but that a proper plan with dedicated resources was needed. The Chair will liaise with the FMC about its plans to address this, and emphasise the importance that the FMSB considers needs to be placed on this.

Finally, the FMSB noted that there also appeared to be a parallel but different strand emerging about mediators' professional skills: there are signs that, recognising the

HA to circulate note re assurance options (developed for the MIAMs WG) to FMSB

RC to liaise with JT re advocacy

	<p>direction for family law is towards less adversarial practice, family lawyers increasingly need and value mediation skills without necessarily wanting to become mediators. The FMSB noted the need to consider whether this was be a positive thing and one to be encouraged or whether it would lead to mediation-light that dilutes the real thing. The FMSB agreed this needed further consideration.</p>	
4.	Future Meeting Dates	
	<p>Meetings (12.30pm – 3.00pm via Zoom, until further notice)</p> <p>24 March 19 May 7 or 14 July tbc 22 September 17 November</p>	