



**FMC Board Meeting**  
**Wednesday 10<sup>th</sup> March 2021**

**Approved Minutes**

**Present:** John Taylor (FMC Chair), Allan Blake, Caroline Bowden (Law Society), Paulette Morris (College of Mediators), Jane Robey (NFM), Dan Ronson, Beverley Sayers (FMA)

**Also In attendance:** Alison Bull (Resolution), Robert Creighton (FMSB Representative), Claire Webb (FJC Representative), Helen Anthony (Executive Officer)

<b>Open Session – FMC Board Members and observers</b>		
<b>1.</b>	<b>STANDING ITEMS</b>	<b>Actions</b>
1.1	Welcome, introductions, apologies	
1.2	Approval of draft minutes, matters arising	
	<p>The FMC approved the minutes of the FMC Board meeting held on 2.12.20 and the joint FMC/FMSB Meeting held on 13.1.21</p> <p>The board agreed the workplan subject to including a workstream regarding standards for Child Inclusive Mediation.</p>	HA to publish approved minutes
<b>2.</b>	<b>Reports</b>	
2.1	Chair's Report	
	<p>The board noted the summary of the issues raised at the FMC's annual meetings with Member Organisations. The EO will identify actions for the FMC to take from this report.</p> <p>The board noted that meetings would take place in April between the FMC and Mr Justice Cobb, and between FMC and CAFCASS.</p>	HA to identify actions to take from MO meetings
2.2	Financial Report & Risk Register	
	<p>The board noted the updated risk register. The board agreed that if the FMC decided to proceed with the voucher scheme, a contingency would need to be built in to the cost of the scheme.</p> <p>The board noted the balance sheet and profit and loss at year end (31.12.20) at and 31.1.21.</p> <p>The board noted the extensive demands of the workplan on FMC resources, and agreed to consider options for</p>	

	expanding its capacity, such as paying an honorarium to Chairs of working groups (subject to budget).	
<b>2.3</b>	<b>Executive Officer Report</b>	
	<p>The board approved the amended Privacy Notice, subject to a minor amendment.</p> <p>The board discussed whether mediators should be able to continue to list, on the FMC website, multiple offices on the basis that they could offer mediation from each of them when in fact it is extremely unlikely that they would do so. The board noted that listing multiple offices was a way to expand a person's geographical reach on the website – so they could be found by members of the public in a wider area. The board noted that this is useful in areas where there are less mediators offering services, enabling access for mediation participants and ensuring that they do not claim a MIAM exemption on the basis that there is not a mediator's office within 15 miles of their home. The board agreed however that, with more mediators offering online mediation, access is less of an issue than it was previously and that if multiple mediators list multiple offices that they don't really intend to use, then this doesn't help the public.</p> <p>The FMC agreed that for the time being, it would ask mediators to limit the number of offices to those they regularly work from and explain the reasons for asking them to do this. The board also agreed to develop a statement over the next year about ethical considerations that mediators should take in to account when listing addresses, including the need to represent themselves properly.</p>	
<b>2.4</b>	<b>FMSB Report</b>	
	<p>The FMC noted the draft minutes of the FMSB meeting held on 27.1.21.</p> <p>The FMSB Chair reported that responses to the consultation about introducing a good standing requirement had been positive and the small number of questions raised were useful. The FMC noted that the FMSB would now finalise the necessary processes and introduce the good standing test. For existing mediators, this will be done as part of the annual registration process.</p> <p>The board noted that the MIAMs Working Group, which was led by the FMSB but included representatives from all FMC Member Organisations was expected to report to the</p>	

	<p>FMSB soon with draft Standards, that would then be send out to consultation with the mediation community. It was noted that there are currently different practises adopted by different mediators, and that the draft Standards may challenge some of these practises; however, the purpose of the consultation is to ensure that any concerns about the draft can be raised and discussed before final recommendations are made to the FMC about the introduction of new Standards.</p> <p>The board noted that the MIAMs Working Group had considered very carefully the question of MIAMs assurance, which had been a key concern of the President of the Family Division's Private Law Working Group, and that the proposed assurance processes would seek to ensure a balance between relying on a mediator's professionalism with more active oversight measures.</p> <p>The FMC noted the intention to consider draft documents published by the MIAMs working group at the FMSB meeting on 24.3.21, with a view to consulting the mediation profession thereafter. The FMSB Chair agreed to send the FMC an update on the proposed consultation before publication.</p>	RC/HA to send FMC update re consultation
<b>3.</b>	<b>Items to discuss</b>	
<b>3.1</b>	MoJ Voucher Proposal	
	<p>The board noted the report of the Voucher Working Party and discussed the proposed scheme at length.</p> <p>The following specific issues were addressed:</p> <ul style="list-style-type: none"> <li>- Would mediators working towards accreditation be able to take part in the scheme? Yes, if working alongside an FMCA who is supervising them, and present during the mediation. The MoJ wanted to ensure this rule was consistent with the rule for legally aided mediations, and this is also consistent with the FMC's Code of Practice.</li> <li>- Has the impact of the proposed Voucher Scheme on legally aided family mediation providers been fully considered, including the impact of legally aided mediators' morale? It is hoped that Legal Aid mediators would welcome this scheme - they can access this scheme for any second, non-legally aided clients for the second session onwards, which should stem the dropout rate for those mediators. The scheme doesn't change eligibility for legal aid,</li> </ul>	

so there should be no drop off in cases for those who offer legal aid, and the increased publicity which we hope the scheme will generate for mediation should bring all mediators an increased number of clients (legally aided or otherwise).

- How will the adequate provision of information on eligibility for legal aid and the Voucher Scheme be known and monitored? The MoJ has indicated that it is planning a communications campaign surrounding the scheme. Whilst the details of this are unknown, everybody eligible for the voucher will go to a MIAM, and the FMC can control and be clear in our communications to mediators about eligibility for the voucher scheme, and referrals to legal aid mediators (for those who are eligible).
- Is there sufficient time within the voucher scheme to allow for CIM to be properly explained and considered? Should CIM be promoted under this scheme while it is not possible to get an enhanced DBS check? There is no suggestion that the voucher funding lowers standards of CIM - just that it can be used a contribution towards this. The DBS issue relates to all CIM, and is one the FMC has visited before, although it may need to be revisited with the additional work that is now being done around professionalisation/ assurance by the FMSB and profile raising by the FMC.
- Are services registered for VAT able to claim this on top of the £500 voucher, and if not, isn't this inequitable? The voucher working party has raised this with the MoJ, and the £500 is inclusive of VAT. Although this may seem inequitable, as some participants will be able to access less mediation than others due to VAT being payable, each family still benefits from up to £500 off their total mediation bill. It is the fact that some services are registered for VAT and some are not, which creates the inequality, and not the voucher scheme itself – each family will benefit by the same amount financially.
- What is the communications plan, and will MoJ and/or FMC guidance be available in good time for the introduction of the Voucher Scheme to answer all the questions about detail which mediators and those delivering MIAMs may have? Timescales are yet to be agreed but the voucher working party is placing strong emphasis on the importance of communication with mediators and the approach will allow for mediators' questions to be answered swiftly.

<ul style="list-style-type: none"> <li>- What is the administration model &amp; what costs would the FMC incur to deliver this scheme? Costs are still being finalised as details of the scheme need to be known before the cost of administering this can be calculated, and quotes are awaited from insurers and web developers. Once these are known, details will be sent to directors. The FMC intends to contract with PASS as its usual administration provider, to provide the executive and administrative support for the scheme.</li>   <li>- How much additional funding will be provided for the administration of the Voucher Scheme and how will it be spent? The funding will be spent on covering costs - additional personnel/hours as required, other admin costs (IT/Insurance), with some contingency for unforeseen costs and a small contribution to the FMC's general running costs to allow for some of its general resources to be used. The total amount is not yet known, but the MoJ has agreed to cover the FMC's costs.</li>   <li>- What due diligence has been done around contingencies should anything go wrong, for example, if the Scheme is abused or misused? The FMC will take out insurance to protect it against any claims. However, the scheme itself will have inbuilt checks and balances - the contribution will only be able to be claimed for work done by Registered Mediators, the FMC's banking system double checks payee details, a phone call will be made to the provider when it registers to confirm banking details, the FMC will see the bill for the whole mediation so it can see the client is not being charged over inflated rates for the time paid for under the scheme, the client will need to confirm they are happy for the mediator to apply for the voucher. Other assurance processes - such as spot checks if one firm makes a large number of claims - could be considered by the working group if desirable. The working group has already asked the MoJ for its audit requirements and these were very limited (and built in to the scheme details) and further assurance processes were not requested by its procurement team.</li>   <li>- Can we be confident that the FMC's other workstreams will not be affected? Additional work will need to be done by the Executive Officer to implement and oversee the scheme, but this can be managed in hours not usually worked for the FMC. Additional admin personnel will be taken on - or overtime worked by existing admin personnel who currently work part time, to carry out the bulk of the work and processing the claims/payments. The</li> </ul>	<p>HA to send costings to be sent to directors when available</p>
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	<p>FMC's other current priorities – MIAMs, Accreditation and the Standards Review are handled by the FMSB; it is the FMC which is leading on the voucher scheme, with its directors forming the working group so different personnel are involved at board level.</p> <ul style="list-style-type: none"> <li>- What are the insurance and banking arrangements? The FMC will arrange insurance, the cost of which will be passed on the MoJ (see 2 above) as part of the costs of administering the scheme. A separate bank account will be arranged so that the scheme money received from the MoJ can be put in to this and paid out from this - keeping it separate from the FMC's own funds. Banking arrangements need to be finalised but would include a staged process where payee details are checked before payments can be made. The FMC's online banking system can also require two-step authentication if this is agreed.</li> </ul> <p>Resolution asked to nominate a member to join the Voucher Working Party, and this was welcomed.</p> <p>The board agreed to proceed with discussions with the MoJ with the aim of finalising the scheme, before seeking board approval by e-mail to go ahead with the scheme.</p> <p>The board noted that Resolution had asked a number of questions about the scheme before the meeting, which the board had sought to address; the EO will also sent a written reply. The Voucher Working Party welcomed any supplementary questions that Resolution or others may have, and agreed to address any remaining areas of concern.</p>	<p>JT will ask for board sign off for scheme by e-mail</p> <p>HA to send written reply to Resolution's queries</p>
<b>3.2</b>	<b>Complaints</b>	
	<p>The board considered the proposal that the Standards Framework be amended so that complaints are considered by the FMSB, and not FMC Member Organisations, once a mediator's own complaints process has been exhausted.</p> <p>The board agreed that the complaints process should be the same for all mediators and that the FMSB should take this on, subject to resources.</p> <p>The FMC noted that the FMSB was still exploring the practicalities of the newly proposed system. The FMSB Chair agreed to explore questions raised about whether a consumer representative could sit on the complaints panel, whether mediator representatives should be from the</p>	

	<p>mediator's own FMC Membership Organisation and whether complaints panellists would be paid.</p> <p>The FMC noted that Resolution had raised a number of practical questions about the proposed process, and the FMSB Chair proposed that the Executive Officer liaise with Resolution regarding these.</p> <p>The FMC asked the FMSB to consider whether an informal stage should be introduced in order to try to resolve complaints before a formal process is started.</p>	<p>HA to liaise with Resolution re complaints practicalities</p>
<b>3.3</b>	<b>FMC Marketing &amp; Engagement</b>	
	<p>The FMC discussed the marketing and engagement plan, and agreed its five proposed drivers:</p> <ul style="list-style-type: none"> <li>• Making Information Available to the Public</li> <li>• Educating Potential Referrers</li> <li>• Increasing Engagement &amp; FMC Standing</li> <li>• Empowering Mediators</li> <li>• Changing the Culture</li> </ul> <p>The board agreed the marketing and engagement plan, subject to adding an additional workstream to specifically respond to relevant reports.</p> <p>JT &amp; DR agreed to lead on this work on behalf of the board.</p>	
<b>3.4</b>	<b>Follow Up to Recent Reports</b>	
	<p>The FMC discussed the need to be aware of and potentially engage with the author(s)/commissioner(s) of reports regarding the resolution of family issues, which are published from time to time. The FMC noted that a number of such reports had recently been issued and agreed that it would try to engage with:</p> <ul style="list-style-type: none"> <li>• The minister with responsibility for Family Courts. HA will request a meeting for the FMC with a view to proposing the appointment of an individual who has the interests of children at heart to lead work on reform.</li> <li>• Mr Justice Cobb. The FMC noted that JT has written to the judge who has agreed to set up a meeting.</li> <li>• CAFCASS. The FMC noted that JT &amp; BS have written to CAFCASS and a meeting will be arranged.</li> <li>• Helen Adam (FGS Chair). HA will maintain contact.</li> </ul>	

	<ul style="list-style-type: none"> <li>Sort It Out Campaign. HA will identify opportunities for engagement.</li> </ul> <p>It was noted that FMA had drafted a response to the Private Law Advisory Group's final report which was published in December and had invited the FMC whether it wished to consider adopting (and adapting where necessary) this as an FMC response. It was agreed that board members would consider this draft and send comments to HA by 26.3.21.</p>	Board members to send comments to HA by 26.3.21
<b>4.</b>	<b>Updates</b>	
<b>4.1</b>	<b>HMCTS Reform</b>	
	The board noted that DR had attended an HMCTS event at which a reform project was launched. DR reported that the event had focussed on how people could be diverted away from court, and there had been a considerable amount of discussion about how to divert people away from court and in to mediation. The board expressed hope that this would lead to actions from HMCTS and not just be the subject of more discussions, but noted there was no action for the FMC to take at present, other than to continue to participate in the project.	
<b>4.2</b>	<b>LAA Update</b>	
	The board noted the minutes from the FMC's most recent meeting with the Legal Aid Agency, which was held on 2.2.21.	
<b>4.3</b>	<b>Equality, Diversity &amp; Inclusion Working Group</b>	
	<p>The board noted the minutes from the FMC's Equality, Diversity and Inclusion Working Group first meeting, held on 22.2.21, and agreed to expand the remit of the Group to include mediation participants as well as the profession, as requested.</p> <p>The board noted the request for a member of the Working Group to attend every FMC/FMSB working group/panel meetings. The board agreed that it had no objection to this in principle, but there were concerns around practicalities, especially as the reason for this request was unknown. JT agreed to discuss this with the Working Group at its next meeting.</p>	JT to discuss issue at next WG meeting
<b>4.</b>	<b>ITEMS AND PAPERS FOR INFORMATION</b>	
<b>4.1</b>	<b>2021 FMC Board Dates:</b> 9.6.21 – Online, 11.30am – 3.30pm	



	8.9.21 – time – location tbc, potentially Anthony Gold Offices 8.12.21 – time & location tbc, potentially Anthony Gold Offices	
<b>5.</b>	<b>AOB</b>	