



FMC Board Discussion Meeting

Wednesday 9th March 2022

Approved Minutes

Present: John Taylor (FMC Chair), Allan Blake, Paulette Morris (College of Mediators), Jane Wilson (Resolution), Caroline Bowden (Law Society)

Also In attendance: Liz Yates (NFM), Philippa Johnson (FMA), Mike Mack (FMSB), Helen Anthony (Executive Officer)

Apologies: Beverley Sayers (FMA), Jane Robey (NFM), Dan Ronson, Robert Creighton (FMSB Representative), Claire Webb (FJC Representative),

Open Session – FMC Board Members and observers		
1.	STANDING ITEMS	Actions
1.1	Welcome, introductions, apologies	
	<p>The Chair welcomed everybody, and noted that the meeting was not quorate as a board meeting and so would proceed as a discussion meeting, with any formal decisions being deferred to a later date.</p> <p>The Chair noted the FMC may wish to consider changing its articles to allow for alternate directors to allow for meetings to be quorate when directors cannot attend and nominate replacements instead.</p>	
1.2	Approval of draft minutes, matters arising	
	<p>The draft minutes of the meeting held on 8.12.21 were noted by those present and will be approved via e-mail.</p> <p>Matters arising:</p> <ul style="list-style-type: none">• The Executive Officer was yet to make progress in appointing a replacement for Dan Ronson but will look to do so in the coming months.• The Chair noted that he had reported the board's decisions to the Equality, Diversion and Inclusion Team but that EDIT had not met since. The board noted that the EDIT Chair had stepped down as she was taking a break from mediation, and so EDIT will be invited to appoint a new Chair.	<p>HA to make progress on appointment of DR's replacement</p>

2.	Reports	
2.1	Financial Report & Risk Register	
	<p>The FMC's income and expenditure in 2021 and balance sheet at 31.12.21 were noted.</p> <p>The accountant's advice that the FMC must register for VAT was noted. The Chair agreed to ask Directors to confirm their agreement to the FMC registering for VAT by e-mail.</p> <p>The updated Risk Register was noted. It was noted that a new risk had been added to the Register: that family mediators acting outside of the FMC undermined FMC's role as a regulator. It was thought that more lawyers might start acting as mediators whilst not being registered as a result of lawyers offering services to joint clients in the light of the new 'no fault' divorce law. It was also noted that some community mediation services who are commissioned by councils us unregistered mediators to offer family mediation. It was noted that to reduce this risk, the FMC could explore ways of protecting the title of 'family mediator'; it was also noted that it could continue to promote FMCA status to raise public awareness.</p> <p>The Chair agreed to write to local authorities to make them aware of the benefits of FMC Registration, and to encourage them to commission family mediators who were FMC Registered.</p> <p>It was noted that Resolution was intending to write to its members to encourage them to register with the FMC if they are practising mediation, and would be happy to have discussions with the FMC about how to help practitioners identify when cases should be referred to FMC Registered Mediators. It was noted that it may be difficult to define when cases move from exploring issues jointly to mediation.</p> <p>It was noted that the FMSB had written to the SRA and Legal Ombudsmen in March 2020 about complaints, and that it may be helpful to follow up on this correspondence now both about complaints, but also ask about standards that these organisations have in place for individuals who are acting as mediators but who are not registered with the FMC.</p>	<p>HA draft letter to local authorities from JT</p> <p>HA to liaise with JW to discuss this</p> <p>HA to liaise with RC</p>
2.2	Executive Officer Report	
	<p>The Executive Officer reported that she had had a short meeting with the Ministry of Justice (at its request) to explain the FMC's accreditation process and the extent of its regulation; and that the Ministry of Justice had also requested the FMC meet the MoJ's consultants who are looking at digital pathways that</p>	

	<p>separated parents follow. HA felt it would be beneficial for a practising mediator to join this meeting; PJ volunteered.</p> <p>The Executive Officer reported that a number of family mediators had worked recently with colleagues in Ukraine, and that those colleagues were now helping relief efforts in the conflict there. It was noted that the FMC would express its support for those colleagues and for a peaceful resolution to the conflict in its next newsletter, and include a link to the Disasters Emergency Committee fund for those mediators who wanted to make a donation in support of humanitarian relief efforts.</p>	HA & PJ to meet MoJ to discuss pathways to mediation
2.3	FMSB Report	
	<p>The draft minutes of the FMSB held on 26.1.22 were noted.</p> <p>The Chair thanked the FMSB and the MIAMs working group for its work in amending the draft MIAMs Standards since the last FMC board meeting. It was noted that at that meeting, the board had asked that the FMSB ensure that procedural requirements were only included in the Standards where necessary to achieve key objectives. It was noted that, overall, the updated draft had achieved this but there were differing views about whether the current draft provision regarding consecutive MIAMs was more restrictive than was necessary. The importance of finalising the MIAMs Standards at the June board meeting was noted and so it was agreed that the FMSB and FMC would try and agree the final text before then; CB would liaise with the FMSB about the consecutive MIAMs and others were invited to send any final comments/concerns/questions as soon as possible.</p> <p>It was noted that the FMC Code of Practice will need changing when the new Standards were introduced, and may need to specify more clearly that mediators need to carry out an assessment meeting before mediating.</p>	
3.	Governance	
3.1	MO Meetings	
	It was noted that the FMC was in the process of arranging meetings with its five Member Organisation, with a view to these taking place before the FMC and FMSB met in May.	
4.	Items to discuss	
4.1	MoJ Voucher Scheme	
	It was noted that	

- The contract to run the Family Mediation Voucher Scheme on behalf of the Ministry of Justice was extended in December.
- The total voucher fund that the Ministry of Justice had made available was £3,019,978.
- Vouchers could be allocated until the end of March 2022 if there was sufficient funding.
- The FMC was liaising with the MoJ to try to ensure that funding was available until the end of March. The total voucher fund that the Ministry of Justice has made available is now £3,019,978.
- The Voucher Working Party continued to liaise with the MoJ about the possibility of a longer-term scheme.
- In anticipation of an extension/new contract/tendering process the board had passed a resolution by e-mail to allow it to prepare for this.
- In anticipation of the scheme being extended, the voucher working party surveyed mediators participating in the scheme to help identify potential improvements to the scheme should it be extended, with a view to making recommendations to the MoJ about potential changes, and to identify whether mediator's administrative requirements could be reduced. Key areas for potential change relate to the fact that the scheme has run for longer than initially intended and the consequences of this for people who may want to return to mediation when their circumstances change, as well as for mediators working towards accreditation being able to access cases and progress their portfolios.
- As of 27th February, 6176 vouchers had been allocated, with 3645 paid. It is anticipated that 7000 families will have benefitted from the scheme by the time it concludes.
- As well as having helped 7000 families with children and putting £3.019m in to the family mediation sector in the first year of the scheme, a key benefit of the scheme is that it has collected a significant amount of data. This is being analysed by the Ministry of Justice, but key headlines from 3838 sets of data are:

Success Rates

77% Whole or partial agreement

23% No agreement

73% of cases that go to mediation under the scheme do not go to court at all (other than to get a consent order)

9% go to court with narrowed issues

18% go to court not having settled any issues in mediation

	<p>In your view, if there was no financial contribution available would the participants have gone to mediation?</p> <p>No 49%</p> <p>Yes 51%</p>	
4.2	Helping Aspiring Mediators	
	<p>It was noted that the Chair was writing to the FMC's Member Organisations and to larger meeting firms to try to ascertain the extent of the support that they already offer to mediators working towards accreditation.</p>	
4.3	Mediation Risk Assessment Tool	
	<p>MM declared an interest in this item.</p> <p>It was noted that the Mediation and Domestic Abuse Network had asked the FMC to consider whether it would be involved with the drafting of a mediation risk assessment tool.</p> <p>It was noted that there were a number of risk assessment tools available, though none that were mediation specific. There was support for the idea of a tool which would help mediators comply with the provisions of the Code of Practice and the Standards Framework.</p> <p>It was noted that an FMC/FMSB wasn't in a position to be able to pursue the development of a tool at present due to other priorities, particularly as there was no way before the tool was developed of knowing whether the FMC could endorse its contents.</p> <p>The preferred option of those present was for the FMC to consider endorsing the tool once it had been produced. It was noted that the FMC could include a call from MADA for mediators to get involved in the drafting of this tool, which could help bring together people with relevant expertise to support this piece of work.</p>	
4.4	Family Mediation Week	
	<p>The Chair thanked the members of the Family Mediation Week Working Group in making the week a big success.</p> <p>It was noted that the FMW Working Group members were keen to build on the success of FMW by looking at how to promote mediation throughout the year; this was welcomed as the FMC board had previously invited the FMW WG to do this.</p>	

	<p>It was noted that if MOs would be notified of FMW plans sooner, they would have more time to plan their involvement. MO representatives were asked to confirm who within their MO the FMC should liaise with about FMW plans.</p>	<p>MO Directors to confirm name and e-mail address of contact within their MO to liaise with about FMW</p>
4.5	<p>National Mediation Awards</p> <p>HA noted an interest in this item.</p> <p>The invitation for the FMC to become involved with organising the National Mediation Awards was noted.</p> <p>It was noted that the College of Mediators had partnered the CMC in running the awards on the previous two occasions, and that it was keen to remain involved as a partner for 2022 as well.</p> <p>It was noted that involvement in organising the NMA could provide an opportunity to promote excellence in family mediation, if there was an increase in the number of awards for family mediators (for example, there could be separate awards for legal aid, child inclusive mediation, and PPC, as well an overall award).</p> <p>It was noted that there would be no risk in getting involved on a one-off basis, as the CMC had offered to underwrite the cost of the event.</p> <p>The Chair agreed to ask the CMC and the College if the number of family awards could be increased to raise the profile of family mediation, and if there was a willingness to do this, Directors would be asked to confirm whether the FMC should become involved.</p>	<p>JT to feedback to CMC</p>
4.6	<p>Royal Charter Status</p> <p>HA noted an interest in this item.</p> <p>The invitation for the FMC to consider joining with the CMC to apply for a Royal Charter was noted, with a variety of views on the proposals being discussed. The potential benefits for FMC Registered Mediators and the resources required to pursue chartered status were identified as factors that may need to be considered. It was noted that consultation with FMC Member Organisations and with mediators would be needed if this idea were to be pursued, but before this could happen more information about the process and the options for the structure of the chartered organisation would be needed.</p>	<p>JT to feedback to CMC</p>

	<p>It was noted that this conversation was relevant to the issue highlighted in item 2.1 as obtaining ‘Chartered Mediator’ status for mediators was one way of ensuring mediators had a recognisable and protected professional status. It was noted that there may be other ways of obtaining this – HA to explore options.</p>	<p>HA to explore options</p>
5.	Updates	
5.1	Legal Aid	
	<p>It was noted that the FMC had not met the LAA since the last board meeting, but that a meeting was in the process of being arranged.</p> <p>It was noted that the mediation statistics remained relatively consistent.</p> <p>It was noted that the Legal Aid Agency had not confirmed whether contingency measures (to allow for online supervision and for the number of applications to be made remotely to be unlimited) would continue. There was concern that if the number of remote applications was to be limited to 50%, this would affect people in some parts of the country where no family mediators had a physical presence, since many gave up offices during the pandemic; this would be raised if appropriate when the FMC met the LAA.</p> <p>It was noted that Help With Mediation, the category of work that allowed mediation participants to receive some legal support whilst mediating, was hardly available as solicitors who are eligible to do this work are not doing so as it is paid at such a low rate; HA to check statistics to see how many Help With Mediation claims have been made in recent years and this would be raised when the FMC met the LAA.</p> <p>It was noted that the FMSB continued to work on proposals to allow mediators working towards accreditation to conduct legal aid cases, under supervision.</p>	<p>HA to put geographical issue on agenda for meeting with LAA if necessary</p> <p>HA to check LAA stats & put issue on agenda for meeting with LAA</p>
7.	Future Meeting Dates	
	<p>19th May 2022 – Joint FMC/FMSB Meeting 15th June 2022 – AGM & Board Meeting 14th September 2022 – Board Meeting 7th December 2022 – Board meeting</p>	