



FMC Board Meeting
Wednesday 7th December 2022

Approved Minutes

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

Also in attendance: Robert Creighton (FMSB Representative), Claire Webb (FJC Representative), Helen Anthony (Executive Officer), Grace May (Administrator)

Open Session – FMC Board Members and observers		
1.	STANDING ITEMS	Actions
1.1	Welcome, introductions, apologies	
	The Chair welcomed everyone.	
1.2	Approval of draft minutes, matters arising	
	The draft minutes of the meeting held on 14.9.22 were approved subject to an amendment to reflect the fact the board discussed obtaining the views of mediators about staying or and/or joining the FMC register. The board agreed to ask its member organisations for a report containing key information ahead of its annual meeting and to include a question on the above topic within this. This led to a discussion about a concern in a drop in numbers of accredited mediators and PPCs and an increased number of mediators working towards accreditation. The board asked HA to prepare a detailed analysis for the joint FMC/FMSB meeting.	HA to update minutes HA to include detailed analysis of numbers of mediators/accreditation patterns in papers for joint meeting
2.	Reports	
2.1	Financial Report	
	The board noted the income and expenditure to 30.11.22 and the balance sheet at the same date.	
2.2	Risk Register	
	The board noted the updated risk register. The board agreed to add to the register a new risk relating to the withdrawal of firms from legal aid contracts and the impact of this. The board also agreed to add a connected risk concerning the removal of the voucher scheme. The board then discussed the nature of the risk relating to legal	

	<p>aid, and how it might mitigate against firms withdrawing or the impact of this. In particular the board noted:</p> <ul style="list-style-type: none"> • that it had identified in its strategy a need to campaign for an increase in legal aid rates, and that this was now a priority. • the need to maintain a good working relationship with the Legal Aid Agency but noted that the Ministry of Justice made decisions relating to fees. • that if mediators working towards accreditation could conduct legal aid under supervision this may ease pressure on firms, and so it was important to support and encourage the work the FMSB was doing in this area. • that whilst many firms were considering ending their legal aid contracts, some Law Centres were thinking of entering the market. • a group of legal aid practitioners had approached the FMC asking to speak about these issues and a meeting was being arranged for the new year with the FMC's Legal Aid working group. <p>The board agreed to update the risk register accordingly and to review the register in full at its next meeting.</p>	<p>HA to update risk register and put full review on agenda for next meeting</p>
2.3	Executive Officer Report	
	<p>The board noted the Executive Officer's report and in particular:</p> <ul style="list-style-type: none"> - the need for the FMC to better understand the impact on mediation of the 'one lawyer, one couple' approach which had been popularised by the launch of the Resolution Together model. AB & BS volunteered to work with HA on this. - the recommendation that the FMC develop FAQs for members of the public about MIAMs and MIAMs exemptions, and some training for FMC office staff to help them to be able to respond to queries more efficiently. CB volunteered to assist with this. 	<p>AB, BS & HA to work together to understand potential impact on mediation of 'one lawyer, one couple' model</p> <p>CB to work with HA on FAQ for public & staff training re MIAMs exemptions</p>
2.4	FMSB Report	
	<p>The board noted the draft minutes of the FMSB meeting held on 19.10.22.</p> <p>The board approved the FMSB's recommendation to amend the Standards Framework to specify that not all case commentaries in a portfolio submitted for accreditation could be conducted via shuttle mediation.</p>	

	<p>BS declared an interest in assessors' fees and recused herself from the discussion relating to this.</p> <p>The board approved the recommended increase in assessors' fees with immediate effect.</p> <p>The board agreed that some increase in portfolio fees would be necessary to help cover the cost of the increased assessors' fees, but wished to consider alternative sources of funding such as funding from the FMC's general budget to cover this as it did not want to increase the financial burden of accreditation for mediators.</p> <p>The board agreed that an administration fee should be charged where mediators submit an incomplete portfolio that cannot be assessed because a significant document is missing.</p> <p>The board noted that the FMSB was starting to explore its relationships with mediation firms, as a result of issues arising from the complaints process that is operated by the FMSB.</p>	
3.	Strategic Items	
3.1	Royal Charter	
	<p>The board discussed whether to proceed to apply for a Royal Charter.</p> <p>The board noted the significant cost of the project, and a concern that resources should be used to try and grow the numbers of mediators on the FMC register before an application is made. The board also noted the view that a successful application for a Royal Charter would lead to an increase in the numbers of mediators joining and staying on the FMC Register.</p> <p>The board noted that if it were to be granted Royal Charter status, it would then have to make a separate application in order to be able to grant 'Chartered Family Mediator' status to its accredited mediators. The board noted that whereas even being a member of a 'Chartered Family Mediation Council' would enhance mediators' professional status, it would be preferable to be able for mediators to be able to describe themselves as chartered. The board agreed to ask the law firms it had approached for quotes if they could give a view on the likelihood of successfully applying to be able to grant mediators the ability to do this.</p>	

	<p>The board had obtained one quote for Royal Charter work so far. The board agreed to ask whether this quote could be reduced, and also to obtain two more quotes from firms with appropriate experience. It was agreed that the FMC would obtain a quote from Birketts and one other law firm.</p> <p>The board voted in favour of applying for a Royal Charter in principle. One director did not vote in favour; AB noted that she was not against the idea in principle, but thought the timing was not right.</p> <p>The board agreed to include an item in the next newsletter explaining the reasons that the FMC was exploring applying for a Royal Charter, in order to start a discussion with the mediation community about the right time to pursue such an application.</p>	<p>JT to ask for revised quote, and obtain two more</p> <p>HA to include item in newsletter</p>
3.2	Mandatory Mediation	
	<p>The board noted the draft position paper on mandatory mediation, which had been prepared in readiness for a potential consultation from the Ministry of Justice on this subject.</p> <p>The board noted that draft position paper did not:</p> <ul style="list-style-type: none"> • address the whether mediation can be made mandatory given article 6 of the European Convention on Human Rights; • make it clear that mediation cannot immediately follow MIAM. • Include evidence from other jurisdictions. <p>The board noted that changes would be required should the draft paper be used to formulate a response to a consultation.</p> <p>The board also noted that further discussion would be needed if a consultation on this subject was published, to reach the right balance between automatic use of mediation and the ability of potential participants to choose to use other forms of dispute resolution.</p>	
3.3	Budget and Resources	
	<p>The board discussed the draft budget, which reflected the increasing expenditure the board had approved in mid-2022, to help the FMC achieve its objectives.</p>	

	<p>The board noted that existing funds were to be used for two projects (further development of the FMC website and consultancy for modular accreditation) and for direct marketing spend. The board noted that some existing funds including the project reserve of £10,000 could be used towards the cost of applying for a Royal Charter (see 3.1 above).</p> <p>The board noted that the budget included an in-year deficit for ongoing expenditure, which would further reduce the FMC's assets by the end of the year. The board had previously agreed that it would increase registration fees to cover the increased costs, noting that fees had not increased for four years. The board agreed to increase fees for 2023 to £140 for accredited mediators and to £70 for mediators working towards accreditation. The board noted that this increase of £20 for accredited mediators and £10 for those working towards accreditation would result in an in-year deficit for ongoing costs of £10,000.</p> <p>The board noted the importance of engaging with mediators and ensuring the reasons for the fee increase were explained.</p> <p>The board approved the budget for 2023, subject to the agreed amendments to registration fees and portfolio submission fees (see 2.4 above). The board noted that the budget would be amended once the portfolio submission fees were agreed.</p> <p>The board asked for projections of the FMC's budget for the next five years, including 5% increases and decreases of the number of registered mediators.</p>	<p>HA to amend budget</p> <p>HA to produce forecasts</p>
3.4	Wellbeing Support for Mediators	
	<p>The board welcomed the paper setting out options for well-being support that could be provided to mediators. The board agreed to ask mediators as part of the registration process in 2023 whether they would want to have this support, which was relatively low cost per person.</p>	<p>HA to include question about well being support in registration process</p>
4.	Updates	
4.1	Family Procedure Rules Committee	
	<p>The board noted the update from the sub-committee of the FPRC tasked with reviewing MIAM exemptions, which had met several times since September; the FMC had been represented at these meetings by CB.</p>	

	<p>The board noted that the sub-committee's report on MIAM exemptions had been reviewed by the FPRC in November, and that the Committee made a number of decisions based on this, as well as identifying some further issues to discuss. The board noted these issues would be discussed within the sub-committee and included: the point at which a court could review MIAM exemptions claimed in financial remedy proceedings; whether there should be any judicial discretion not to refer parties to a MIAM if an exemption has not be validly claimed; when and why costs orders might be imposed for not engaging in NCDR and how 'attendance' at mediation or other NCDR might be defined & determined. The board noted that it was likely that these issues will be discussed by the FPRC in December with a consultation published in the New Year.</p>	
4.2	<p>Equality Diversity and Inclusion Team</p>	
	<p>The board noted the minutes of the EDIT meeting held on 20.9.22. The board noted that the team had not had a Chair since the beginning of 2022, but that since the meeting one of the members had expressed an interest in becoming Chair.</p>	
4.3	<p>Family Mediation Week</p>	
	<p>The board noted that the FMW working group has put together a comprehensive programme of events aimed at raising awareness of family mediation among the public and other professionals who may work with separated families. The board noted in particular that the involvement of Deidre Sanders ('agony aunt' from the Sun and This Morning) and of Only Mums and Only Dads had been identified as opportunities to reach the public. The board also noted that the Law Society's Family Law Committee has asked the Law Society's marketing team to distribute news about the event, with the particular aim of reaching those solicitors who practise family law but who are not members of Resolution.</p> <p>The board noted that the working group was encouraging mediators to get involved and make at least one pledge to promote family mediation during Family Mediation Week and that it has developed a logo for mediators to use to encourage them to share their pledges. The board also noted the working group intention to follow up on this initiative by asking mediators to tell the FMC what they did, what worked, and what else they could do to promote family mediation.</p>	

	<p>It was also noted that the FMC would provide resources to mediators to promote family mediation during the week, including a logo, pledge symbol and, with the support of Richard Wyatt (marketing consultant) a press release to tailor and a leaflet about family mediation.</p> <p>The board noted that Lizzie Maguire (Coms Gateway Mediator Marketing) had been contracted to provide marketing support for family mediation week and will be generating posts for social media to promote the events that are planned.</p> <p>The board noted that the working group had secured sponsorship from OurFamilyWizard and a contribution from FMA to cover its costs.</p>	
4.4	Voucher Scheme	
	<p>The board noted that the total funding for vouchers under the scheme was £8,119,978 and projections showed this was sufficient to ensure funding will meet demand until the end of the current scheme on 31.3.22.</p> <p>The board noted that whilst the Ministry of Justice had noted the success of the scheme, there was currently no confirmation that the scheme would continue past 31.3.22. The board noted it had already agreed to tender for a contract to continue to run the scheme should the Ministry of Justice invite bids for this, and that the voucher WG, with the support of John Taylor, would prepare the FMC's bid.</p> <p>The board noted that as of 28th November, 13501 vouchers had been allocated, with 9494 paid and 757 cancelled, leaving 3250 active vouchers. It was also noted that vouchers are being allocated and bills and are being paid within target times (7 & 14 days of receipt, respectively) and that feedback from mediators and clients remains positive.</p>	
4.5	Legal Aid	
	<p>The board noted that the Legal Aid working group has not managed to meet or to meet with the Legal Aid Agency since the summer, but that meetings were being arranged for the New Year.</p> <p>The board noted that the LAA:</p> <ul style="list-style-type: none"> - held a webinar for mediators about what to expect from contract manager visits in October, and that this arose as a result of the FMC's attendance at the LAA's Civil Contract Consultative Group meetings. It was noted that the event was well received, and that mediators have asked for follow up events where more detailed scenarios can be explored. 	

	<p>- The board noted that the LAA has announced that contracts will not end in August 2023 but be extended further, to August 2024, and that the LAA has introduced a provision to allow for service providers who do not already have a contract but who wish to bid for one can do so, even though other contracts are ongoing.</p> <p>- has not yet published its response to its consultation on legal aid eligibility.</p> <p>The board noted that legal aid statistics show a higher rate of mediation starts are resulting in successful agreements since the start of the mediation voucher scheme (67% in 2021-22 vs 60 or 61% in most of the years proceeding, except, 64% in 2017-18) and that this reflects what mediator feedback about the benefit of the voucher scheme when one party is eligible for legal aid and one is not.</p>	
4.6	National Mediation Awards	
	<p>The board noted that National Mediation Awards had been popular among family mediators, with lots of family mediators being nominated and shortlisted for general awards as well as those specifically aimed at family mediators. The board noted that the NMA awards ceremony would be held in Parliament on 8 December, and that John Taylor was due to attend on behalf of the FMC.</p>	
5.	AOB	
	<p>The board agreed to add an item about how to encourage mediators practising outside the FMC to join the register to the agenda for its next meeting.</p>	<p>HA to add to agenda for next FMC meeting</p>
6.	Future Meeting Dates	
	<p>Proposed dates for 2023 - Time & location TBC</p> <p>8 March 17 May (Joint FMC & FMSB Meeting) 14 June 13 September 6 December</p> <p>It was noted that some of these dates do not work for all directors, and so the Executive Officer will try to find alternative dates that work for all.</p>	<p>HA to send Doodle Polls with alternative dates</p>