

FMSB Meeting

Wednesday 19th October 2022

Approved Minutes

Present: Robert Creighton (Chair), John Hobson, Sarah-Jane Turnbull, Lesley Allport, Mike Mack, Alexis Walker, Lorraine Bramwell

Also present: Jane Robey (FMC Representative), Helen Anthony (Executive Officer)

	Part 1 - Open session	Actions
1.	Introductory	
1.1	Welcome and introductions apologies, declarations of interests	
	<p>The Chair welcomed everyone.</p> <p>AW & LB declared conflicts of interest for item 4.2 (Accreditation - assessors' fees). LA & LB declared conflicts of interest for item 4.7 (Training). Members recused themselves from relevant discussions.</p>	
1.2	Approval of minutes of last meeting & matters arising not covered elsewhere	
	<p>The minutes of the meeting held on 6.7.22 were approved.</p> <p>Matters arising:</p> <ul style="list-style-type: none">● Work arising from online working group.<ul style="list-style-type: none">○ It was noted that actions had been logged and will be picked up as appropriate● Entitlements of WTAs/accredited mediators<ul style="list-style-type: none">○ The FMSB noted the first draft of the document○ It was agreed that the checks and balances that exist with regard to solo working need to be included○ It was agreed to remit the document to the Accreditation Panel to be finalised	HA to remit document to Accreditation Panel
2.	Reports	
2.1	Chair's Report	
	<p>The FMSB noted that the Chair had nothing to report, that was not elsewhere on the agenda.</p>	
2.2	Executive Officer's Report	
	<p>The FMSB noted the Executive Officer's report and in particular that the advert for new, non-mediator FMSB members was live. The FMSB noted that interview panel members will be required, likely in</p>	

	early December, and it is hoped that appointments will be made before the end of the year.	
2.3	FMC Report	
	The FMSB noted the draft minutes of the FMC meetings held on 14.9.21, and in particular that the FMC is continuing to explore the possibility of chartered status for the FMC and for family mediators.	
3.	Governance	
3.1	Priorities and Capacity	
	The FMSB reviewed the workplan for the year, and noted that good progress had been made on key items. The FMSB noted the allocation of additional resources identified by the FMC in the summer to progress work on accreditation and the promotion of mediation, as well as additional support in the FMC office. The Chair undertook to review the work plan for 2023.	
4.	Strategic Items	
4.1	MIAMs	
	The FMSB noted that MIAMs documents had been published and the new Standards come in to operation from 1 October. The FMSB thanked AW and members of the working group who had run a series of seminars about the new Standards. The FMSB noted that a recorded seminar would be made available to mediators together with a document setting out the answers to questions that mediators has asked about the new Standards, and that the Chair and Executive Officer would speak to the FMC's marketing consultant about work to promote these to government, judiciary and other relevant professionals.	RC & HA to speak to RW
4.2	Accreditation Panel	
	<p>The FMSB noted the draft minutes of the Accreditation Panel meeting held on 20.09.22. The FMSB delegated to the Accreditation Panel the authority to finalise the Reasonable Adjustments Policy for the portfolio process.</p> <p>The FMSB considered a proposal to increase assessor and portfolio fees. The FMSB noted that assessor fees had not increased since 2018 and portfolio fees had remained unchanged since 2015. The FMSB noted the importance of retaining existing</p>	

	<p>assessors and attracting new assessors, and agreed that a fee increase was necessary. The FMSB also agreed that the portfolio fee should increase, but that as the increase needed to cover costs would be substantial, that this should happen in stages. The FMSB noted the need to explain the reasons for the fee increases to mediators. The FMSB agreed to recommend fee increases to the FMC and asked the Chair of the Accreditation Panel and the Executive Officer to propose appropriate timings for the change in portfolio fees. The FMSB agreed the increase for assessors should take immediate effect.</p> <p>The FMSB noted and agreed the terms of appointment of Helen Keville, an FMCA mediator with experience of developing training and career pathways, as a consultant on modular accreditation. The FMSB Chair, Accreditation Panel Chair & Executive Officer will progress this, and ask the FMC to formalise the terms of HK's appointment.</p>	<p>RC, SJT & HA to progress work with HK; HA to formalise the terms of HK's appointment.</p>
4.3	Accreditation Reform Group (ARG)	
	<p>The FMSB noted the minutes of the ARG meeting held on 12.7.22 and the draft minutes from 5.10.22.</p> <p>The FMSB approved the ARG's Terms of Reference with one amendment to replace 'without supervision' (which might mean without a PPC) with 'independently'.</p>	
4.4	Complaints	
	<p>The FMSB discussed the draft policy for handling complaints initiated by mediators and the FMSB. The FMSB broadly agreed the draft but identified the need to address issues relating to following up if mediators were not compliant with disciplinary decisions, and issues of confidentiality.</p> <p>The FMSB discussed the draft indicative outcome document, and noted the need to amend this to: emphasise the escalation that would occur where complaints were repeatedly upheld; ensure it is clear that the sanctions are indicative and the panel has discretion to make different decisions if appropriate; and the document should say if mediators' names will be published if sanctions applied; review the language around conditions on practise/demonstration of</p>	<p>HA to consider issues and bring amended draft to FMSB</p> <p>HA to amend indicative outcome document accordingly, circulate to FMSB for sign off & then publish</p>

appropriate practise; and to include an annual review cycle. HA to amend the document accordingly and then circulate to FMSB for sign off by e-mail and publication.

The FMSB noted that the new complaints process has raised the question of how the FMSB interacts with mediation services in three different ways:

- When we receive a complaint, we write to the mediator(s) concerned. There is no notification to any mediation service(s) the mediator works for. This is for both practical reasons (we don't always know who a mediator works for) and principled reasons (we regulate individuals, not firms). However, there are a number of potential implications for a service if a complaint is made against and one of its mediators.
- Two complaints considered by the panel raised issues about how non-mediators within mediation firms acted/should act.
- The office has rejected one complaint on the basis that it did not concern the actions of the mediator. We have also received other enquiries from a different individual, which relate to historical complaints about a firm – this isn't a live issue, but it is an indication that the public might expect there to be a complaints process for complaints about services rather than individuals.

This FMSB noted that there were a number of implications and consequences of current policies for the FMSB's relationship with mediation services. It was agreed that MM & HA would work together to create a list of questions that arise from the above issues so that this can form the basis of future discussion.

The FMSB noted that some of the timescales in the complaints process were proving difficult to comply with. The FMSB agreed to extend the timeframe in which the office makes a decision about whether a complaint meets basic criteria and the time between a panel making a decision and approving the resulting report each to 15 working days. The FMSB noted that this extended the time

MM & HA to create a list of questions that arise from complaints re firms

HA to update timescales in complaints process

	<p>frame in which complaints will be handled from a maximum of 19 weeks to 22 weeks.</p> <p>The FMSB noted the report which detailed the number of complaints that had been received. The FMSB asked for the format of the report to be updated to include: how many expressions of concern were raised, how they were dealt with, and what the response was; and reasons for formal complaints to be rejected.</p> <p>The FMSB agreed that the issues highlighted by complaints panels should be logged and addressed at the next annual review as a result of which the FMSB may recommend changes to the FMC Code of Practice.</p> <p>The FMSB thanked MM, JH & SW for all their work on the complaints received.</p>	<p>HA to amend format of complaints report</p>
4.5	Assurance	
	<p>The FMSB welcomed the proposed approach to assurance, and agreed to form a working group to develop the specification for assurance about domestic abuse screening. RC to lead working group, with JH, LA, LB as members. The FMSB agreed to invite Adrienne Cox and Jane Wilson, who have particular experience in the area, to join the group. The FMSB noted that if a working group was established to carry out the work agreed in the specification, it would follow its usual approach of asking for representatives from FMC Member Organisations as well as involving those with specialist knowledge.</p>	<p>HA to arrange meeting of DA Assurance WG</p>
4.6	<p>Compliance</p> <ul style="list-style-type: none"> ● Brand protection 	
	<p>The FMSB discussed what more could be done to ensure the FMCA brand was protected. Trademarks or copyright had previously been suggested as potential avenues to explore; the FMSB agreed that these shouldn't be explored whilst the FMC was considering Chartered status.</p> <p>The FMSB noted that better policing of the use of the FMC and FMAC logos, as well as how people describe their FMC status, would be ideal, but recognised that resources were not always</p>	

	<p>available for this. The FMSB also agreed if it made appropriate logos available to people (eg those working towards accreditation) and helped then there would be less people who used FMC logos wrongly. The FMSB noted that a welcome pack for new mediators could include information about next steps, resources, requirements etc but could also include information about how mediators may represent their status. HA to action.</p> <p>The FMSB noted that working with other professional bodies could help provide a route of redress in situations where their members who are not also FMCA sign court forms. The Chair of the FMSB and the Executive Officer will speak to the FMC Chair about this.</p>	<p>HA to action development of welcome pack</p> <p>RC & HA to speak to JT about liaison with other professional bodies</p>
4.7	Training	
	<p>The FMSB noted that foundation course inspections and course renewals were to start in the autumn. The FMSB noted that the course inspection documents had highlighted certain course content for emphasis, but that reviewers were still required to ensure that all necessary content was covered.</p> <p>The FMSB noted that the Training Panel was exploring whether there were any courses that can support the work of training reviewers. JR to send AW details of potential trainers.</p>	<p>JR to send AW details of potential trainers</p>
4.8	Hybrid/Integrated Mediation & the FMC Code of Practice	
	<p>The FMSB has been asked to clarify whether 'hybrid' or 'integrated' mediation (where third-party professionals such as solicitors take part in the mediation to advise clients during this) is allowed under the Code of Practice. The FMSB confirmed that this approach was allowed under the Code of Practice and referred to the following paragraphs:</p> <p><i>8.15 Mediation meetings are commonly conducted without lawyers present. However, solicitors or counsel acting for the Participants may be invited to participate in the Mediation process and in any communications if the Participants agree and the Mediator considers that it would be appropriate.</i></p> <p><i>8.16 When appropriate and with the consent of the Participants, arrangements may be made for the attendance of professional third</i></p>	

	<p><i>parties other than lawyers, such as interpreters, accountants, actuaries, independent financial advisors, and other advisors.</i></p> <p>The FMSB had also been asked to clarify whether the FMSB required mediators to undertake additional training in order to practise 'hybrid' or 'integrated' mediation. The FMSB confirmed that the Standards Framework did not require any additional training. The FMSB also noted that it would expect mediators to always act within their own competence, but noted this general requirement was not specified in the Code of Practice or Standards. The FMSB asked the Executive Officer to add this issue to the log of matters which may need further consideration.</p>	<p>HA to add issue of mediators acting within own competence to issues which may need to be considered on next Code of Practice Review</p>
5.	Future Meeting Dates	
5.1	<p>FMSB Dates for 2023:</p> <ul style="list-style-type: none"> ● 1 February 2023 (in person) ● 26 April 2023 (online) ● 17 May 2023 Joint FMC/FMSB (in person) ● 5 July 2023 (online) ● 11 October 2023 (in person) 	