

## FMSB Meeting

20 October 2023

### Approved Minutes

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

**Also present:** Allan Blake (FMC Representative), Helen Anthony (Executive Officer), Helen Keville (Modular Accreditation Consultant, Item 4.1 Only)

	Part 1 - Open session	Actions
1.	Introductory	
1.1	Welcome and introductions apologies, declarations of interests	
	<p>The Chair welcomed everybody, in particular Anthony Blackman, a newly appointed non-mediator member of the FMSB.</p> <p>The Chair noted that Tony Swabe who had also been appointed as a non-mediator member of the FMSB had had to resign his position with immediate effect due to health reasons. The FMSB wished him well and noted the FMC would recommence the recruitment process.</p>	
1.2	Approval of minutes of last meeting & matters arising not covered elsewhere	
	<p>The minutes of the meeting held on 5.7.23 were approved.</p> <p>Matters arising:</p> <ul style="list-style-type: none"><li>• 4.2 Quality Assurance The FMSB noted that this would be progressed in the Autumn.</li><li>• 4.4 Accreditation Reform - Child/Property &amp; Finance (P&amp;F) Only. The FMSB noted that although the FMC Board stressed that accreditation reform was among its priorities, it did not give a view on the priority to which work related to Child/P&amp;F Only should be given. The FMSB noted that pressure to reintroduce Child/P&amp;F Only accreditation was coming from some sectors of the mediation community, driven partly by concerns about the accreditation process and partly by concerns that mediators who are good at mediating children's issues are not able to meet requirements to become accredited for Property and Finance issues.</li></ul>	

	<p>The FMSB noted that some concerns about the accreditation process may be allayed by publications of details of the modular accreditation pilot.</p> <p>FMSB members reiterated concerns about the principle of awarding accreditation to people who could only conduct part of the work of family mediators.</p> <p>The FMSB noted that the Law Commission was conducting a review of how financial issues are treated on divorce, and this may lead to changes, in the next few years, and so the skills and knowledge needed for managing financial mediation may change. The FMSB agreed that further consideration of Child/P&amp;F only accreditation would be considered as part of the FMSB's prioritisation exercise.</p>	
<b>2.</b>	<b>Reports</b>	
2.1	Chair's Report	
	<p>The Chair reported that he had attended a College of Mediators' South East Region group and discussed the FMSB's current programme of work.</p> <p>The Chair also reported that he had chaired two complaints panels, and reflected on how valuable the experience was.</p> <p>The Chair reported that, along with the Chair of the FMC, he had published part 1 of an information piece for mediators about the FMC's income and expenditure for 2022, in the FMC Newsletter; part 2 would be published in the next Newsletter. The Chair noted that he would like the FMSB to publish a short piece in each newsletter, and invited all FMSB members to consider what they would like to write about in the coming months.</p>	All FMSB members to consider topic for FMC newsletter item
2.2	Executive Officer's Report	
	<p>The FMSB noted the Executive Officer's report.</p> <p>The FMSB noted that the FMC was now hosting monthly online coffee mornings for mediators; each month a different topic is chosen for discussion. FMSB members were invited to let HA know if they would like to host a coffee morning. The FMSB noted that it would be helpful if the</p>	FMSB member let HA know if would

<p>coffee mornings took place at a regular time – HA to consider whether this can be implemented.</p> <p>The FMSB discussed the status of papers for FMSB meetings, panels and working groups. The FMSB noted that panel papers had recently been circulating in the mediation community, leading to questions from mediators about work that was underway. The FMSB agreed transparency was important, but expressed concern that papers were being circulated without any context or sufficient background information. The FMSB agreed to publish an information page about the work of its panels on the FMC website, and to consider publishing its papers on the website along with the minutes of FMSB meetings. The FMSB agreed that all papers would be marked confidential in the first instance unless there was a specific reason for them to be distributed more widely (when they would be marked as such), and then the FMSB/panel/working group could decide if papers should be circulated further, in which an introduction may be added to provide context.</p> <p>The FMSB noted that the MoJ had asked FMC/FMSB to meet to discuss some of the issues raised in the consultation, including domestic abuse and Child-Inclusive mediation. LA, LB, AW &amp; SJT volunteered to attend subject to availability. HA to arrange meeting.</p> <p>The FMSB noted that HA had met with the FMC Member Organisation (MO) which has been listing non-FMC Registered Mediators as mediators on its website. The FMSB noted that the MO confirmed that if its members are not FMC registered on joining the MO, they are not listed as mediators and that the issue arises if the members' FMC Registered Mediators ends. The FMSB noted the MO had identified the need for a data cleaning exercise to update its listings and that the FMSB was supporting this process by confirming to the MO which of its members are FMC Registered.</p> <p>The FMSB discussed proposed guidance for descriptors that mediators working towards accreditation could use, following the decision from a complaints panel that 'trained mediator' could mislead the public in to thinking the mediator is fully qualified. The FMSB agreed that 'FMC Registered Mediator' was an accurate description and therefore could be used. The FMSB reflected on the fact that this could also be misunderstood by the public, and so agreed that further consideration should be given to this issue. The FMSB delegated to the Chair the task</p>	<p>like to host coffee morning</p> <p>HA to consider regular time for coffee morning</p> <p>HA to liaise with RW re website page for panel information</p> <p>All – papers for meetings to be marked appropriately</p>
---	--

	<p>of refining draft guidance produced by the Executive Officer before publication.</p> <p>The FMSB noted that the Executive Officer had attended the FMA Conference in September, together with Allan Blake. The FMSB noted that delegates had been asked to provide feedback on what the FMC/FMSB was doing well, and what could be done better: the broad themes of the responses were that the FMC &amp; FMSB manage different voices well, and that delegates appreciated the work done by volunteers, but that more work was needed on accreditation processes.</p>	
2.3	FMC Report	
	<p>The FMSB noted the draft minutes of the FMC meeting held on 13.9.23.</p> <p>The FMSB noted that Neil Robinson (an experienced FMCA Mediator and PPC) had volunteered to draft updates to a guide to mediation for the judiciary and the courts, which had been produced by the FMC and Family Justice Council about six or seven years ago. The FMSB noted that were aspects of the guide that related to standards, and that the FMSB would therefore need to have sight of the updated guide to ensure it was consistent with FMC standards. It was agreed that the updated guide would be circulated to the FMSB and that members would check its accuracy. MM noted that he could ask the Chair of the Magistrates Association to review it from a magistrate's perspective.</p>	
<b>3.</b>	<b>Governance</b>	
3.1	Prioritisation & Resource Allocation	
	<p>The FMSB considered the proposed process for prioritising work and therefore allocating resources. The FMSB agreed to proceed as proposed.</p> <p>It was agreed that the prioritisation matrix would be updated with additional workstreams identified in the meeting (MIAM specifics, CIM details) and then re-circulated to FMSB members. It was agreed that FMSB would consider each item on the matrix in accordance with the criteria in the prioritisation paper, within two weeks of receipt.</p> <p>It was agreed that the FMSB would then consider/discuss collective priorities, with a view to taking these – and the process – to joint FMC/FMSB meeting for 2024/25 business planning.</p>	<p>HA to update and circulate prioritisation matrix</p> <p>FMSB members to complete prioritisation matrix</p>

4.	Items for Discussion	
4.1	Modular Accreditation	
	<p>The FMSB thanked HK her work on the modular accreditation pilot and thanked Accreditation Panel for its thorough scrutiny of the proposals.</p> <p>The FMSB noted that the pilot had been approved in principle by the FMC board as well as the FMSB. It also noted that this pilot was an evolution of the current portfolio process, and one of several reforms to the accreditation process that the FMSB was considering.</p> <p>The FMSB noted that the implementation plan set out the next steps for the project, and that a communication plan was needed alongside this. HA to work on communications with HK, RC and Richard Wyatt (communications consultant).</p> <p>The FMSB agreed that there needed to be a clearer description of the differences between stage 1 and stage 2 of the pilot, and FMC accreditation, as well as clear descriptors for mediators at each stage. The FMSB noted the link between this and the conversation at 2.3 above regarding titles for mediators working towards accreditation.</p> <p>The FMSB agreed that it was important to make the rules of entry and exit from the pilot clear to all mediators considering participation in the scheme. The FMSB noted that the pilot would be available to mediators currently registered with the FMC and working towards accreditation, and that if they chose to join the scheme they would be subject to the rules of the pilot. The FMSB noted that there would not be a provisional award at a stage 1 assessment, and a mediator who did not pass a stage 1 assessment would be invited to resubmit, but could not leave the pilot at that stage and remain on the FMC Register.</p> <p>The FMSB noted the importance of stressing that participation in the pilot must be voluntary.</p> <p>The FMSB noted that four FMC assessors had volunteered to act as assessors for the pilot, and that the capacity of the FMSB to assess portfolios under the pilot could therefore be calculated. The FMSB noted the importance of making clear in the invitation to participate that if the pilot was oversubscribed, test sites would be chosen to ensure as much</p>	<p>HA to work on communication plan with HK, RW &amp; RC</p>

<p>diversity as possible, so that the pilot scheme could be tested using a variety of different models.</p> <p>The FMSB noted that HK has consulted extensively with the Chief Assessors for the FMC and the Law Society, but some FMC assessors had commented that they would have liked an opportunity to comment on the scheme’s development at an earlier stage.</p> <p>The FMSB agreed that the Accreditation Panel would be responsible for the implementation of the pilot and that a separate oversight panel consisting of individuals not taking part in the pilot would be established. It was agreed that the oversight panel would consist of John Hobson and Anthony Blackman (both non-mediator members of the FMSB) and Allan Blake (independent FMC director). It was agreed that the oversight panel could consider inviting an academic institution or mediator who was not participating in the pilot to join the panel.</p> <p>The FMSB noted that the aim of the pilot was to consider whether the proposed scheme was a more effective way of submitting and assessing the portfolio, to learn whether a modular approach helped mediators working towards accreditation, and identify whether there are other improvements to the portfolio/accreditation process that the FMSB could explore. The FMSB noted that this would require qualitative assessment of the pilot and the existing portfolio process. The FMSB also noted that the Accreditation Panel had highlighted a number of quantitative measures that could be recorded.</p> <p>The FMSB noted that the Ministry of Justice (MoJ) had requested more information about the proposal, in order that it can consider whether mediators who had passed a stage 1 assessment would be able to conduct legal aid and voucher cases solo with enhanced supervision from their PPC at stage 2. The FMSB noted that MoJ had requested the information to be provided in advance of a briefing for Lord Bellamy in mid-November.</p> <p>It was agreed that the steps to be taken in order to sign off the key documents were as follows:</p> <ul style="list-style-type: none"> <li>• The summary of the staged portfolio, invitation to become a test site and implementation plan be updated by HK</li> </ul>	<p>Accreditation Panel to manage implementation of pilot</p> <p>JH, AnB, AIB to form oversight panel</p> <p>HK to update papers</p>
--	---

	<ul style="list-style-type: none"> <li>• Documents to be circulated to FMSB for sign off by e-mail in order to be sent to the MoJ by mid-November</li> <li>• Remaining papers to be updated as per implementation plan</li> <li>• RW to review documents for presentation to mediators</li> </ul> <p>The FMSB noted that HK's contract would need to be extended to carry out the work highlighted in the implementation plan. RC &amp; HA to address with the Chair of the FMC.</p>	<p>HA to circulate papers to FMSB for sign off</p> <p>HA to send papers to MoJ</p> <p>RC &amp; HA to liaise with JT re HK contract</p>
4.2	Screening for Domestic and Child Abuse (SDCA)	
	<p>The FMSB welcomed the discussion paper from the Screening for Domestic and Child Abuse working group, noting that it clearly set out the mediator's role which was to assess for suitability for mediation, not to determine whether domestic abuse had taken place. The FMSB agreed to formalise the working group; LA, LB &amp; HA to draft terms of reference.</p> <p>The FMSB noted the recommendations in the report. The FMSB agreed to include exploring these its prioritisation matrix.</p> <p>The FMSB agreed there was a need to be clear about the language it used, specifically the terms safeguarding, screening, assessment and mitigating risk. The FMSB noted that the DV Gateway could be added to the list of resources highlighted in the paper, and that the paper should be amended to reflect that for mediation to proceed both the victim and perpetrator need to be ready to participate in this process.</p> <p>The FMSB agreed that in the meantime it would ask Women's Aid, Mankind, the Domestic Abuse Commissioner's Office and the team at Exeter University which had recently completed research about domestic abuse and mediation, if they had a view on the gaps identified in the paper and the proposals to fill these.</p>	<p>LA, LB &amp; HA to draft terms of reference</p> <p>LA to update paper</p> <p>LA to update paper LA, LB &amp; HA to liaise with organisations identified</p>
4.3	Data Protection & Information Commissioner's Office (ICO) Guidance	
	<p>The FMSB noted that the Executive Officer had contacted the Information Commissioner's Office, to try to establish whether it could provide specific guidance for mediators on data protection issues; the ICO had confirmed it was happy to work with the FMC. The FMSB noted the Executive Officer would work with the FMC's Member Organisations to understand</p>	

	<p>the issues that mediators need guidance on. MM volunteered to assist HA with this work.</p> <p>The FMSB noted that the Executive Officer was also reviewing the FMC's own privacy policy to ensure it was up to date and specifically to ensure it is suitable to enable the FMSB to store and handle the information received as part of the complaints process.</p>	
<b>5.</b>	<b>Updates</b>	
5.1	Accreditation Reform Group	
	<p>The FMSB noted the draft minutes of the Accreditation Reform Group meeting held on 2.10.23. The FMSB noted the draft ARG questionnaire, which was due to be published in November.</p>	
5.2	Accreditation Panel	
	<p>The FMSB noted the minutes of the Accreditation Panel meeting held on 18.7.23 and the draft minutes of the meeting held on 14.9.23. The FMSB thanked the panel for its careful consideration of the modular accreditation proposals (discussed at item 4.1 above).</p>	
5.3	PPCs	
	<p>The FMSB noted the draft minutes of the PPC meeting held on 17.8.23.</p> <p>The FMSB noted that the PPC Panel had circulated its survey about the role and responsibilities of PPCs, and there had been a very good initial response rate.</p> <p>The FMSB agreed that it was within the PPC Panel's remit to publish resources that support the delivery of mediation to a high standard, but that any formal guidance should be brought to the FMSB.</p>	
5.4	Complaints	
	<p>The FMSB noted the quarterly complaints report.</p> <p>The FMSB agreed that AnB would lead the review of the complaints process. It was agreed that process would check that complaints could be made by whistleblowers and about PPCs (as well as for complaints to be made by clients about mediators).</p>	



	The FMSB noted that some services had expressed interest in commissioning the FMC to be able to handle complaints at the first instance.	
5.5	Training	
	<p>The FMSB noted that, of the seven approved Foundation Training Courses: three reviews have been completed and those courses had their status renewed; three reviews are in progress and will be completed by the end of 2023; one course (which has approval until spring 2024) will be renewed early in 2024.</p> <p>The FMSB agreed that AnB would lead the Training Panel once he has completed the time-limited review of the complaints process.</p>	
5.6	Child-Inclusive Mediation (CIM)	
	The FMSB noted that many of the issues relating to Child-Inclusive Mediation that had been identified as needing to be addressed would fall within the FMC's remit, as they concerned the promotion and wider understanding of CIM. The FMSB noted that other issues, such as training for CIM and whether this should continue to be delivered online, fell to FMSB panels. It was agreed that an FMSB panel specifically for CIM was not therefore needed, but that an FMSB member should be appointed to as a CIM Lead to liaise with relevant groups to ensure CIM matters were being addressed.	
<b>6.</b>	<b>Future Meeting Dates</b>	
6.1	Proposed for 2024: 31 <sup>st</sup> January (In person) TBC 17 April (Online) 10 July (In person) 16 October (Online)	HA to confirm/amend January date