

Disciplinary consequences if a complaint to the FMSB is upheld

The primary function of any sanction is to protect the public by ensuring the actions that led to breaches of the FMC Code of Practice or Standards Framework are not repeated.

In considering sanctions that should be applied, the FMSB will consider any risks the mediator might pose to those who use or need their services; the deterrent effect on other mediators; public confidence in the mediation profession; and public confidence in the regulatory process.

The FMSB will apply sanctions that are proportionate to the breach of the Codes of Practice or FMC Standards Framework, taking in to account:

- the severity of the complaint;
- the insight that the mediator has shown in to their own conduct;
- any remedial action the mediator may already have taken;
- whether previous complaints about the mediator have been made and upheld. Where complaints have been repeatedly upheld, sanctions will escalate.

Many complaints will result in an educative sanction with a view to mediators changing their practice for the future.

The FMSB cannot require mediators to provide refunds, or pay compensation.

Indicative outcomes, with examples of actions that might give rise to each, and examples of how sanctions may be applied, are listed below. These are published as a guide; the FMSB has discretion to make different decisions if appropriate.

Indicative outcomes

Possible outcome	Actions that would typically give rise to this	How the sanction might be applied
No action	<ul style="list-style-type: none">• The complaint resulted from a unique set of circumstances that cannot occur again; or• The mediator has already taken remedial action eg attended training on the issue since the complaint was made	N/A
Training requirements	<ul style="list-style-type: none">• A breach of the Code of Practice or Standards Framework that needs redressing but that does not constitute such a severe breach that requires removal from the FMC Register.• An isolated complaint which concerns a specific issue.	<p>Training related to the issue highlighted by the complaint. Training might be achieved by attending a course, one-to-one discussions on the topic with their PPC, or observing FMCA mediators.</p> <p>Whilst these should be as robust as necessary to ensure and breaches of the Codes of Practice/Standards do not occur again, they should also be as flexible as possible to help the mediator have the best chance of meeting these requirements.</p> <p>Failure to adhere to training requirements within a specified timeframe may result in conditions or</p>

		practising or removal from the register until such training is completed.
A requirement to update documentation	<ul style="list-style-type: none"> • A complaints policy does not adhere with the FMC's minimum requirements • Publicity, the mediator's correspondence or other documents are misleading 	<p>A requirement to change documentation should be as specific as necessary to ensure this complies with FMC requirements and is clear to clients, without prescribing other matters.</p> <p>Mediators may be required to send updated documentation to the FMSB.</p> <p>Failure to update documents as required within a specified timeframe may result in conditions or practising or removal from the register until such documentation has been updated.</p>
A requirement to demonstrate appropriate practice	<ul style="list-style-type: none"> • The complaint relates to how principles of mediation are how they are put in to practise during a mediation or assessment meeting (MIAM) and this practise needs to be reviewed; or • The complaint is wide ranging and breaches several areas of the Code of Practice or Standards Framework, or multiple single issue complaints have now upheld about the mediator, and thus re-assessment by the FMC is required. 	<p>This might include additional satisfactory observations by their (or another PPC) or, if accredited, the removal of accreditation and requirement to submit a new portfolio (or part of portfolio) for assessment. Whilst these should be as robust as necessary to ensure and breaches of the Codes of Practice/Standards do not occur again, they should also be as flexible as possible to help the mediator have the best chance of meeting these requirements.</p>
Temporary removal from the register	<ul style="list-style-type: none"> • An action which would pose a risk to mediation participants or to other adults or children if repeated e.g. failure to report safeguarding risk. 	<p>This sanction is likely to be applied in conjunction with the requirement for further training, update documentation or take other remedial action.</p> <p>Mediators would need to meet all usual requirements (including being in good standing) once the suspension period ended.</p>
Permanent removal from the register	<ul style="list-style-type: none"> • Deliberate dishonesty and a failure to admit to and remedy this. • Complaints have been repeatedly upheld about the mediator and previous sanctions has not resulted in the mediator adhering to the FMC's Code of Practice and Standards Framework. • Committing a criminal offence which has an impact on the mediator's practise. • Bringing the family mediation profession in to disrepute. 	<p>This sanction is the most serious and would mean that a mediator is immediately removed from the FMC Register.</p> <p>Mediators removed from the FMC Register can start the process of training again but would have to meet all usual requirements (including being in good standing) to rejoin the FMC register. This might be possible for example when a criminal offence becomes spent or if after a period of several years a</p>

		mediator removed for dishonesty is able to demonstrate they have changed their character.
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More than one sanction may be imposed, for example a mediator can be required to undergo training and update documentation.

Where disciplinary actions are required, the panel will specify timescales for achieving these, and consequences if the requirements are not met.

The FMSB will publish names of mediators against whom sanctions are applied, the nature of the sanction and brief reasons for this, where it believes it is in the public interest to do so. This is most likely to be where restrictions have been placed on the mediator's work, or where the mediator has temporarily or permanently been removed from the FMC Register.

The FMSB will publish anonymised information about other sanctions applied as part of its annual complaints report.

Recommendations

It is possible to make recommendations to a mediator whether or not a complaint is upheld. These might include:

- Apologising
- Changing the way they work
- Updating documents to make them clearer
- Attending training

Review

This document will be reviewed on an annual basis.