

## FMC Board Discussion Meeting

Wednesday 12<sup>th</sup> June 2024

**Present:** Stephen Burke (Chair), Alison Bull (Resolution), Beverley Sayers (FMA), Caroline Bowden (The Law Society)

**Apologies:** Allan Blake, Jan Coulton (The College of Mediators), Sarah Hawkins (NFM)

**Also in attendance:** Robert Creighton (FMSB Chair), Ruth Hay (FJC Representative), Helen Anthony (Executive Officer)

### Approved Minutes

Open Session – FMC Board Members and observers		
	Item	Actions
<b>1.</b>	<b>STANDING ITEMS</b>	
<b>1.1</b>	Welcome, introductions, apologies	
	<p>The board welcomed Stephen Burke, who had been appointed Chair.</p> <p>The board noted that due to the number of apologies received, this would be a discussion meeting and no formal decisions would be reached.</p>	
<b>1.2</b>	Approval of draft minutes, matters arising	
	<p>The minutes of the meeting held on 13.3.24 were noted, along with minor amendments.</p> <p>Matters arising:</p> <ul style="list-style-type: none"><li>• ICO – the board noted this work was in progress</li><li>• Prioritisation exercise – the board noted that this would be conducted later in the year, prior to the strategy meeting</li><li>• Organograms – the board noted the Executive Officer would update the organograms</li><li>• MoJ attendance at meetings – the board noted that MoJ officials could not attend meetings until after the General Election.</li></ul>	<p>HA to make amendments and add formal approval of minutes to next agenda</p>
<b>2.</b>	<b>Strategic Objective 5 – Maintain good governance</b>	
<b>2.1</b>	Risk register	
	<p>The board noted the updated risk register.</p> <p>The board noted the register could be more helpful if re-organised and the risks prioritised.</p> <p>The board highlighted cyber-crime as an issue that may need further consideration. This led to a broader discussion about potentially catastrophic events and whether mediators had – and should be obliged to have - disaster recovery plans. The FMC noted that this concerned not just mediators, but mediation firms. The board noted it was minded to move towards there be a need for mediators to have an emergency plan and agreed to add how this could be implemented to the FMSB's agenda for consideration.</p>	<p>HA to update risk register, amend format and review risks identified</p> <p>HA to add to FMSB workplan</p>

	<p>The board noted it would be helpful to add the question about what happens if a mediator loses their data, or is suddenly incapacitated and needs to transfer data, to the list of questions to ask the ICO.</p> <p>The FMC considered the reputational risk if allegations of assault or inappropriate conduct were raised against a mediator or PPC. The FMC noted that there was no provision in the Code of Practice or Standards which amounted to a restriction on mediators 'bringing the profession in to disrepute' and asked the FMSB to consider whether this should be introduced. The FMC noted that there was a process in place whereby mediators could make complaints about other mediators, including PPCs, and that the FMSB's PPC panel was considering whether this is appropriate or whether further processes are necessary.</p> <p>The FMC noted that as it was adding issues to the FMSB's agenda for consideration, it would need to consider, alongside the FMSB, where these tasks sat on the FMSB's list of priorities.</p> <p>The FMC noted that there was an additional risk to add to the register, of mediator numbers not increasing by 10% over the next three years, as the FMC's forecasting was based on this.</p> <p>The FMC noted that the risk that the MoJ would lose confidence in the FMC was mitigated by the appointment of independent directors to the FMC board and regular meetings between the FMC and the MoJ.</p>	<p>HA to add Q to list to go to ICO</p> <p>HA to add to FMSB workplan</p> <p>FMC &amp; FMSB to review priorities at joint strategy meeting</p>
<b>2.2</b>	Financial report	
	<p>The board noted that the management accounts to 31.3.24 and annual accounts to 31.12.23 had been prepared but that they had been send to the accountants with initial queries.</p> <p>The board noted the number of mediators on the FMC register and asked for future reports to include breakdown of the number of mediators belonging to each MO.</p> <p>The board noted that that FMC was frequently asked if mediators had capacity to take on additional work. The board noted that members of the public do not have difficulty in finding a mediator (the FMC knows this as it offers a Find A Mediator service) and that we are aware from re-accreditation that many FMCA mediators have the capacity to carry out more mediation work.</p> <p>The board noted that the FMC did not hold data about the amount or type of work that mediators were conducting, and identified that a debate may be needed about the amount of data it may be reasonable to ask mediators to provide for the benefit of the public.</p>	

<b>2.3</b>	Equality, Diversity and Inclusion Team	
	<p>The board noted that the FMC had been invited to send someone to sit on the advisory board for the research being undertaken by Essex University regarding the experiences of immigrant families of the family justice system.</p> <p>The board noted that assessors would undergo unconscious bias training before online meetings to clarify portfolio submissions start.</p> <p>The board asked the Executive Officer to prioritise the re-establishment of the Equality, Diversity and Inclusion Team.</p> <p>The board stressed the importance of including diversity of speakers as a criterion for selecting speakers for Family Mediation Week.</p>	
<b>2.4</b>	Succession Planning	
	<p>The board noted that the independent board member and independent FMSB member vacancies had not attracted many applications on the Reach platform. SB, RC &amp; HA to discuss advertising these roles more widely, to try to attract a diverse range of candidates.</p>	SB, RC & HA to discuss advertising of vacancies
<b>3.</b>	<b>Strategic Objective 1 - Increase awareness of mediation</b>	
<b>3.1</b>	General Election	
	<p>The FMC noted that:</p> <ul style="list-style-type: none"> <li>• the FMC had distributed to mediators a briefing about family mediation, for mediators to send to parliamentary candidates. This had been well received by mediators, some of whom had reported good responses from candidates.</li> <li>• the Conservative Party manifesto included a commitment to continue the family mediation voucher scheme. Not all manifestos had been published.</li> <li>• the FMC should write to the next government early on setting out its key asks. It was suggested that this should include education regarding mediation, sustainable funding (incorporating legal aid and voucher funding) and the importance of supporting child-inclusive mediation. The board noted that it would be helpful to make clear that it also supported the funding of early legal advice. SB, HA &amp; RW to liaise re this.</li> <li>• the FMC should invite new ministers to a reception in early autumn, at which is can emphasise its key priorities.</li> </ul>	
<b>3.2</b>	MoJ Consultation – Follow Up	
	<p>The board noted that:</p> <ul style="list-style-type: none"> <li>• the new court forms had been issued, many of the FMC's proposals had been taken in to account and the FMC had made mediators aware of the new form, as well as making it easier for them to access the relevant page of the court forms;</li> </ul>	

	<ul style="list-style-type: none"> <li>• the President of the Family Division has written a letter setting out what the courts expects of parties to proceedings, but it is only sent at present when court proceedings are issued. The board noted it would be helpful if potential parties to proceedings could see the letter. HA to ask the President’s office if the FMC could circulate this to mediators;</li> <li>• work on NCDR options was ongoing;</li> <li>• the proposed Early Legal Advice pilot may have been put on hold due to the general election – HA to clarify;</li> <li>• the FMC should be in a position to offer access to Enhanced DBS checks for self-employed CIM mediators, through an agency, by the end of the month;</li> <li>• the MoJ is continuing to work on an information tool – BS &amp; HA had input in to this, but it is not clear what the next steps are. HA to clarify;</li> <li>• the FMC has been asked to comment on a number of guides about family separation. The board noted that in order to provide consistent information, the FMC should hold and share standard information, which could be tailored for different audiences, but which essentially sets out the same messages about mediation.</li> </ul> <p>The board noted that it may be helpful to co-opt mediators on the FMC board, or to ask them to volunteer for the FMC in another capacity, to help expand the FMC’s capacity to contribute to workstreams such as set out in this item.</p>	
<b>3.3</b>	FJC Update	
	<p>The board noted that the FJC representative had raised the concern that there were currently limited options for mediator referrals to parenting programmes, now that CAFCASS has commissioned one provider to run a programme nationally, and that provider does not accept private referrals. The board noted the FJC and the President of the Family Division were concerned about this and would try to raise the issue with the MoJ. The board noted that work was underway with a group of organisations which do offer private referrals and a charity was in the process of being established to try to provide a platform for programmes to be recognised.</p> <p>The board noted the FJC was establishing a Voice of the Child Working Group, and that its terms of reference are currently being finalised. It is intended for the WG to be reactionary, for example reviewing draft documents involving voice of the child and undertake specific projects as they occur.</p>	
<b>3.4</b>	Judiciary	
	<p>The board noted that the FJC had not requested any changes to the updated court guide, and that the President of the Family Division had indicated he would endorse this.</p>	

	The board noted that the FJC secretariat had been asked to circulate the Guide to the judiciary once it had been endorsed, and that HA would liaise with the office of the President of the Family Division and the FJC to ensure it was also circulated to magistrates and court staff.	
<b>3.5</b>	<b>Communications update</b>	
	<p>The board noted the communications update.</p> <p>The board noted that at its previous meeting, it had identified the need to try and measure the impact of its work on communications. The board considered the measurable items identified, noting that there was a lot of information about output, but less about the impact of that. SB, HA &amp; RW to explore this further.</p> <p>The board asked RW to consider whether the FMC should have a presence on Instagram or TikTok.</p>	<p>SB, HA &amp; RW to work on measuring comms impact</p> <p>HA to ask RW to consider whether FMC should have presence on Instagram or TikTok</p>
<b>3.6</b>	<b>Family Mediation Week 2025</b>	
	The board noted the Family Mediation Week planning documents, and welcomed the open call for speakers. The board stressed the need to ensure a diversity of speakers and topics.	
<b>3.7</b>	<b>National Mediation Awards</b>	
	The board noted the FMC had been asked to support the National Mediation Awards for 2024, without needing to commit significant resources to this. The board indicated its support for this.	
<b>4.</b>	<b>Strategic Objective 2 - Generate confidence in mediation</b>	
<b>4.1</b>	<b>FMSB Report</b>	
	<p>The board noted the draft minutes of the FMSB meeting held on 24.4.24</p> <p>The board welcomed the proposed process for updating the Standards. The board noted that this proposed process did not preclude consultation on potential changes to the Standards, and wasn't intended to reduce the opportunity for comment.</p> <p>The board welcomed the proposed update to the Standards on 1 August 2024, noting this needed formal sign off by the board.</p> <p>The board asked whether the FMSB intended to review the competences in the Standards Framework: the FMSB Chair confirmed that these were being reviewed and would be consulted on as part as part of the ARG's work.</p> <p>The board noted the proposed amended MIAMs Guidance, and welcomed its publication as an interim measure whilst consulting mediators, the MoJ, judiciary and others on longer term changes.</p>	HA to circulate for sign off

<p>The welcomed the FMSB's consultation, and noted that mediators are likely to have questions that go wider than MIAMs, such as how much information can or should be disclosed to the court so that the court can consider whether a person has given appropriate consideration to trying to resolve matters outside court. The board noted that the FMSB would consider writing additional guidance if questions from mediators extended beyond MIAMs.</p> <p>The board noted that Courts continued to issue orders requiring mediators to conduct child-inclusive mediation and report to the Court. The board noted the updated Court Guide to mediation may help, but also considered whether there are or could be standard orders which judges could use when referring parents to child-inclusive mediation. CB &amp; ABu to explore the issue of standard orders.</p> <p>The board noted the draft scope of practice document which set out the current parameters of work for mediators working towards accreditation. The board highlighted a change that was needed in respect of vouchers.</p> <p>The board noted it would be helpful to know how many court forms PPCs sign a year, on behalf of mediators working towards accreditation, but recognised this would be difficult to obtain. The board recognised that it was possible for people to add an accredited mediator's name and URN to a court form, after getting the URN from the FMC website. The board agreed to ask HMCTS if it held data about how often URNs were used on court forms.</p> <p>The board requested more details about the work of the FMSB's Domestic and Child Abuse Panel and noted the draft minutes could be shared with FMC board members and key members of each MO, but should not be circulated wider. The board also noted that the FMSB had agreed to publish a summary of the work of each of its panels on the FMC website.</p> <p>The board welcomed the FMSB's Annual Complaints Report, which detailed the number and outcomes cases of cases considered during the last year. The board noted that the report also contained learnings for the FMSB and for mediators, and welcomed the FMSB's efforts to ensure all mediators are aware of the report.</p> <p>The board noted that the FMSB would consider, at its next meeting, whether CIM mediators must have enhanced DBS checks. The FMSB Chair welcomed comments from board members on this issue, ahead of the meeting.</p>	<p>CB &amp; ABu to explore issue of standard orders</p> <p>HA to amend WTA document</p> <p>HA to ask HMCTS if it holds URN data</p> <p>Directors to send any comments re DBS to HA by 2.7.24</p>
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<b>5.</b>	<b>Strategic Objective 3 - Strengthen the financial viability of mediation</b>	
<b>5.1</b>	Voucher Scheme & Legal Aid	
	The board noted and indicated support for the proposal for the EO to prioritise working with the Voucher Scheme and Legal Aid Working Groups over the summer to produce a strategy to campaign for sustainable family mediation funding.	
<b>6.</b>	<b>Strategic Objective 4 - Ensure capacity in the mediation sector</b>	
<b>6.1</b>	Communications with mediators	
	The board identified several potential topics for future coffee mornings, including meeting the new Chair, mental health of clients, NCDR options, changes in MIAM guidance and working with LFJBs.	
<b>6.2</b>	Supporting mediators	
	The board noted that the work on mental health support for mediators was not yet complete.	
<b>7.</b>	<b>Next meeting dates</b>	
	<ul style="list-style-type: none"> <li>• July/August - TBC</li> <li>• 30 September 2024, 2 – 4pm, Online</li> <li>• 11 December 2024 – In person/hybrid</li> </ul> <p>MO Meetings – October, online, one hour each, dates TBC Jt FMC/FMSB Meeting, November, date TBC</p> <p>The board agreed to ask MOs to produce a report setting out whether the MO's financial position, three key priorities for the FMC, whether they have events they would like the FMC to support in the next year, and any other important information the FMC it would be helpful for the FMC to be aware of. HA to produce a template.</p>	HA to produce template for MOs to complete