

FMC Board Meeting

Wednesday 13th March 2024

Present: John Taylor (Chair), Allan Blake, Caroline Bowden (Law Society), Beverley Sayers (FMA), Alison Bull (Resolution), Jan Coulton (College of Mediators), Sarah Hawkins (NFM)

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

Approved Minutes

Open Session – FMC Board Members and observers		
	Item	Actions
1.	STANDING ITEMS	
1.1	Welcome, introductions, apologies	
	The Chair welcomed everyone, including Ruth Hay who had joined the Family Justice Council as a mediator representative, and who was invited in that capacity to observe FMC meetings	
1.2	Approval of draft minutes, matters arising	
	<p>The board approved the minutes of the meeting held on 6.12.23 subject to an amendment at 2.2.</p> <p>Matters arising:</p> <ul style="list-style-type: none">2.1 ICO The board noted that the mediators had been invited to submit questions to the FMC about data protection, with a view to forming a list of FAQs from mediators that could be put to the ICO to answer. The board noted that the Executive Officer would be inviting the FMC's Membership Organisations to compile the FAQs.4.1 Child Only Accreditation proposals The board noted that the FMSB would be considering a policy initiation paper on this issue at its next meeting, and that it would likely be an issue for consideration at the joint FMC/FMSB meeting later in 2024.	
2.	Strategic Objective 5 – Maintain good governance	
2.1	Risk register	
	<p>The board noted the updated risk register.</p> <p>The board agreed to:</p> <ul style="list-style-type: none">add the FMC's Good Standing requirements as a control measure for item 10;	

	<ul style="list-style-type: none"> • clarify item 15; and • update item 19, to reflect the fact that the FMC had now ceased administration of the voucher scheme. 	
2.2	Financial report	
	<p>The board noted the balance for the year end 31.12.24.</p> <p>The board considered and approved the budget for 2024, which had been based on the financial plans approved at the last board meeting. The board noted that the FMC usually came in under budget at the end of a year, due to a conservative approach to spending.</p> <p>The board noted that the financial plans were dependent on increasing the number of mediators on the FMC register, and it was agreed the board should monitor those figures. HA to share figures with the board regularly.</p> <p>The board asked for the projections for future income to be shared, and for the annex B to December’s planning paper to be recirculated. HA to send these papers to the board. The board noted it would welcome these financial projections to help understand the implications of its decisions for future years.</p> <p>The board agreed that it would be helpful to add a mediator to its financial management working group. BS & ABu to nominate mediators. The board noted that the group would meet to manage progress against the financial plan and the budget.</p> <p>The board noted that management accounts for the first quarter of the financial year would be available at its next board meeting in June.</p>	<p>HA to add register figures to board papers for future meetings</p> <p>HA to circulate income projections & Annex B</p> <p>BS & ABu to nominate mediators to join financial management group</p>
2.3	EDIT Update	
	<p>The board noted that the FMC had advertised for new members of its Equality, Diversity and Inclusion Team and the group would be convened shortly.</p> <p>The board noted it had included a budget for EDIT which could be used, with board approval, against agreed EDIT aims.</p> <p>The board noted that some mediators appeared unaware of the requirement to carry out EDI training in each three-year accreditation cycle and that it would be helpful to remind mediators of this obligation. HA to include a reminder in the next newsletter. The board also noted that trainers were beginning to</p>	

	put on EDI courses for mediators, and would welcome some guidance about content the FMSB considered should be included.	HA to include EDI CPD reminder in next newsletter
2.4	Succession Planning	
	The board noted that it had had some interest in the role of Chair and other vacancies which the FMC would follow up on. Board members were asked to share vacancies on LinkedIn.	HA to progress recruitment HA to share vacancies with board members so they can be shared on Linked In
2.5	Prioritisation exercise	
	<p>The board agreed that its members would conduct a prioritisation exercise before the joint FMC/FMSB meeting.</p> <p>The board agreed to score the broad areas of the FMC and FMSB's work, as identified by the Executive Officer, for both priority and urgency. The board noted it would have descriptors for these terms to aid its scoring, and that it would be invited to add comments to each area.</p> <p>The board noted that the Executive Officer would then average the scores, and compile comments, ready for discussion at the joint FMC/FMSB meeting.</p> <p>The board noted that the FMC & FMSB organograms may need updating to reflect the current structure. HA to update the organograms.</p>	<p>HA to send board prioritisation exercise</p> <p>HA to update organograms</p>
3.	Strategic Objective 1 - Increase awareness of mediation	
3.1	MoJ Consultation – Follow Up	
	<p>The board noted that the MoJ had published its response to the 2023 consultation 'Supporting earlier resolution of private family law arrangements' and had announced changes to the Family Procedure Rules. The board noted that a number of workstreams for the FMC had arisen as a result.</p> <p>The board agreed to re-issue its invitation to the MoJ to join FMC board meetings.</p> <p>C100/Form A – Mediator sign off The board discussed its recommendations to the MoJ, for amending the Mediators' sign off page on the C100 & Form A.</p>	HA to invite CP to join future FMC meetings

The board proposed that the form be amended:

- To include the name of the person who attended the MIAM
- To avoid language of 'applicant' or 'respondent' which pitched parents or ex-partners against each other
- MIAMS should not be conducted together and this should be reflected
- Mediators cannot say NCDR has been attended or if it is suitable. They will cover options in MIAM but can sign off only on MIAMs and mediation.

The board agreed to send the MoJ an FMC draft form for consideration.

MoJ Working Group – letter to parties

The board noted that the CB had been invited to join an MoJ working group looking to produce a letter to parties, from judges, which set out the responsibility of potential court parties to try to resolve issues out of court. BS had been involved in a similar project which had produced the 'Midlands Expectations Document' and it was agreed to ask the MoJ if BS could therefore attend on behalf of FMC.

The board noted that the midlands group of judges had also produced an updated expectations letter, along with a video and had asked the FMC with distributing this to mediators. The board agreed to support this initiative. HA to send CB & BS the latest midlands documents, to inform their work with the MoJ.

Digital

The board noted that the Executive Officer had been liaising with the MoJ about digital resources, and that feedback had been provided on an early draft of decision tree produced to inform the development of these resources had caused some concern. The Executive Officer had asked for a mediator to attend the next meeting about this project: BS volunteered for this.

Judiciary

See 3.2 & 3.3.

The FMC welcomed Mrs Justice Knowles' judgment in X v Y.

HA to send MoJ comments on form & FMC draft

BS/CB to attend MoJ WG

HA to co-ordinate distribution of Midlands info to relevant mediators and to CB & BS

HA & BS to follow up with MoJ re digital resources

<p>FPR Update/NCDR Options The FMC noted the Family Procedure Rules would be amended from April to try to ensure that more people attempt non-court dispute resolution (NCDR).</p> <p>The FMC agreed to develop a short summary of other NCDR options that mediators could provide to clients. CB & HA to draft these. ABu to send the summary of NCDR that she uses to CB & HA as a helpful starting point.</p> <p>Early Legal Advice The board noted the MoJ's proposal to launch a pilot project to fund a small amount of early legal advice to families in specific geographical locations. The board noted that HA was participating in a working group on the issue on behalf of the FMC and HA would circulate documents, with the working group's consent, for any comments ahead of meetings.</p> <p>Parenting programmes The board noted that the MoJ was seeking to increase the number of parents attending parenting programmes, but that the award of a nearly national contract of court/CAFCASS referred parents to a single charity which did not accept private referrals, had resulted in parenting programmes closing down. The board noted that the effect of this was that mediators could not find parenting programmes that accept private referrals. The board noted that a charity had been set up to recognise parenting programmes that met agreed standards, and that a number of programmes had already signed up to this, and so programmes that accept private referrals may be available soon. HA to liaise with BS, who is involved in this initiative.</p> <p>FMSB issues The board noted that the FMSB and Executive Officer had identified a number of issues for the FMSB to address, including those relating to domestic and child abuse and updating of MIAMs guidance to reflect new FPR.</p> <p>Enhanced DBS Certificates The board welcomed draft guidance from the MoJ that outlined the circumstances in which mediators could obtain enhanced DBS certificates, in some circumstances with a check of the children's barred list.</p> <p>The board agreed to investigate the most effective and efficient way for mediators who are not employed to obtain these</p>	<p>CB & HA to draft summary</p> <p>ABu to send summary doc to CB & HA; HA to circulate documents for feedback when available</p> <p>HA to liaise with BS re parenting programmes</p> <p>HA to add items to FMSB agenda</p>
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	<p>enhanced DBS checks. The board noted that the MoJ guidance anticipated that the FMC would register as an agency to obtain these checks, but this would mean that the FMC would take on additional responsibilities and may have resource implications.</p> <p>The board noted that the FMSB would have to frame its expectations about the checks that mediators obtain once the guidance was finalised.</p> <p>The board agreed that it may be necessary to continue to lobby for change to the legislation if the final guidance excluded a number of mediators from checks of the children's barred list.</p>	<p>HA to liaise with MoJ re amending the draft guidance</p>
<p>3.2</p>	<p>FJC Update</p>	
	<p>The board noted that as the mediator representative on the FJC, RH had raised the following issues:</p> <ul style="list-style-type: none"> • Whether the FMC could help with the training of judges in relation to the new FPR which seek to divert more cases to non-court dispute resolution, including to mediation. The FJC had noted this was not within its jurisdiction, and recommended the FMC liaised with the MoJ about this. • Whether the FJC would partner with the FMC to update the guide to mediation, which was previously published jointly by the two organisations. The FJC agreed to take this proposal to the President of the Family Division. <p>The board noted that the FJC was also establishing a working group looking at progress on the Voice of the Child, as it was ten years since this report had been published. The board noted that this working group had been established following the FJC Conference where it had been suggested by BS, and that BS would represent the FMC on the group.</p> <p>The board noted that RH had established that Action for Children had no plans to accept private referrals from mediators for its parenting programme, Planning Together for Children, and that RH intended to pursue these issues to see if mediators could make referrals (funded or otherwise) in to the programme.</p>	<p>HA to follow up on training with MoJ & Mrs Justice Knowles</p>
<p>3.3</p>	<p>Judiciary</p>	
	<p>The board noted the report of the meeting that the FMC had had with a judicial working group, headed by Mrs Justice Knowles, about non-parents in private family law applications.</p> <p>The board welcomed the draft updated Guide to Family Mediation for the Courts and thanked FMCA mediators Neil Robinson and</p>	

	<p>Philippa Johnson for their work on this. The board noted that an Executive Summary would be helpful. Board members were invited to send additional comments on the draft to the Executive Officer within a week.</p>	<p>Directors to send comments on draft court guide to HA by 20.3.24</p>
3.4	<p>Communications update</p> <ul style="list-style-type: none"> • With the public • With other professionals 	
	<p>The board noted the summary of progress and support relating to FMC communications with the public and professionals in 2023, and agreed plans to build on this for the rest of 2024.</p> <p>The board agreed that it would be helpful to measure the impact of the work it was doing in this area, in both quantitative and qualitative terms. HA to liaise with the communications consultant about this.</p>	<p>HA to liaise with RW</p>
3.5	<p>Family Mediation Week 2024 and 2025</p>	
	<p>The board thanked the Family Mediation Week working group for their work in organising a successful family mediation week in 2024, and for their thorough review in which they identified learning points for 2025.</p> <p>The board agreed to receive reports on the working group's plans as a standing item as every meeting, in order to offer support and provide oversight to the working group's work.</p> <p>The board noted that the working group was considering sponsorship packages to offer and would issue invitations to the mediation community to provide speakers for FMW 2025.</p>	
3.6	<p>National Mediation Awards</p>	
	<p>The board considered the invitation from the Civil Mediation Council and the College of Mediators to partner with them to operate the National Mediation Awards in 2024.</p> <p>The board agreed it had not budgeted for the funding requested, and that the Executive Officer's time was already allocated to tasks that the FMC had identified as priorities, such as accreditation reform, recruitment for a number of roles, and work on MoJ related issues.</p> <p>The board therefore agreed it could not afford the resource requested to participate in the NMA in 2024.</p>	

	<p>The board agreed it would be happy to support the NMA by promoting it to family mediators.</p> <p>The board noted that it would continue to value working with the CMC in other ways.</p>	<p>HA to convey board decision to NMA</p>
4.	Strategic Objective 2 - Generate confidence in mediation	
4.1	FMSB Report	
	<p>The board noted the draft minutes of the FMSB meeting held on 2.2.24.</p> <p>The board noted the progress on different projects relating to accreditation reform. The board requested that the FMSB involved FMC Membership Organisations in the evaluation of the staged accreditation pilot.</p> <p>The board approved the proposals in the Fair Representation paper.</p> <p>The board considered a paper which discussed the most appropriate terminology to describe the status of mediators working towards accreditation.</p> <p>The board agreed in principle the need for the terminology to reflect that the mediator was registered with the FMC (indicating they had passed foundation training, adhered to a Code of Conduct, had insurance, a PPC, a complaints process and carried out CPD0 but that they had not yet achieved accreditation i.e. they had not yet demonstrated that they met all the competences necessary for fully independent practice.</p> <p>The board agreed that clear indicators were necessary for the protection of the public, and noted that this was challenging when mediators working towards accreditation were at different stages between training and achieving accreditation.</p> <p>The board noted that where trainee or junior status was indicated, this might prevent mediators from obtaining work. The board noted that there are restrictions on newly trained mediators starting work (such as needing to have a post-training discussion with a PPC and to have a pre- and post- case discussion for the first case they are mediating solo), but that thereafter the standards framework allowed mediators to work without direct supervision. The board noted that there may be an opportunity to distinguish between those mediators who could work without</p>	<p>RC & HA to consider how to involve MO representation in evaluation of staged accreditation pilot</p>

	<p>direct supervision, and those who were still at the stage of observing or co-mediating only.</p> <p>The FMSB Chair welcomed comments on the issue of terminology or the paper that set out the scope of the work that could be carried out by mediators working towards accreditation, ahead of the next FMSB meeting, where these issues would be discussed further.</p>	
4.2	Charter Update	
	<p>The board recalled that it had resolved, via e-mail, to support the Civil Mediation Council's application for a Royal Charter, and noted that the FMC had confirmed its position in a letter to the CMC. The Chair noted that the FMC would be able to learn from the CMC's experience.</p>	
5.	Strategic Objective 3 - Strengthen the financial viability of mediation	
5.1	Voucher scheme	
	<p>The board noted that the FMC's contract to process voucher claims had ended, and that it was making arrangements to return unspent voucher funds to the Ministry of Justice.</p> <p>The board noted that the working group was meeting monthly to monitor whether the scheme continued to work well for the public and for mediators.</p>	
5.2	Legal Aid	
	<p>The board welcomed the responses that the FMC had submitted to the Review of Civil Legal Aid and the Public Accounts Committee's Call for Evidence as part of its inquiry into the value of money of civil legal aid.</p>	
6.	Strategic Objective 4 - Ensure capacity in the mediation sector	
6.1	Communications with mediators	
	<p>The board noted that the monthly coffee mornings and newsletters were generally very well received by mediators.</p>	
6.2	Supporting mediators	
	<p>The board noted that the FMC had surveyed mediators last year to ask whether they would like the FMC to enable access to services that could support their mental health, for a small fee. The board noted that the response were mixed, and agreed to consider the matter further in 2024.</p>	<p>HA to add to future agenda</p>

	<p>The board noted that mediators often sought support in relation to marketing, data protection issues and business development issues.</p> <p>The board noted that the FMC was providing support in relation to marketing, with an annual seminar provided by Richard Wyatt and the provision of regular resources.</p> <p>The board also noted that the work FMC was doing in relation to the ICO should help address data protection issues.</p> <p>The board noted that the Executive Officer had identified a charity that may be able to help mediators who run small businesses with business development support, and agreed that this information could be shared with mediators if the FMC office considered it suitable.</p>	<p>HA to consider sharing business support information</p>
7.	AOB	
	<p>The board noted that John Taylor’s term as Chair was due to end in mid-April. The board thanked JT for his valuable contribution to the FMC in his role as Chair over the past eight years and reflected on the significant progress that had been made during his tenure.</p>	
8.	Next meeting dates	
	<ul style="list-style-type: none"> • 12 June 2024 – In person/hybrid • 18 September 2024 – Online only • 11 December 2024 – In person/hybrid <p>NB MO Meetings in May Jt FMC/FMSB Meeting tbc</p>	