

FMSB Meeting
 Wednesday 16 October 2024
Approved minutes

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

Apologies: Lorraine Bramwell

Also present: Allan Blake (FMC Representative), Helen Anthony (Executive Officer)

1.	Introductory	Actions
1.1	Welcome and introductions, apologies, declarations of interests The Chair welcomed everyone.	
1.2	Approval of minutes of last meeting & matters arising not covered elsewhere The minutes of the meeting held on 3.7.24 were approved. Matters arising: DBS Checks – The FMSB noted that some employers were reporting difficulties in accessing enhanced DBS checks for mediators, despite MoJ Guidance. The FMSB noted that the FMC service was set up for mediators who could not access checks because they were self-employed, but should be able to assist those who cannot get checks for other reasons too. The FMSB agreed to ask MoJ if it could ensure its guidance was shared with DBS providers.	HA to liaise with MoJ re sharing guidance
2.	Governance	
2.1	Workplan The board noted the updated workplan.	
2.2	Achievements & Priorities The FMSB welcomed the overview of FMC key achievements 2023/24 and the more detailed note of progress against the existing strategy. The FMSB discussed the suggestions for future priorities and commented as follows: <ul style="list-style-type: none"> • Increased Awareness of Mediation <ul style="list-style-type: none"> ○ Prioritising working with and informing government policy would likely have a greater impact than working on increased awareness with the public ○ The FMC should focus on raising awareness of accredited mediation ○ Objectives should be more specific • Confidence In Mediation <ul style="list-style-type: none"> ○ The FMSB has discussed whether to amend the term ‘working towards accreditation’ to bring clarity for members of the public and this work was not concluded with a definitive decision. The FMSB agreed that this may be addressed through some of the other areas which may be identified as priority work (eg Trading Standards) but it was not a topline priority. 	

	<ul style="list-style-type: none"> • Sector Capacity <ul style="list-style-type: none"> ○ The FMSB agreed that it should be a priority to establish strong support for mediators, both to achieve accreditation and to meet the standards to stay on the register, but discussed whether it had sufficient resources to do this. The FMSB agreed it was important to work with partners such as FMC member organisations to ensure work was not duplicated, but that it should take responsibility for producing guidance so that this was consistent across the profession. • Governance <ul style="list-style-type: none"> ○ Streamlining processes is important to improve efficiency ○ A review of the Code of Practice/Standards Framework could help with clarity and understanding of standards <p>The FMSB agreed it would welcome a focus specifically on child-inclusive mediation, and a clear emphasis on access to mediation for low-income families.</p> <p>The FMSB agreed that the suggested priorities should form part of a two-year strategy.</p> <p>FMSB members to send any further ideas re priorities to RC & HA. RC & HA to discuss time-frame for strategy with the FMC Chair.</p>	<p>All FMSB members – sends ideas re priorities to RC & HA</p> <p>RC & HA to discuss time-frame of strategy with SB</p>
2.3	Terms of Reference for Panels and Working Groups	
	The FMSB agreed the updated Terms of Reference for the Accreditation and PPC Panels, subject to an addition to Accreditation Panel scope of activities, to specify that it provides advice and recommend improvements to the FMSB about the accreditation process.	HA to amend ToR
2.4	New Independent Member – Update	
	The FMSB welcomed the news that the FMC had conducted a successful recruitment exercise for a new independent FMSB member, as well as a new independent FMC board member. The FMSB noted that the appointments would be announced once formalities had been completed.	
3.	Priority Items for Discussion	
3.1	PPC Report	
	<p>The FMSB welcomed the report from the PPC Panel about roles, responsibilities and career paths of PPCs. The FMSB recognised the significant amount of effort and thought that had gone in to the consultation and the production of the report and warmly thanked the PPC Panel members for their work.</p> <p>The FMSB welcomed the panel's recommendations, and noted that whilst some recommendations could be implemented relatively quickly, some required further exploration. The FMSB noted that the Panel had indicated it would put together an action plan if the FMSB accepted the recommendations in the report. The FMSB asked that the panel now proceeded to produce that action plan.</p>	HA to arrange for proof reading on PPC report

	<p>The FMSB noted that the work concerning PPCs was particularly challenging as the mediation profession included multiple different models of business and one solution was not appropriate for all.</p> <p>FMSB members discussed whether the report provided sufficient answers to the question about the role PPCs should play in assurance. There were mixed views on this. The FMSB noted that work to implement the report's recommendations would encompass discussions that would lead to documents being updated, and introducing a definition of 'supervision' could help provide clarity on a PPC's role in assurance.</p> <p>The FMSB agreed that the report should be published so that mediators could see the recommendations being made to the FMSB. The FMSB noted that the report would need to be sent to the FMC board for information before it is published, and then would be sent to the FMC for approval in March.</p> <p>HA to proof read and finalise the report, RC & HA to send to the FMC board.</p>	
3.2	MIAM Guidance	
	<p>The FMSB discussed the feedback from mediators on MIAMs Guidance, and agreed amendments in principle.</p> <p>The FMSB noted that it had been reported that some firms offering legal aid were only able to offer MIAMs to the second potential mediation participant several weeks after the first potential mediation participant has had their MIAM. The FMSB noted that other firms were considering ring fencing the number of legal aid appointments they offer, in order to ensure their business remains sustainable. The FMSB noted that these were signs that the reduction in number of legal aid mediators has led to legally aided mediation becoming more difficult to access.</p> <p>HA to revise guidance, and AW will ask the members of the MIAMs Working Group to review this, with the aim of publishing in early December.</p>	<p>HA to amend MIAM guidance</p> <p>HA & AW to ask members of MIAMs working group to review via e-mail</p>
3.3	Trading Standards	
	<p>The FMSB noted that Registration and Promotion Panel had agreed to explore whether Trading Standards could support the FMSB's work and that as a result, MM & HA had met with Buckinghamshire & Surrey Trading Standards and ascertained that support was available.</p> <p>The FMSB noted that a government supported scheme enables one Trading Standards department to be recognised as a 'Primary Authority' for a particular area of consumer protection, e.g. Family Mediation, that the Primary Authority can work with the FMSB to provide advice on consumer issues to the FMSB and to mediators,</p>	<p>MM & HA to liaise with Trading Standards</p> <p>HA to add to agenda for 11.12.24</p>

	<p>and also offers a managed complaint service for potential breaches of consumer law.</p> <p>The FMSB noted that working with Trading Standards does not bring in any additional regulation for mediators, as Trading Standards departments enforce existing consumer law. Instead, working with Trading Standards would enable the FMSB to support mediators on the FMC Register to comply with consumer law, and have a means by which to challenge those who are not on the FMC Register who may be in breach of this.</p> <p>The FMSB noted that if it worked with a Primary Authority, it would be able to display a logo to indicate that, which would provide assurance to the public. Registered mediators would also be able to show the logo if they were sole traders. Non-sole traders would not be able to display the logo unless the FMC had some kind of formal relationship with them, e.g. membership. The FMSB noted that this may be worth exploring as the need for a relationship with firms was raised in relation to complaints handling, and remains on the FMSB's work plan</p> <p>The FMSB noted that engaging with a Primary Authority cost £1060 in the first year, and £663 for a renewal. The FMSB noted that this worked out at less than £1 per mediator per year.</p> <p>The FMSB agreed that a partnership with Trading Standards would strengthen the FMSB as a regulator, and agreed to recommend to the FMC that it entered in to this partnership.</p> <p>MM & HA to follow up with Buckinghamshire & Surrey Trading Standards as appropriate. HA to add to FMC/FMSB discussion for priorities for 2025 onwards.</p>	
3.4	Insurance Requirement	
	<p>The FMSB considered a request from a mediator to be exempt from the requirement to have professional indemnity insurance on the basis that her faith as a Muslim does not allow it.</p> <p>The FMSB agreed that it was important to have mediators from a diverse range of communities on the FMC Register. The FMSB noted that there were Muslims on the FMC Register and it had not been asked this question before.</p> <p>The FMSB noted that requirement for professional indemnity insurance is to protect the public in the event that something goes wrong with the mediation process, and it is common for professionals in other jobs to have to have professional indemnity insurance.</p> <p>The FMSB noted that the mediator would agree to take out co-operative insurance known (takaful) as opposed to commercial insurance, however, she had not been able to find an appropriate provider.</p>	<p>HA to inform mediator</p> <p>HA to research availability of co-</p>

	<p>The FMSB agreed it wanted to encourage mediators from different backgrounds and from different faiths to join and remain on the register, but that insurance was required in order to ensure the public are protected in the event that something goes wrong with mediation.</p> <p>The FMSB agreed that co-operative insurance would be an acceptable alternative to commercial insurance and asked the FMC office to makes further enquires about the availability of takaful.</p>	operative insurance for family mediators
4.	Reports	
4.1	Chair's Report	
	The Chair noted that items to report were covered elsewhere in the agenda.	
4.2	FMC Report	
	The FMSB noted the minutes of the FMC board meeting held on 14.8.24, and the draft minutes of the meeting held on 30.9.24.	
4.3	Executive Officer's Report	
	<p>The FMSB noted the Executive Officer's report.</p> <p>In addition, the FMSB noted that illness had lead to a temporary staffing change in the FMC office.</p> <p>The FMSB noted that the number of accredited mediators on the FMC register was 11% lower than at the end of 2017. The FMSB noted that although this may be concerning at first glance, this figure is not a guide to the capacity of the sector, or an indication of how much accredited mediation is taking place, as it does not indicate how much of a person's working week is spent as a mediator. The FMSB noted that many mediators are now spending a substantially larger part of their week on mediation than they were in 2017.</p> <p>The FMSB noted there may be a need to survey mediators regarding capacity and working patterns over the past few years, in order to fully understand the market. The FMSB noted there was also a need to understand the extent of mediation that was being conducted by mediators not on the FMC register.</p>	
5.	Updating & Discussion	
5.1	CIM	
	<p>The FMSB noted that a sub-group consisting of LA, LB, AW, MM & BS had met to discuss the scope of work that it considered may need to be carried out in relation to Child-Inclusive Mediation. The FMSB noted that the group's recommendations were to:</p> <ul style="list-style-type: none"> - Incorporate the CIM Awareness and Understanding in to foundation training. The FMSB noted that it was now only mediators who were working towards accreditation who needed to attend these courses (as everybody who is accredited has already attended one), and that the current requirement allows mediators to complete this course three 	<p>AW to ask whether standard letter to courts can be shared with FMSB and with FMC registered mediators</p> <p>HA to develop CIM workplan & add to next agenda for discussion</p>

	<p>years after their foundation training, which is not soon enough. The FMSB noted that incorporating the day in to foundation training would lengthen that training and increase the cost.</p> <ul style="list-style-type: none"> - Consider how the FMC/FMSB can respond to research, for example specific findings and recommendations from Exeter University work. The FMSB noted that the FMC was considering working with academics to fill data gaps (e.g. a possible CIM survey) and the possibility of carrying out a literature review so that it was aware of the relevant research that was available. - Secure understanding and the position of CIM within the family justice system. The FMSB noted this could include a separate, more detailed guide for the judiciary that the recently updated guide to family mediation. The FMSB noted that an experienced mediator has written a standard letter that mediators can use to send to a court if they are asked to report to the court on the outcome of CIM. AW will ask whether this letter can be shared with the FMSB with a view to it being circulated to all FMC registered mediators. - Secure funding for CIM - Gather data on the amount of CIM which is taking place, and the ages of children involved - Gain a better understanding of any complaints that had been received about CIM - Gain a better understanding of how CAFCASS considers hearing children’s voices where there has been domestic abuse within a family <p>The FMSB agreed to discuss a CIM workplan at its next meeting.</p>	
5.2	Registration & Promotion Panel	
	<p>The FMSB noted the draft minutes of the R&P Panel meeting held on 24.9.24. The FMSB also noted that, following the meeting, arrangements have been made for FMSB representatives to meet the Legal Services Board.</p>	
5.3	Domestic and Child Abuse Panel	
	<p>The FMSB noted the draft minutes of the DCA Panel meeting held on 17.7.24, and that the panel had met again on Monday 14.10.24.</p> <p>The FMSB noted the Panel had invited a representative from an organisation representing male victims of domestic abuse to join the panel, but that a substantive reply to this invitation was outstanding, and so the Panel would review whether to invite alternative representatives.</p> <p>The FMSB noted that the Panel would be making recommendations to the FMSB to amend the FMC Code of Practice and Standards Framework, to promote clarity regarding obligations relating to domestic and child abuse, and would also be recommending the FMSB adopts guidance in relation this area.</p>	

5.4	PPC Panel	
	The FMSB noted the minutes of the PPC Panel meeting held on 25.7.24 and the draft minutes PPC Panel meeting held on 2.10.24.	
5.5	Accreditation Panel	
	The FMSB noted the draft minutes of the Accreditation Panel Meeting held on 19.9.24, and in particular the data that showed that more mediators were now becoming accredited within three years of passing a foundation training course (i.e. without the need for an extension).	
5.6	Accreditation Policy Development	
	<p>The FMSB noted that the Accreditation Reform Group (ARG) had intended to report to the FMSB by the end of 2025, but that progress had been slower than hoped and it was now intending to report in Spring 2025.</p> <p>The FMSB noted that the ARG had however completed an initial review of competencies. The FMSB noted it had previously agreed to consult on the outcome of this review, and that, it needed to consider the timing of this consultation carefully. RC, LA & HA to discuss timing of consultation.</p>	RC, LA & HA to discuss timing of consultation
5.7	Complaints	
	<p>The FMSB noted the complaints report.</p> <p>The FMSB noted that an appeal had been held against a complaint decision for the first time, and that the appeal had been upheld. The FMSB noted that the appeal panel had said that related to additional information being available to it, that had not been available to the original panel. The FMSB noted that it had identified as part of the complaints review the need to define the complaint, and therefore the information to be submitted to the first complaints panel, as an area for further work.</p>	
5.8	Assurance	
	The FMSB noted that work had taken place on assurance as part of the DCA and PPC panels, and emphasised the importance of ensuring this remained a priority for the FMSB in to 2025.	
6.	Future Meeting Dates	
6.1	<p>FMSB Dates 2024:</p> <ul style="list-style-type: none"> Joint FMC/FMSB Strategy Meeting: 11 December, In person, In London <p>Proposed Dates 2025 (11am – 3pm):</p> <ul style="list-style-type: none"> 15 January 2025 (11am – 3pm, Online) 2 April (11am – 4pm, In person) 2 July (Online, 11am – 3pm) 8 October (In person, 11am – 4pm) 	