

## Family Mediation Council

### Family Mediators' Assessment of Professional Competence Scheme (APC Scheme)

For mediators to be recognised as competent to practise by the Family Mediation Council (FMC), and recognised by the Legal Aid Agency (LAA) to undertake publicly funded mediation, they must meet the professional competence standards of the FMC.

#### 1. Introduction

- a) The following terms, with explanations of their meaning and of related terminology, are used throughout this document:
- b) PPC – Professional Practice Consultant, recognised by the FMC.
- c) Mediation Information and Assessment Meeting (MIAM) (also often referred to as either an Intake meeting, Information meeting, Assessment meeting, or First Meeting with a Mediator)
- d) Trainee Mediator – a mediator who is undertaking training, or who has undertaken training and is now working towards completing the APC Scheme.
- e) Readiness to Practise – the point at which the mediator's PPC provides a written assessment that the mediator has been assessed by the PPC as being competent to lead on cases (with support from an experienced, Assessed Professionally Competent Mediator (APCM)- see (f) below/ Professional Practice Consultant (PPC)).
- f) 'New Mediator' – a mediator who has completed training and has secured Readiness to Practise by the PPC as being competent to start taking the lead on cases (with support from an experienced, APCM / PPC)- and see above.
- g) Assessed Professionally Competent Mediator (APCM) – a mediator who has been recognised by the FMC (having successfully completed the Assessment of Professional Competence [APC] scheme) who may mediate alone to undertake all types of publicly funded mediation work.
- h) Outcome Statement – the documentation sent to parties at interim and/or final stages of the process outlining progress and/or agreed proposals. This may include, for example:
  - Memorandum of Understanding (MOU)<sup>1</sup>;
  - Statement of Outcome;
  - Mediation Agreement;
  - Parenting Plan
  - Open Financial Statement (OFS)<sup>2</sup>

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<sup>1</sup> Preferred terminology

➤ Open Statement of Financial Information (OSFI);

- i) 'Extensive agreement' – agreement by parties in mediation on all or nearly all of the mediation issues (relating to finances, children or both) where an Outcome Statement is produced and submitted as evidence within the portfolio. Extensive agreement must be demonstrated in all three Portfolio cases.
- j) Competences- list of demonstrable performance outputs as well as behaviours (and, where appropriate, technical attributes) constituting a set of minimum standards required for effective performance as a mediator- and see Appendices 5 and 6.
- k) Portfolio – the work a mediator submits for assessment.

## 2. Assessment Categories

A mediator will apply for APCM status for AIM, Property and Finance only, or Child Only work; this is in line with LAA contract requirements for mediation services carrying out publicly funded family mediation. Successful assessment will allow a mediator to undertake AIM, and/or Property & Finance and/or Child Only work.

APCM status signifies the mediator has met the FMC requirements for competence assessment requirements, as well as allowing the mediator to undertake publicly funded work. The mediator's Portfolio must demonstrate that the mediator's practice is in line with LAA contractual and Mediation Quality Mark requirements.

## 3. The stages of the competence assessment scheme

The FMC APC scheme requires that, prior to submission of evidence to demonstrate competence, the following must have occurred:

- a) The mediator can co-mediate, or (subject to positive Assessment at Foundation Training and/or PPC approval) solo mediate, but only where all parties are independently/privately funded;
- b) After securing Readiness to Practise a "New Mediator" may
  - solo or co-mediate on double private cases;
  - start to co-mediate where one or both parties are publicly funded;
  - start (with PPC support) to take the lead on cases where one or both parties are publicly funded;

The mediator must be leading or substantively taking the lead on cases, prior to application for APCM status.

For all cases where one or both parties are publicly funded, these must be supervised (co-worked or observed) by the mediator's PPC (or by an APCM

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<sup>2</sup> Preferred terminology

approved for such tasks by the PPC) until the mediator has achieved APCM (or provisional APCM, for a time limited period) status.

- c) Submission of Portfolio to apply for APCM status.
- d) APCM status (following successful assessment).
- e) *Provisional APCM status may be awarded following assessment that there is sufficient evidence of competence to begin solo working publicly funded mediation cases, with further evidence required (within a time-limited period and with continuing regular supervision in the meantime) to demonstrate fully meeting the assessment criteria.*

#### **4. Demonstration of Competence**

##### **4.1 Mediators may seek to demonstrate competence to undertake**

- a) all areas of work, namely children, property and finance, and all issues mediation cases;
- b) property and finance only cases;
- c) child only cases

Evidence for meeting the competence assessment criteria will be submitted to the FMC competence assessors by way of a portfolio. The portfolio must include evidence of the successful completion of three mediation cases in line with 4.2 (below), related case commentaries, a reflective account and answers to case study questions.

##### **4.2 The mediator must submit three family mediation cases whereby the mediator has taken the substantive lead and full or extensive agreement has been secured in each case. For each case, case commentaries and final outcome statements must be submitted.**

Mediators must refer to other worked cases in addition to these three cases.

There must be evidence of successful, high-quality mediation that demonstrates the ability to mediate cases and secure outcomes including financial and children's issues, demonstrating use of the full range of mediation skills (see Section B of Appendix 5).

If the mediator is submitting for competence assessment to conduct AIM, the three completed cases may be submitted in any one of the following combinations and two of those three completed cases submitted must include MOUs and OFSs. All AIM cases must include extensive outcomes on children issues.

- One AIM; one P&F; one Child Only
- Two AIM and one Child Only
- Two AIM and one P&F

AIM and P&F cases must include MOUs and OFSs. Child Only cases must include full outcome statements (or MOUs).

If the mediator is submitting for competence assessment to conduct Property and Finance only or for Child only, then three Property and Finance only or three Child only cases must be submitted

If three Child only cases are being submitted all must include full outcome statements (or MOUs).

If three Property and Finance cases are being submitted, all must include OFSs and MOUs.

**4.3** Cases must have started within two years of the date of the submission of the Portfolio, or three years on application to FMC in extenuating circumstances and with PPC approval.

**4.4** All case commentaries must include a brief background and a summarised account of each mediation case, including the mediator's reflection on process issues, using the template in Appendix 2 to illustrate the candidate's understanding of the process and its development throughout the mediation and how he/she achieved this during the course of the case. Please refer to Appendix 2.

**4.5** Completion of a reflective account [1,500-2,000 words] drawing on the mediator's own practice experience, and which should where possible also include reflection on cases that did not go to completion (and what was learned in these circumstances). The account must include evidence of managing high conflict cases. The mediator must demonstrate a real sense of the work undertaken, highlighting key achievements, skills and knowledge gained since completing mediation training and any evidence that the mediator wishes to highlight to assessors that is not covered elsewhere within the Portfolio. Inclusion of references to mediation reading and theory are likely to enhance the account.

**4.6** Answers to the case study questions.

## **5. Case Study Questions**

When reflecting on these questions applicants should, wherever possible, draw on similar or related case examples from their own practice to include in their answers.

For question 1, the suggested response length is 40–100 words per section. For questions 2–10, the suggested response length is 200–400 words per question.

The questions are not intended to elicit a single 'right answer', but are instead designed to enable the mediator to show that proper consideration has been given to the situations described, drawing on knowledge and practice experience. The answers allow the provision of additional evidence of meeting the APC standards that may not have arisen in your three submitted cases or other cases drawn upon in your portfolio.

### ***The case study questions:***

1. You are approached by John Smith and Mary Smith who wish to mediate. How would you deal with each of the following circumstances, and why?

- (a) Mary is agoraphobic and suffers from panic attacks. A letter from her doctor confirms this. Mary suggests you mediate at the family home.
  - (b) John has no hearing at all. He tells you he can lip read. Mary says she will help if there are any difficulties.
  - (c) Mary is Turkish and does not speak English. She tells you her sister speaks Turkish and English and suggests her as interpreter. What do you do if John is agreeable to this? What do you do if John is not agreeable to this?
  - (d) Mary wants to bring their nine-year-old son with her to the mediation session, as her childcare arrangements have fallen through.
  - (e) Mary arrives at mediation smelling strongly of alcohol and slurring her speech.
2. In what circumstances might you assess that mediation is not suitable at the initial meeting ('intake') stage of the process?
  3. What are some of the key advantages and disadvantages of co-working? Ensure you give consideration of gender issues in your answer.
  4. When Mary ended her five-year relationship with John by telling him about her long-standing sexual relationship with another woman, John kicked her and beat her up, breaking a rib. This was the single abusive incident in the relationship. John has acknowledged the assault and both wish to mediate, although Mary tells you she feels edgy in John's company.  
  
What would you want to check before you consider mediating and would you mediate? If so, why would you do so and what precautionary steps might you take in arranging the first joint session (include consideration of shuttle mediation)? If not mediating, why not?
  5. Mary gives you four closely typed pages of A4 (her 'grievances') twenty minutes into your first mediation session. There is no copy for her partner. She insists he may not read it and may not have a copy, but wants you to read it before the session can continue. What do you do?
  6. You are mediating a case where one party appears very emotional, ranging between anger and tearfulness. This party constantly dwells on the past. How would you deal with this situation?
  7. You are mediating a financial dispute and have asked the parties to complete financial disclosure using your standard forms. Mary brings a carrier bag full of invoices, receipts, statements etc. John presents your financial forms duly completed. Mary insists John is hiding something. John says he is not. How would you deal with this? Summarise any key principles you would explain to John and Mary in relation to financial disclosure.
  8. John and Mary arrive at a financial settlement proposal which they wish to take to their respective solicitors. Your own evaluation is that the proposal falls squarely within the range

a district judge would order. At the next session John tells you his solicitor has advised him against the proposal. He is confused and asks you what you think. How would you deal with this?

9. Chris and Frankie are mediating an issue of contact concerning Frankie's son Eddie. Frankie tells you in mediation (in front of Chris) that Chris has sexually abused Eddie on a number of occasions. How do you deal with this? How would you deal with this if Chris made the disclosure before the session, before Frankie arrived at the service?
10. Marcus, aged 34, defines himself as a white British Roman Catholic man. His former partner, Ghita, is from Pakistan and defines herself as an Asian, Sunni Muslim woman. They have two children aged 6 and 10. The children, whose parents separated six months ago, have been brought up in the Catholic faith but Ghita now wants them to follow her religious upbringing. How would you facilitate discussion of these issues in mediation and are there any assumptions you should avoid making? Ensure you consider issues of diversity and how you would respond with cultural sensitivity in your response to this question.

## 6. Portfolio Documentation

6.1 Mediators are normally required to submit portfolios in electronic format. Mediators wishing to submit via any other medium must contact FMC beforehand to discuss alternative arrangements.<sup>3</sup>

6.2 Portfolios must contain a completed application form confirming the following:

- Name and location of current PPC and any previous PPCs since completion of mediation training, including dates outlining the period of supervision for each PPC.
- Details of any service or services with whom the mediator works
- Signed declaration confirming there are no past, current or known future reasons why the mediator should not be practising as such. (This declaration must be signed by the mediator and, where applicable, counter-signed by a plenipotentiary representative of any mediation services with which the mediator has worked.)
- A signed statement from the mediator confirming the mediator will comply with and practise in accordance with the FMC Code of Conduct.

6.3 The Application Form must be accompanied by:

- a) Witness testimony from the mediator's PPC, which includes confirmation of completion of a minimum of 10 hours mediation experience following foundation training, the PPC's assessment of the mediator's competence to practise as an APCM, and confirmation of the extent to which the mediator has taken the lead in the cases submitted.
- b) Where the Readiness to Practise process has been followed in line with the mediator's FMC Member Organisation's requirements, a signed copy of Readiness to Practise assessment (signed by the mediator and PPC).
- c) Signed confirmation by PPC that regular supervision (in line with FMC guidelines and LAA requirements) has been taking place, and that discussion about the preparation of the portfolio evidence has been considered and discussed at regular intervals in supervision.
- d) Confirmation that all the material has been edited in order to ensure the anonymity of the parties and that for the three cases submitted (where possible) the parties (clients) have given consent for their cases to be used. (Written consent from the parties is not required, since this will breach anonymity; PPC confirmation within the witness statement will suffice. Some indication from the mediator and PPC that ethical issues such as client consent and confidentiality is what is required here.)

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<sup>3</sup> Where arrangements have been made to accept a hard copy portfolio for assessment, any hard copy portfolio must be **securely** bound. If using plastic wallets, the mediator **must** ensure assessors do not have to remove sheets to be able to read contents. Two one-sided single sheets may be placed 'back-to-back' per plastic wallet.

- e) Confirmation that the material submitted is entirely the mediator's own work and that it has been submitted in a format that follows submission guidelines (Appendix 4).
- f) Three Case Commentaries as well as three related Outcome Statements and one complete set of case notes / session records (which must relate to an AIM case if you are submitting for AIM APCM status). The case notes must relate to *one* of your three main cases and should include your case notes, sessional records and correspondence relating to that one case. The material must demonstrate that the processes followed and records kept for that case file are in line with LAA requirements.
- g) Written responses to the case study questions.
- h) The reflective account (between 1,500-2,000 words).
- i) Personal Training and Development plan (this is an outline of the training already completed and a comprehensive rationale for planned future training, including future development needs).
- j) Completed 'Portfolio Checklist' (Appendix 1).
- k) Submission fee.

#### 6.4 The following requirements apply to all portfolios:

- The mediator must ensure that the portfolio is easy for assessors to navigate, is clearly and legibly presented, with a contents page showing where work is located (see Appendix 1).
- The mediator must ensure that the portfolio is complete at the time of submission.
- Incomplete portfolios will not be assessed, and will be susceptible to the levying of a supplementary administration charge.
- No material may be added to a portfolio after submission.
- The assessors may also suspend the assessment process for further investigation where they believe that there is evidence of impropriety on the part of a candidate.

## 7. Resubmission

If, following submission of the mediator's Portfolio, Provisional APCM status is given because the work submitted is not of the required standard (or the portfolio is returned without being assessed because in the view of the assessors key evidence is missing or cases have not been fully anonymised), the mediator must

- 1) Resubmit the Portfolio in line with the requirements outlined by the FMC assessors, and
- 2) Include the appropriate resubmission fee.