



Making child inclusive mediation work: Introducing standards

INVOLVING CHILDREN IN ADR PROCEDURES

BRNO 21-22 MAY

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One child's voice...

“The trouble was they never explained anything to us. They just treated us like babies and we weren't. We needed to know what was going on, what was happening, how things would work out. We needed help from outside but there just didn't seem to be the right person to turn to. No-one seemed to be there to help us, especially us, the children. Mum and Dad had the lawyers but we had no one.” (O'Quigley 2000)

Article 12 UNCRC 1989

State parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturing of the child.

GENERAL COMMENT No. 12 (2009) The right of the child to be heard

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- ▶ 132. The Committee urges States parties to avoid tokenistic approaches, which limit children's expression of views, or which allow children to be heard, but fail to give their views due weight. It emphasizes that adult manipulation of children, placing children in situations where they are told what they can say, or exposing children to risk of harm through participation are not ethical practices and cannot be understood as implementing article 12.

Government Response to the Family Justice Review 2012

- “ Children deserve to be heard, feel that they have been listened to and understand what is happening throughout. They also need to know why certain decisions have been made. Great skill is needed to strike the right balance between making them feel involved, but not making them feel responsible” (para 25)

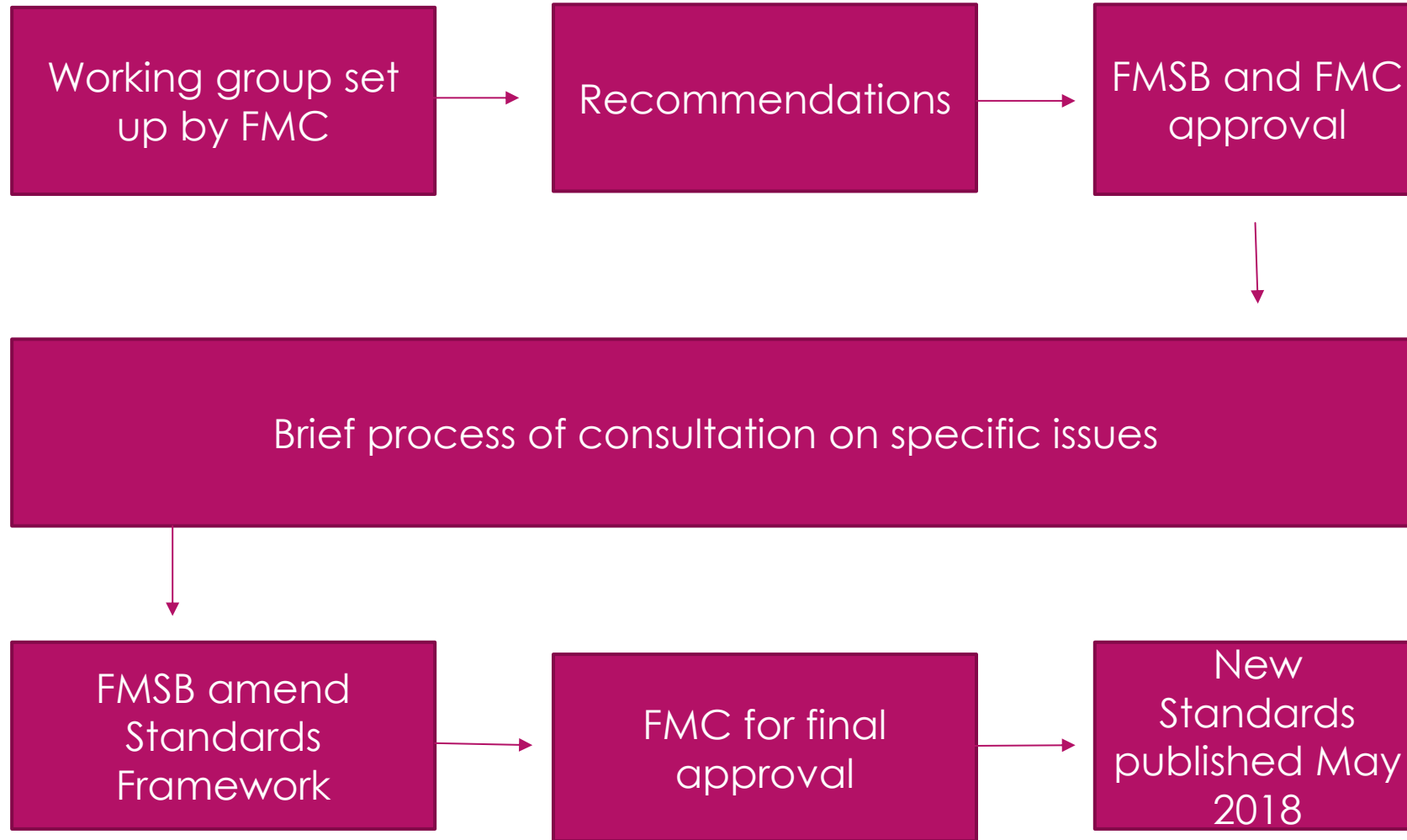
Voice of the Child Advisory Group

Final Report March 2015

- ▶ **There should be a new single professional standard for child inclusive mediation and the national professional organisation sponsored office setting competencies, proving training, assuring quality and ongoing professional development and dealing with all professional issues (Recommendation 7)**

The Advisory Group emphasised the need for a cultural change - they suggested that there should be a “positive presumption in law that hearing the voice of the child is the starting point for all dispute resolution processes”

FMC - Family Mediation Council
FMSB – Family Mediation Standards Board



Family Mediation Council Standards Principles and Values

All mediators should explain to parents that children aged 10 and over should be offered the opportunity to 'have a conversation' with a mediator so that they can share their views and contribute to the discussions about the arrangements that are being made (**embedded in the Family Mediation Council Code of Practice September 2016**)

Values and principles

Usual mediation principles apply:

- ▶ Voluntary
 - ▶ Confidential (safeguarding exception)
 - ▶ Impartial
 - ▶ Decisions remain with the parents
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- ▶ All mediators must **be able to** explain principles of CIM practice regardless of whether they practice themselves – training required
 - ▶ Younger siblings should not be excluded from consideration

Child Inclusive Mediation Related Training

- ▶ **An introductory 1 day course (Awareness and Understanding day)** is required **prior** to the CIM training and for **all** mediators (even though they will not undertake CIM work) prior to accreditation to enable mediators:
 - ▶ To explain its purpose, exploring suitability, provide information about options and actively encourage parents to make opportunities available to their children
 - ▶ To better understand family systems, child development, attachment theory, impact of separation, loss and conflict on children and families
- ▶ **A CIM update 1 day course** for those mediators that previously trained to ensure that they are fully up to date with the new standards and competencies required of CIM mediators

Child Inclusive Mediation Training

Pre course training requirements:

- ▶ Mediator must be an 'accredited' mediator
- ▶ Mediator must have the support of their PPC (professional practice consultant/supervisor)

Requirements prior to CIM practice

- ▶ Mediator must have attended an FMC approved CIM course
- ▶ Must have passed the course demonstrating that they have met the required 'competencies'
- ▶ Must have a PPC (supervisor) in place that can support the CIM practice

Course requirements

The Standards cover the level of course, course content, duration and teaching methods, staffing/trainers and assessment

- ▶ Duration of course
 - ▶ Minimum of 40 hours of learning and development of which 21 hours must be at an attended course
 - ▶ Remaining 19 hours can be a combination of pre course reading, pre course and post course written assignments and face to face study with their PPC (supervisor)

Course requirements (cont.)

Course content must include:

- ▶ knowledge and performance/skills relating to CIM and all relevant competencies
- ▶ Opportunities to practice simulated child inclusive mediations
- ▶ Opportunities to draft appropriate documentation
- ▶ A robust system to assess participants against the required competencies

Post CIM requirements

Once qualified, a CIM mediator must:

- ▶ Have at least 3 CIM cases over 3 years – is this sufficient?
- ▶ Undertake at least 10 hours of CIM related training over 3 years
- ▶ Continue to have appropriate safeguarding policies in place
- ▶ Continue to have a PPC (supervisor) who is also CIM qualified

Conduct of Child Inclusive Mediation

- ▶ Rooms must be suitable for children and young people to feel at ease
- ▶ Parents **must** have attended an individual pre mediation meeting to discuss and consider the use of CIM with them and screen for safety and safeguarding issues
- ▶ Both parents **must** understand and accept the principles and objectives of involving their children directly

Conduct of Child Inclusive Mediation

- ▶ Both parents **must** consent and sign a consent form
- ▶ Children **must** be free to accept or decline the invitation to meet the mediator
- ▶ Parents **must** have committed to mediation by signing an Agreement to Mediate

Conduct of Child Inclusive Mediation

- ▶ On going support and further meetings should be offered to child if appropriate
- ▶ Mediators **must** only feedback to parents what the child agrees to being fed back – no interpretations to be provided
- ▶ Parents are not to receive written feedback
- ▶ A range of models should be discussed and offered to the family

The CIM competencies

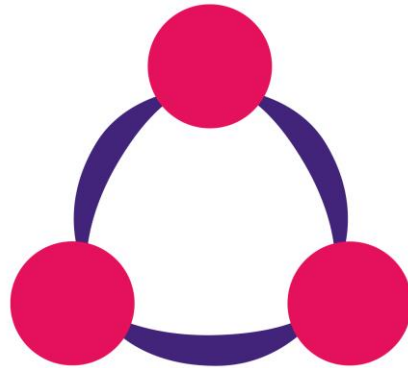
- ▶ Theoretical Knowledge
- ▶ Legal knowledge
- ▶ Understanding and application of process
- ▶ Performance skills re meeting with parents
- ▶ Performance skills re meeting with children

The above sections total 39 individual competencies in these areas

The Way forward

Will these Standards work?

- ▶ Will the mediators feel better equipped to encourage parents to invite their children to be heard?
- ▶ Will children feel that the process has been helpful?
Further research area?
- ▶ Will parents feel that they arrive a better outcomes for their families that are child focused?



Devon & Exeter
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