



**Evaluation Report on  
3-year Family Mediation Supervision Pilot Scheme  
(July 2014 – June 2017)**

## **INTRODUCTION**

In Hong Kong, the number of divorce application has increased at an alarming rate in the last two decades. The majority of divorce cases filed in court are without mutual agreement between the couples on issues such as assets arrangement and child custody. Current statistics showed that applications for divorce had increased from 10,292 cases in 1995 to 21,954 in 2016. In some cases the couples are rational enough to come to terms themselves of issues of dispute. However, there are even more divorcing couples struggling and lingering in battles of child custody and assets arrangement issues. Disputes between divorcing couples could be extremely bitter. In order to cope with the increasing volume and complexity of divorce cases, particularly those involving arrangements for children custody and assets, jurisdictions like the United Kingdom and Australia are comprehensively recasting their laws in this area. More and more countries are now introducing legal reforms to handle divorce-derived issues in a more cost-effective and efficient manner.

2. Overseas experience has shown that provision of mediation service has been effective in reducing court hours spent in divorce case and most importantly leading to more sustainable agreement between parties involved. The introduction of such service is considered to be worth attempting and the result of evaluation after the pilot period from 2000 - 2003 is encouraging. The social benefits of family mediation are significant and beyond financial measurement. Because of its satisfactory results of helping separating/ divorcing couples to resolve their problems without the need for expensive litigation, the Family Mediation Co-ordinator's Office (FMCO) continues to hold information sessions on family mediation in Family Court and generally assists couples seeking mediation to help resolve their problems in a non-adversarial way. As the Judiciary has to maintain its independent and impartial position, FMCO has been playing a facilitative and coordinating role in the process, including maintaining a panel of mediators, arranging pre-mediation consultation and coordinating referral services. The actual mediation service is provided by accredited family mediators outside the Judiciary.

## **BACKGROUND OF THE SCHEME**

3. The concept of family mediation has increasingly gained acceptance by the community as a non-adversarial family dispute resolution process. The demand for family mediation is indeed increasing.

4. Moreover, feedback received in recent years indicated that many Trainee Family Mediators (“Trainees”), after completing the Stage 1 40-hour training, had difficulties getting real cases to fulfill the Stage 2 accreditation requirement as set up by the Hong Kong International Arbitration Centre (HKIAC) previously and now the Hong Kong Mediation Accreditation Association Limited (HKMAAL).

5. In addition, there has been insufficient number of supervisors in the field and indeed very few involve in full-time family mediation practice. As at January 2014, the number of family mediators was 227, of which only 49 were Family Mediation Supervisors. There are also various factors accounted for the shortage of Family Mediation Supervisors. One of these is that the fees for family supervision are not attractive. Hence, the number of family mediators and supervisors has remained static over the years.

6. In view of the situation, HKMAAL and FMCO had in 2014 jointly launched the Scheme to facilitate the accreditation of family mediators and encourage the use of family mediation. The objective was to expand the pool of family mediators in the field and provide more timely service to needy parties.

7. Upon obtaining endorsement from Chief Justice’s Working Party on Mediation and HKMAAL Council, HKMAAL had sent invitation letters to all supervisors concerned to promote the Scheme which was officially launched on 2.7.2014. The Scheme was designed to run for 3 years.

## **MAJOR FEATURES OF THE SCHEME**

----- 8. Major Features of the Scheme are set out at the Appendix I.

## **BRIEF SUMMARY OF THE RESULT AND FEEDBACK**

9. During the three-year period of the Scheme, there were a total of 39 completed mediation cases. The overall success rate was 82%. The breakdown was as follows:-

Success Rate: 82% (Full agreement and partial agreement)

| Level of agreement reached                                  | Number of cases (%) | Average hour spent on mediation |
|-------------------------------------------------------------|---------------------|---------------------------------|
| Cases with Full agreement                                   | 23 (59%)            | 15                              |
| Cases with Partial agreement                                | 9 (23%)             | 18                              |
| <b>Success rate<br/>(cases with full/partial agreement)</b> | <b>32 (82%)</b>     | -                               |
| Cases with No agreement                                     | 7 (18%)             | 10                              |
| Total number of completed cases                             | 39                  |                                 |
| Others<br>(e.g. cases on going, result pending, etc)        | 4                   |                                 |

On average, it took 15 hours to reach a full agreement and 18 hours to reach a partial agreement.

10. The duration between the date of referring a case by FMCO to the date of assigning a case to Supervisor and Trainee by HKMAAL took 10 days on average. The duration between the date of appointing a mediator to the date of completion of the whole mediation process, on average, took 109 days.

### **Assessment on Trainees**

11. According to the mediation reports, out of the 39 completed cases, 37 have resulted in positive recommendations for HKMAAL accreditation based on the performance of the relevant trainees. 19 trainees who, having participated in the Scheme, have successfully obtained accreditation from HKMAAL and 8 trainees' application for accreditation are in progress.

### **Disputed Issues of Family Mediation**

12. The 39 completed cases under this Scheme encompassed different dispute issues and a breakdown is as follows:

|                                                           |     |
|-----------------------------------------------------------|-----|
| • Child Custody                                           | 38% |
| • Care and control                                        | 43% |
| • Child Access                                            | 74% |
| • Financial Support for spouse                            | 87% |
| • Financial Support for child(ren)                        | 90% |
| • Accommodation /Property                                 | 72% |
| • Financial Matters                                       | 49% |
| • Others (e.g. legal costs, debt management affairs, etc) | 10% |

13. As reported by the Family Mediation Supervisors, the majority of cases involved disputes relating to “financial support for children and spouse”, “child access” and “accommodation/property”. “Child custody” is the least disputed matter.

## **EVALUATION**

14. With a view to measuring the effectiveness of the Scheme, two questionnaires - "Questionnaire to Trainee Family Mediator" and "Questionnaire to Family Supervisor" have been designed to collect feedback from the participating Trainees and Supervisors. The Trainees will be invited to return their feedback once the assigned case is completed. The Supervisors, on the other hand, will be invited to complete the "Questionnaire to Family Supervisor" on an annual basis have they been assigned a case in the relevant calendar year. Both the Supervisors and Trainees are invited to complete the questionnaire on anonymous basis.

15. During the evaluation period, a total of 19 questionnaires from Supervisors and 25 questionnaires from Trainees had been received.

### **Supervisors' Feedback**

16. Amongst the 19 supervisors who had responded in the survey, 90% considered that nomination by HKMAAL to take up an assigned case was very effective/effective and all of them agreed that the referral from FMCO and the

communication with their trainees during the whole process were smooth. The majority of supervisors were of the view that the Scheme should be continued to maintain its service.

### Trainees' Feedback

17. More than 88% of the trainees reported that nomination by HKMAAL to take up an assigned case was very effective/effective. 96% of them considered that the communication with their supervisors during the whole process smooth. Similar to the feedback from supervisors, all trainees opined that the Scheme should be continued to maintain its service.

Feedback from Supervisors and Trainees

|                                                                                                           | Supervisors (%) | Trainees (%)      |
|-----------------------------------------------------------------------------------------------------------|-----------------|-------------------|
| (a) Considered nomination by HKMAAL to take up an assigned case to be very effective / effective          | 90              | 88                |
| (b) Considered referrals from Family Mediation Co-ordinator's Office to be very effective / effective     | 100             | N.A. <sup>1</sup> |
| (c) Considered parties are very cooperative / cooperative regarding the appointment of mediation sessions | 90              | 96                |
| (d) Considered communication between Supervisor and Trainee to be smooth                                  | 100             | 88                |
| (e) Considered the Scheme be continued                                                                    | 95              | 100               |

18. More specific comments by supervisors and trainees are at Appendix II. In sum, the Scheme was welcomed by the supervisors and trainees. Their feedback towards the scheme was encouraging and constructive. It did provide more live supervision opportunities for Trainee Family Mediators as well as General Mediators seeking to be accredited as Family Mediators. Despite certain moderation might be required on the scheme, most supervisors and all trainees considered that the scheme should be continued to maintain its service.

<sup>1</sup> All referrals are made through the Family Mediation Supervisor.

## CONCLUSION AND RECOMMENDATION

19. Both overseas and Hong Kong experience demonstrated that family mediation has been effective in reducing the emotional trauma on the couple concerned and more importantly facilitating to amicable and sustainable settlement. After its introduction to the Hong Kong judicial system, the service has proved to be successful and is receptive to the public.

20. It however seemed that the growth of family mediators in the community was not sufficient to meet the increasing demand for family mediation service and feedback had been received in recent years that many trainees were unable to receive live cases to fulfill the Stage 2 accreditation requirement. Under these conditions, the Scheme has been set up and hopefully it would expand the pool of family mediators in the field. According to the figures collected by the Mediation Section of the Judiciary, both the numbers of family mediators and Family Supervisors have been steadily increased after the implementation of the Scheme. In 2014, there were 227 family mediators with 49 Family Supervisors. The numbers have been raised to 274 and 54 respectively in 2017. The increasing numbers of family mediators and Family Supervisors reflect the effectiveness of the Scheme to expand the pool of family mediators in the field.

21. In order to evaluate the effectiveness of the Scheme, data relating to profiles of service users, Supervisors and Trainees; mediation case results as well as the Supervisors' and Trainees' feedback of the Scheme are collected. The review suggests that, among other merits, the introduction of the Scheme does offer opportunities to trainees seeking to join the family mediation practice. As a result of the provision of live cases and diligently matched supervisors through the Scheme, 19 trainees have successfully obtained accreditation from HKMAAL.

22. It is apparent that through the Scheme, more client families are able to obtain mediation service in a more cost-effective way. The high mediation success rate reflected that the Scheme served satisfactorily as a platform for service seeking parties to resolve disputes in a peaceful and cooperative manner. The Scheme has been successfully expanding the pool of family mediators in the community and thus met the objective of devising such scheme in the beginning.

23. Considering all the positive feedback from trainees and supervisors and the fact that more family mediation training courses are about to be held in the near future, it is worth attempting to extend the Scheme for another few years so that more training opportunity can be offered to the trainees and thus, expanding the number of family mediators in the field. With the experience gained in the

previous years, more positive results can be expected from the continuation of the Scheme.

**The Mediation Section  
The Judiciary  
November 2017**

## **MAJOR FEATURES OF THE SCHEME**

### **A. Aims**

- To provide more live supervision opportunities for Trainee Family Mediators as well as General Mediators seeking to be accredited as Family Mediators by taking up real cases under the supervision of a Family Mediation Supervisor (“Supervisor”).
- To raise the professional standard of family mediation practice in Hong Kong which is pertinent to the development of family mediation profession as a whole.

### **B. Target Users**

- Parties who have made applications to FMCO seeking information on mediation or attending information sessions; and
- Parties with cases filed in Family Court and are referred by Family Court Judges to attend information sessions.

### **C. List of matching Supervisors and Trainees**

- HKMAAL would maintain two rosters under the Scheme, one for family mediation trainees and the other for supervisors who agree to charge a fixed fee for supervision and provide mediation services at a nominal charge. Upon receiving referral from FMCO, HKMAAL Secretariat will match trainees with potential supervisors from the roster and assign the referred case to them.

### **D. Referral Procedures of the Scheme**

- The Mediation Co-ordinator will provide pre-mediation consultation to those parties who want to seek mediation after they have attended the information session.
- If both parties agree to appoint a Family Mediator and are interested in the Scheme, they have to fill in a letter of authorization which will then be sent by FMCO to HKMAAL for matching of an HKMAAL accredited Family Mediation Supervisor and a Trainee Family Mediator.



- Upon receipt of declaration of no conflict of interest and the consent signed by both the Family Mediation Supervisor and the Trainee Family Mediator, the Mediation Co-ordinator will make formal referral to the Family Mediation Supervisor.
- The Family Mediation Supervisor or the Trainee Family Mediator will contact the parties to arrange for the mediation service, including the venue of mediation.
- The Family Mediation Supervisor and the Trainee Family Mediator will work as a team to provide family mediation to assist the parties in resolving their problems. They are obliged to follow the rules stipulated under the “Hong Kong Mediation Code”. Parties will enjoy the benefits of having two neutrals conducting mediation at a nominal rate.

#### **E. Cases criteria for Trainees**

- Before participating in live family mediations under the supervision of a Family Mediation Supervisor, the trainees must complete stage 1 Family Mediation Training while the General Mediators must complete a 5-day conversion course tailored for general mediators to become family mediators.
- Each case being assigned shall be of a minimum of 5-hour mediation and must be sufficiently complex for the trainees to demonstrate their ability to manage emotional intensity and disentangle complicated financial and child related matters.

#### **F. Fees**

- A nominal mediation fee of \$100 is charged for each party (i.e. \$200/case). HKMAAL will charge an administration fee of HK\$2,000 per live family mediation from the Trainee who will also have to pay the Supervisor a fee of HK\$800 per hour (capped at HK\$12,000 for 15 hours per live family mediation, including intake or pre-mediation interviews, briefing and debriefing).
- The mediation fee is non-refundable once the “Agreement to Mediate” has been signed.

- Information sessions and pre-mediation consultations provided by FMCO are free of charge.

## **G. Profiles of service users**

- Of the 43 cases which had used or are still using mediation service, close to three-quarters (72%) of male users and 86% of female users were in their thirties and forties. The length of marriage ranged from 2 to 24 years, and the median marriage life was 13 years. 93% of the male users and 93% of the female users had secondary education or above. The median monthly income of the male users was \$25,000 and that of female users was \$18,000. Most of the cases (88%) had already commenced legal proceedings when using the family mediation service. More female parties (44%) than male parties (26%) were legally represented in their divorce applications. The statistics showed that around 5% of male parties and 23% of female parties were on legal aid.

## **H. Profiles of Supervisors and Trainees**

- Number of Supervisors joining the Scheme: **28**
  - Private Practitioner: **14**
  - NGOs: **14**
- Number of Trainees enrolled: **37**
  - Number of Trainees applied for 2 cases under the scheme: **6**
  - Number of applications received: **43**

| Trainees (Chinese speaking) |               | Trainees (English speaking) |               |
|-----------------------------|---------------|-----------------------------|---------------|
| 31                          |               | 12                          |               |
| Case assigned               | Still waiting | Case assigned               | Still waiting |
| 31                          | 0             | 12                          | 0             |

**Professions of the Supervisors:**

|               |    |
|---------------|----|
| Solicitor     | 13 |
| Social Worker | 15 |

**Professions of the Trainees:**

|                                   |    |
|-----------------------------------|----|
| Barrister                         | 13 |
| Solicitor                         | 8  |
| Medical Doctor / Surgeon          | 4  |
| Mediator (Consultant and Trainer) | 2  |
| Academia                          | 1  |
| Accountant                        | 1  |
| Banking and Finance Personnel     | 1  |
| Church Administrator              | 1  |
| Housing Manager                   | 1  |
| Human Resources Personnel         | 1  |
| In-flight Service Manager         | 1  |
| Sales Manager                     | 1  |
| Social Worker                     | 2  |
| Total:                            | 37 |

## **Supervisors' Comments on the Scheme**

### *About the Scheme*

- They in general considered that the scheme was meaningful and effective in enhancing opportunities for trainees to obtain cases for live supervision and enabling trainees to meet the Stage 2 requirement.

### *About the administrative arrangement*

- The overall arrangement under the Scheme was smooth and appreciation was given to the Secretariat of HKMAAL and the Mediation Co-ordinator of FMCO for their efforts and support.

### *About the venue*

- Some supervisors from NGOs expressed worries over the difficulties in arranging suitable venues for conducting mediation/live supervision and opined that some sort of subsidies to venue from the government might help in the long run.

### *About the fees paid by the parties*

- A few supervisors viewed that nominal fee of \$100 charged for each party was too low and it was indeed a disincentive to commitment to the process.
- Certain supervisors considered the scheme capped at HK\$12,000 for 15 hours per live family mediation, including intake interviews, briefing and debriefing was not enough to reflect and explore family dynamics, particularly the needs of children.

## **Trainees' Comments on the Scheme**

### *About the Scheme*

- The Scheme provided a good channel for trainees to look for supervisors and live cases. It is considered to be an excellent channel for the trainees to get live cases in order to complete the accreditation. It brought mutual benefits to trainees and parties.

### *About the administrative arrangement*

- On the whole, the process of assigning cases was smooth and administrative support was efficient. Some trainees revealed that they needed to wait for a longer period than they expected.

#### *Legal aid issue*

- A trainee revealed that the commencement of the mediation had been delayed for 2 months because one party had to wait for approval from the Director of Legal Aid regarding the mediation fees.

#### *Challenges faced during the mediation process*

- Some trainees expressed that the parties' negative emotions, positional attitude and grudges were the difficult parts to handle. Learning to stay calm and digging out more options to obtain a breakthrough were the essential skills in the training process.
- Some trainees considered financial matters and financial support for children were issues with the biggest difficulty to come to an agreement. One trainee commented that one party's lawyer was not supportive of the choice to mediate and the mediation case could not be further proceeded.
- Due to the variation of supervisor's style, trainees needed to make adjustment/ alternation under supervision.

#### *Benefits to parties and community*

- The trainees generally considered that the scheme was effective in helping needy parties to reach agreement and understand each party's concerns at a low cost. The development of family mediation (subspecialty) would be enhanced in the field.