



Final Evaluation Report on Family Mediation Supervision Pilot Scheme (2018 – 2021)

PURPOSE

This paper seeks Members' views on the way forward regarding the Family Mediation Supervision Pilot Scheme.

INTRODUCTION

2. Divorce is a significant life event that affects the divorcing couples and also has an impact on the development and well-being of their children. Family disputes arising from divorce, if not settled satisfactorily, are distressing to every party involved. Whereas adversarial litigation fought out to the end results in an all-or-nothing outcome, mediation, which relies on agreement by the parties, may bring about a more satisfactory resolution with less stress in the process. Further, where a dispute is successfully mediated, it is usually speedier and less costly than litigation.

3. The Judiciary launched its first voluntary mediation scheme in 2000, with promising results. With the help of a professional mediator, the divorcing couples can reach an agreement that is satisfactory to both parties on a voluntary basis. The concept of family mediation has widely gained acceptance by the community as a non-adversarial family dispute resolution process over the past twenty years. Current statistics showed that applications for divorce had increased from 10,292 cases in 1995 to 22,386 in 2019. Since the number of divorce applications has increased at an alarming rate, the demand for family mediation is indeed surging.

BACKGROUND OF THE FAMILY MEDIATION SUPERVISION PILOT SCHEME

4. It is observed that the family mediation trainings are held regularly by various NGOs and private organizations. However, the number of family mediators does not grow in proportion to the increasing demand. Feedbacks received from the field indicated that many family mediator trainees (“Trainees”) were unable to take part in mediation cases to fulfill the Stage 2 accreditation requirement as set up by the Hong Kong Mediation Accreditation Association Limited (“HKMAAL”). In other words, the Trainees, after receiving the Stage 1 training, could not fulfill the remaining crucial requirement, i.e. taking up two real and sufficiently complicated cases under the supervision of two different family mediation supervisors (“Supervisors”). Another practical difficulty was that there was insufficient number of Supervisors in the field and very few had a full-time family mediation practice. There were also various factors accounting for the shortage of Supervisors. One of them was the family supervision fee was less attractive as compared to commercial cases. Because of that, the field only saw limited rise in the number of family mediators and Supervisors in the past several years.

5. Such imbalance between the supply of family mediators and demand of family mediation service may erode the service quality the profession aimed to deliver to the public in the first place. In view of the deficiency in family mediators, the project of setting up a Family Mediation Supervision Pilot Scheme (“Scheme”) jointly run by the HKMAAL and the Judiciary has been implemented since 2014 and aimed to provide more live supervision opportunities for the Trainees as well as general mediators seeking to convert into family mediators. The Scheme also alleviates the shortage of family mediators in the field.

6. The 1st phase of the Scheme was officially launched on 2.7.2014 for a period of 3 years. It received very positive results and enthusiastic feedbacks from Supervisors and Trainees. Upon obtaining endorsement from Chief Justice’s Working Party on Mediation and HKMAAL Council, the Scheme continued with the 2nd phase in January 2018 and designed for a period of another 3 years. Due to the pandemic issue, the Scheme could not be carried out smoothly in 2020. It therefore extended to 2021.

7. With the support of the Scheme, the overall number of family mediators increased to 316 with 61 of them are Supervisors in 2021. The following table shows the growth of family mediators from 2013 - 2021.

Total number of Family Mediators in Hong Kong:

Month/Year	Family Mediators
Jan 2013	194 (46 Family Supervisors)
Jan 2014	227 (49 Family Supervisors)
Jan 2015	245 (53 Family Supervisors)
Jan 2016	250 (54 Family Supervisors)
Jan 2017	274 (54 Family Supervisors)
Jan 2018	285 (58 Family Supervisors)
Jan 2019	294 (59 Family Supervisors)
Jan 2020	309 (61 Family Supervisors)
Jan 2021	316 (61 Family Supervisors)

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 2nd Phase of the Scheme, there were a total of 23 completed mediation cases. The overall success rate was 70%. The breakdown is as follows: -

Success Rate: 70% (Full agreement and partial agreement)

Level of agreement reached	Number of cases (%)	Average hour spent on mediation
Cases with Full agreement	13 (57%)	17
Cases with Partial agreement	3 (13%)	16
Success rate (cases with full/partial agreement)	16 (70%)	-
Cases with No agreement	7 (30%)	13
Total number of completed cases	23	
Others (e.g. cases on going, result pending, etc)	3	

On average, it took 17 hours to reach a full agreement and 16 hours to reach a partial agreement.

10. The duration between the date of referring a case by Integrated Mediation Office (“IMO”) to the date of assigning a case to Supervisor and Trainee by HKMAAL took 32 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 159 days.

Assessment on Trainees

11. According to the mediation reports, out of the 23 completed cases, 22 have resulted in positive recommendations for HKMAAL accreditation based on the performance of the relevant Trainees. 21 Trainees, having participated in the Scheme, have successfully obtained accreditation from HKMAAL and 1 Trainee's application for accreditation is in progress.

Disputed Issues of Family Mediation

12. The 23 completed cases under this Scheme encompassed different dispute issues and the breakdown is as follows:

- | | |
|--|------|
| • Child Custody | 82% |
| • Care and control | 55% |
| • Child Access | 100% |
| • Financial Support for spouse | 64% |
| • Financial Support for child(ren) | 86% |
| • Accommodation /Property | 68% |
| • Financial Matters | 59% |
| • Others (e.g. legal costs, debt management affairs, etc.) | 23% |

13. As reported by the Supervisors, the majority of cases involved disputes relating to "child access", "financial support for children" and "child custody". "Care and control" is the least disputed matter.

EVALUATION

14. With a view to measuring the effectiveness of the Scheme, three questionnaires - "Questionnaire to Trainee Family Mediator", "Questionnaire to Family Mediation Supervisor" and "Questionnaire to Service Users" have been designed to collect feedbacks from the participating Trainees, Supervisors and Service Users ("Users"). All participants were invited to return their feedbacks once the assigned case was completed. The questionnaires were completed on an anonymous basis.

15. During the evaluation period, a total of 20 questionnaires (87% response rate) from Supervisors, 16 questionnaires (70% response rate) from Trainees and 31 questionnaires from Users (67% response rate) had been received.

Supervisors' Feedback

16. Amongst the 20 Supervisors who had responded in the survey, 90% considered that nomination by HKMAAL to take up an assigned case was very effective/effective and agreed that the communication with their Trainees during the whole process was smooth. All Supervisors (100%) were of the view that the Scheme should be continued to maintain its service.

Trainees' Feedback

17. Nearly 88% of the Trainees reported that nomination by HKMAAL to take up an assigned case was very effective/effective. All of them (100%) considered that the communication with their Supervisors during the whole process was smooth. Similar to the feedback from Supervisors, all Trainees (100%) 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 IMO to be very effective/effective	85%	N.A. ¹
(c) Considered parties were very cooperative/cooperative regarding the appointment of mediation sessions	85%	88%
(d) Considered communication between Supervisor and Trainee to be smooth	100%	81%
(e) Considered the arrangements of venue and parties for mediation to be smooth	90%	94%
(f) Considered the Scheme to be continued	100%	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 Trainees as well as General Mediators seeking to be accredited as Family Mediators. Despite certain modifications might be required on the Scheme, all the Supervisors and all Trainees considered that the Scheme should be continued to maintain its service.

¹ All referrals were made through the Supervisor.

Users' Feedback

19. Almost 90% of the Users agreed that family mediation is an effective alternative in resolving dispute in divorce-related issues and 90% of them were satisfied with the family mediation process and considered the duration of family mediation reasonable. The majority (94%) of the Users also agreed that mediation service had helped save and reduce litigation cost.

Feedback from Users

	Users (%)
<i>About the <u>arrangement</u> of family mediation service</i>	
(a) Considered the waiting time before the commencement of family mediation reasonable	74%
(b) Considered the duration of family mediation reasonable	90%
(c) Considered the family mediation service received satisfactory	84%
(d) Considered the whole mediation process satisfactory	90%
(e) Expressed willingness to pay more than \$100 nominal mediation fee	87%
<i>About the <u>quality</u> of family mediation service</i>	
(f) Considered mediation sessions were promptly scheduled and arranged	90%
(g) Considered the mediator had explained the mediation process clearly	97%
(h) Considered the mediator had given full opportunities and ample time for parties to express their views and for discussing matters in dispute	81%
(i) Considered the mediator had effectively dealt with parties' feelings, which enabled mediation to proceed in a peaceful manner	81%

Feedback from Users

(j) Considered the mediator had listened to users well and understood their needs	87%
(k) Considered the mediator was impartial and fair	81%
(l) Considered the mediator had provided sufficient assistance	81%
(m) Considered the mediator had helped create/develop/reflect realistic options for settling matters in dispute	81%
(n) Considered the mediator had helped create a positive atmosphere to enable parties to reach agreement	77%
(o) Considered the overall performance of the mediator satisfactory	87%
<i>About the <u>usefulness</u> of family mediation service</i>	
(p) Considered mediation service had helped save time	90%
(q) Considered mediation service had helped save/ reduce litigation cost	94%
(r) Considered mediation service had helped avoid tension and conflict in litigation	81%
(s) Considered mediation service had helped maintain harmonious relationship with the divorcing spouse of the party	68%
(t) Considered mediation service had helped both parties understand the matters in disputes	87%
(u) Considered mediation was an effective alternative in resolving dispute in divorce-related issues	90%
(v) Considered appropriate to introduce the family mediation service to friends/relatives in the future	87%

----- 20. Some more valuable inputs and comments by the Users are appended at Appendix II. At a glance, Users were mostly satisfied (84%) with the mediation services provided in the Scheme in terms of its arrangement, quality and usefulness. The feedbacks received were found to be positive and forethought. The majority of the Users appreciated the mediation services provided by the mediators (Supervisors and Trainees); “wholeheartedness” and “professionalism” are commonly seen in the comments describing the mediators. Besides, it is worth to note in the survey that the Users considered mediation was an effective alternative in resolving divorce-related disputes rather than litigation. Given the practicality and usefulness of the scheme, the majority of the Users considered appropriate to introduce the family mediation service to friends and relatives who would require such service in the future.

CONCLUSION AND RECOMMENDATION

21. Litigation is always an unpleasant and miserable experience to the parties. As a non-adversarial family dispute resolution process, family mediation is a positive aid that aims to help divorcing couples to reach their mutually acceptable agreements concerning their children and financial matters. Both overseas and local 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 family mediation service has proved to be successful and is receptive to the public. The use of mediation is expected to increase as public confidence in the process grows and Hong Kong’s pool of trained and experienced mediators increases.

22. In order to support the growth of family mediators in the community, the Scheme has been set up in 2014 for a period of 3 years and then extended to run a 2nd phase in 2018. After the implementation of the Scheme, both the numbers of family mediators and Supervisors have been steadily increased. The rising numbers of family mediators and Supervisors reflect the effectiveness of the Scheme to expand the pool of family mediators in the field.

23. In order to evaluate the effectiveness of the Scheme, data relating to profiles of Users, Supervisors and Trainees; mediation case results as well as the Users’, Supervisors’ and Trainees’ feedbacks of the Scheme were 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, since 2014, 44 trainees have successfully obtained accreditation from HKMAAL.

24. It is certainly that through the Scheme, more client families are able to obtain mediation service in a more cost-effective way. The promising mediation success rate reflected that the Scheme served positively as a platform for service seeking parties to resolve disputes amicably. The Scheme has been successfully enlarging the pool of family mediators in the community and thus met the objective of devising such scheme in the beginning.

25. Considering all the collected statistics and positive feedbacks from Supervisors, Trainees and Users, it is suggested that the Scheme should adopt the measures taken in the Scheme as the standard practice from January 2022 onwards with the following modifications:

- i) the Trainee will have to pay the Supervisor a fee of HK\$800 per hour (capped at HK\$16,000 for 20 hours per live family mediation case, including intake or pre-mediation interviews, briefing and debriefing).

Justification: Collected statistics reflected that, on average, it took 17 hours to reach a full agreement. The previous cap of 15 hours seemed to be not sufficient for the Trainees to complete the case and receive further supervision from the Supervisors.

- ii) A nominal mediation fee of \$200 is charged for each party (i.e. \$400/case).

Justification: The nominal mediation fee of \$100 for each party was considered to be too low which could not ensure incentives and commitments of the parties. Considering the median monthly income of the male users was \$29,500 and that of female users was \$16,000 and 87% users showed willingness to pay more than \$100 mediation fee, it is suggested that the nominal mediation fee be changed to \$200 per party.

26. Judging from the above findings, the Scheme definitely offers more training opportunities to the Trainees and expands the number of family mediators in the field. With the experience gained in the previous years, more positive results can be expected from the normalization of the Scheme.

**The Mediation Section
The Judiciary
December 2021**

MAJOR FEATURES OF THE SCHEME

A. Aims

- To provide more live supervision opportunities for Trainees as well as General Mediators seeking to be accredited as Family Mediators by taking up real cases under the supervision of a 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 IMO 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 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 IMO, 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 IMO to HKMAAL

for matching of an HKMAAL accredited Family Mediation Supervisor and a Trainee.

- Upon receipt of declaration of no conflict of interest and the consent signed by both the Supervisor and the Trainee, the Mediation Co-ordinator will make formal referral to the Supervisor.
- The Supervisor or the Trainee will contact the parties to arrange for the mediation service, including the venue of mediation.
- The Supervisor and the Trainee 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 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 case, 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 IMO are free of charge.

G. Profiles of Users

- Of the 26 cases which had used mediation service, more than a half (58%) of male users were in their forties to fifties and half (50%) of female users were in their thirties to forties. The length of marriage ranged from 3 to 20 years, and the median marriage life was 11.5 years. All the male and female users had secondary education or above. The median monthly income of the male users was \$29,500 and that of female users was \$16,000. Most of the cases (96%) had already commenced legal proceedings when using the family mediation service. More female parties (46%) than male parties (30%) were legally represented in their divorce applications. The statistics showed that around 12% of male parties and 23% of female parties were on legal aid.

H. Profiles of Supervisors and Trainees:

- Supervisors
 - Number of Supervisors joining the Scheme since 2014: **35**
 - Private Practitioner: **18**
 - NGOs: **17**
 - Professions of the Supervisors:

Solicitor	15
Social Worker	17
Counsellor	2
Barrister	1
<hr/>	
Total:	35

- **Trainees (in 2nd Phase)**

- Number of case applications received from Trainees in 2nd Phase: **64**
- Number of Trainees enrolled in 2nd Phase: **54**
- Number of Trainees enrolled in 2nd Phase with case assignment: **17**
- Number of Trainees enrolled pending for case assignment: **37***
(* 4 of them applied for 2 cases)
- Number of Trainees received 2 cases under the Scheme: **6**
- Profile of case applications and assignment:

Case applications	Languages			
	Chinese		English	
	60		4	
Case assignment	Case assigned	Still waiting	Case assigned	Still waiting
	20	40	3	1

- **Professions of the Trainees enrolled in 2nd Phase:**

Social Worker	15
Barrister	11
Solicitor	11
Counsellor	5
Civil Servant	3
Business Services	2
Education & Training	2
Medical & Healthcare	2
Information Technology	1
Paralegal	1
<u>Pastor</u>	<u>1</u>
Total:	54

- **Trainees (in total since 2014)**

- Number of case applications received from Trainees since 2014: **107**
- Number of Trainees enrolled since 2014: **91**
- Number of Trainees enrolled since 2014 with case assignment: **54**
- Number of Trainees enrolled pending for case assignment: **37**
- Number of Trainees received 2 cases under the Scheme: **12**
- **Professions of the Trainees enrolled since 2014:**

Barrister	23
Solicitor	22
Social Work	16
Education & Training	6
Medical & Healthcare	6
Business services	6
Counsellor / Psychologist	5
Civil Servant	4
Information Technology	1
Pastor	1
<u>Paralegal</u>	<u>1</u>

Total: 91

Supervisors' Comments on the Scheme

About the Scheme

- They in general considered that the Scheme provided good and valuable opportunities for Trainees to obtain cases for live supervision and enabling Trainees to meet the accreditation requirement.
- The Scheme served as a good platform for Trainees to gain knowledge of family mediation and learn from Supervisors how to handle difficult situations.

About the administrative arrangement

- The Judiciary and HKMAAL played an important role to coordinate the Supervisors, Trainees and the parties to facilitate the operation of the Scheme smoothly.
- The support from the Secretariat of HKMAAL and IMO were appreciated.

About the venue

- Some Supervisors suggested free venue could be provided/arranged by HKMAAL and the Judiciary.

About the fees/charging rate

- A few Supervisors viewed that nominal fee of \$100 charged for each party was too low to ensure incentives and commitments of the parties to participate in the process.
- Certain Supervisors considered that the Scheme capping each live family mediation case at HK\$12,000 for 15 hours, including intake interviews, briefing and debriefing, did not provide enough duration for the Trainees to complete the case and receive further supervision from the Supervisors. It may discourage the Supervisors to participate in the Scheme.

About the parties' attitude

- A few Supervisors noticed that certain parties lacked commitment to participate in the mediation and could not attend the sessions punctually.

About the Trainees' performance

- It is considered that the Trainees should be familiar with family law on maintenance and division of matrimonial properties in order to facilitate them in drafting settlement agreement.

Trainees' Comments on the Scheme

About the Scheme

- The Scheme provided a good channel for Trainees to look for Supervisors who were unknown to them.
- It is considered to be an excellent scheme for the Trainees to get live cases which were valuable opportunities for them polishing their skills in order to complete the accreditation. It brought mutual benefits to Trainees and parties.
- The Scheme was a good training platform for Trainees and should be continued.

About the administrative arrangement

- Appreciation was given to IMO and HKMAAL for making all the necessary arrangement. In general, the referring process and matching of Supervisors and Trainees were smooth.
- Some Trainees revealed that the waiting time under the Scheme to appoint a Supervisor, allocate a family mediation case to the Trainee and commence the first session was

considered to be too long. (The reason for such prolonged waiting time was due to pandemic and social distancing considerations)

Benefits to parties

- It provided more channels for families to participate in family mediation with a very reasonable and affordable charge.
- It encouraged parties with less financial resources to try family mediation.

Challenges faced during the mediation process

- Some Trainees expressed that the parties were unable to have smooth communications. They have not yet reached the stage that they could put aside the past grievances and considered the best interest of their children. Learning to assist the parties in communicating with each other reasonably was the essential skill in the training process.
- Some Trainees considered the parties often changed their minds after hearing the options/suggestions by the other party, leading to some turn-over of the previously agreed arrangements.

About the Supervisors

- Most Trainees appreciated the opportunity to learn from Supervisors' intervention skills and receive constructive feedbacks from them.

Benefits to the community

- The Trainees generally considered it was an invaluable chance to learn from Supervisors and the development of family mediation would be enhanced in the field.

Users' Comments on the Scheme

About the Scheme

- Most parties commented the Scheme was smooth and helpful.
- Most parties were very satisfied with the Scheme because it assists many divorcing couples to simplify the complicated issues and thus deal with the problems easily.
- The Scheme was a great platform for both parties to resolve the disputes before any legal actions taken place.
- This service narrowed down the differences between both parties. Both had been able to come to an understanding and solve all disputed matters amicably.
- The Scheme assists the parties to understand more about the issues systematically so as to pave the way for mutual cooperation on the issues.

About the Mediators (Supervisors and Trainees)

- The fair and impartial manner of the mediator assists the parties to dilute the anger and hostility against each other.
- The mediators were very professional and understood the needs of the parties.
- Certain parties considered that mediators did not have enough experience in bringing up intense and direct communication. It was suggested that mediator should provide with parties more guidance in generating options so as to reduce the awkward silence in mediation.
- The parties should be well-informed of the possible risks in terms of legal costs and time, as well as the procedure of the court proceedings, in case no agreement is reached in the mediation. In turn, mediation could be conducted more effectively between the sincere and actively-participated parties.

About the benefits of Family Mediation

- Family mediation process facilitated both parties' mutual understanding on the issues and personal interest.