



**OVERVIEW OF CONDUCTING FAMILY CASES UNDER
FAMILY COURT-ANNEXED MEDIATION SCHEME
(FCAMS)**

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**MASTER BRYAN LUNG
FAMILY COURT**

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A. Introduction

- Pilot Scheme for 2 years, starting from 5 March 2024
- **Collaborative Approach** among Presiding Judicial Officers (“Judicial Officer”), Integrated Mediation Office (“IMO”) and Accredited Family Mediators (“Duty Mediator”) at **Court Premises**
- Serves **litigants in person** on both sides **only**
- Target at suitable court cases involving **parties with less financial resources**

B. Concept

- **Judicial Officer refers suitable case to IMO with parties' consent**
- **Intake by IMO officers**
- **Duty mediator conducts mediation**
- **Judicial Officer approves settlement after parties reach settlement and make it as a Court Order on the same day**

B. Concept

- Court Hearing and Mediation on the **same day**
- If **settlement is reached, Duty Mediator prepares settlement agreement** for Court's approval at the resumed hearing
- If **no settlement reached, Judicial Officer adjourns the case with further case management directions**
- In appropriate cases, **Duty Mediator may conduct further mediation session with the parties on the return hearing date**

B. Concept

- With parties' consent, Duty Mediator **may request for private and direct communication with Judicial Officer** during the process in the interest of assisting the parties to reach settlement
- Duty Mediator **may attend hearing / resume hearing** to address the concerns of the parties and to **understand views from Judicial Officer** on the remaining issues in dispute or **explore other potential options** for solving impasses
- Duty Mediator **may resume mediation on the remaining issues** in dispute after the resumed hearing until settlement is reached

C. Type and Nature of Cases involved in FCAMS

- Cases involving **few issues in dispute**
- Parties who are **relatively emotionally stable** and **ready for direct** discussion and joint decision making
- Cases **not involving domestic violence or high risk of domestic violence**

D. Actual Operation

Support provided to Duty Mediator

- **Induction meeting with Duty Mediators** to explain the details of the scheme
- **Preparing sample “Agreement to Mediate” and “Consent Application”** to assist Duty Mediators with their preparation for the mediation and drafting of Settlement Agreement
- **IMO officers provide practical support** (including briefing of the case and technical support) to Duty Mediators
- **Continuous review with Duty Mediators** to understand their concerns on the actual operation of FCAMS

D. Actual Operation

Usual Cases being selected for FCAMS

- **First Appointment Hearing Cases** – access arrangements; child maintenance; housing arrangements
- **Judgement Summons Cases** – outstanding maintenance
- **Variation of Maintenance** – child maintenance
- **Parties indicate their willingness to mediate** during Court Hearing and through their formal confirmation at IMO
- **Judicial Officer will conduct an assessment** to ensure the relevant case involve parties with less financial resources

D. Actual Operation

A day of FCAMS

- **Judicial Officer introduces the scheme and seeks Parties' consent** to join FCAMS beforehand
- **Parties need to go to IMO to sign consent form** for giving formal confirmation of the service within 3 days after the Judicial Officer introduction
- **IMO officer conducts intake session** of the Parties and provides a **case brief to Duty Mediator**
- **Duty Mediator conducts only 1 case in a day**

D. Actual Operation

A day of FCAMS

- **Hearing starts at 9:30am**, Duty Mediator attend the hearing as well
- **Judicial Officer makes some general observations** on the dispute
- **Mediation starts at 10am** in the dispute resolution rooms which are on the same floor as the Court

D. Actual Operation

A day of FCAMS

- **Agreement to Mediate – includes a clause under “Confidentiality” that parties give their consent to the mediator to discuss with Judicial Officer**

“The Parties agree to participate in the “Family Court-annexed Mediation Scheme” and also agree that the Duty Mediator may meet and communicate with the Judges / Masters / the staff of the Integrated Mediation Office; prepare relevant documents (e.g. Memorandum for the Judges / Masters) as directed by the Court; attend the hearings and perform other relevant duties as requested by the Judges / Masters; and provide any information and documents referred to in the mediation. The terms of confidentiality in paragraphs 5(a) to 5(f) above are not applicable under such circumstances.”

D. Actual Operation

A day of FCAMS

- After signing the Agreement to Mediate, Duty Mediator conducts mediation with the Parties
- Duty Mediator has his/her freedom to decide the process in conducting mediation under FCAMS

D. Actual Operation

If Parties reach settlement

- Duty Mediator will draft **Consent Application** and go through with the Parties
- Parties lodge the **Consent Application** to the Court for approval
- Judicial Officer will vet the **Consent Application** and make it as a Court Order

D. Actual Operation

If Parties reach an impasse

- With the Parties' consent, Duty Mediator will **discuss** with Judicial Officer **directly**
- Judicial Officer will call for a **resumed hearing** for around 15 minutes for expressing views in order to **narrow down the dispute**

D. Actual Operation

If Parties unable to reach settlement

- Judicial Officer gives **case management directions** to proceed with the case
- Judicial Officer under FCAMS **will not conduct trial or substantive argument on that case**
- Judicial Officer will explore with the Parties and Duty Mediator **whether further mediation session** (under FCAMS or under usual referral scheme provided by IMO) **is needed**

D. Actual Operation

A day of FCAMS

- Up to date, the average time for a mediation **case to be concluded under FCAMS is around 5 hours**

E. Some Comments from Parties

<u>About the process</u>	<u>About the JJO/Mediators/IMO Staff</u>	<u>Others</u>
<ul style="list-style-type: none">- 非常好/好 x 2- 時間快、方便- 整個流程非常好及有效- 能平靜討論- 非常滿意/滿意 x 2	<ul style="list-style-type: none">- 調解員及職員非常友善及落力- 感謝調解員- 調解員服務態度非常好- 抓住重點進行調解- 調解員好有耐性幫助我	<ul style="list-style-type: none">- 有用、有資訊- 能幫助到有需要的人- 對要做決定，感到不開心

F. Some Comments from Mediators

<u>Areas of improvements</u>	<u>About the process</u>	<u>About the JJO/Parties/IMO Staff</u>	<u>Others / Difficulties encountered</u>
<ul style="list-style-type: none"> - Basic information should be provided, e.g. Petition, Form E, Form J - More background information of the parties can be provided - The referral form may be amended to include the space for naming Petitioner / Respondent / the 1st or 2nd Applicant (revised after receiving the comments) 	<ul style="list-style-type: none"> - Excellent mediation experience - Very good/ Good enough x 2 	<ul style="list-style-type: none"> - Very good IMO support - Court has clear & precise direction to both parties 	<ul style="list-style-type: none"> - Too little time for negotiation & to allow mutual understanding of the parties - Due to lack of communication between the parties during the last 2 years, need time to build up trust between them

G. Challenges and Note for Mediators under FCAMS

- **Perusal of relevant court documents in advance may be required** (e.g. Petition, Form Es, Form Js) so Duty Mediator may understand the basic concerns of the parties beforehand in order to increase the efficiency in moving to options generation stage
- **Time management** is more important than usual family mediation cases as this is a time-limited mediation, but **no pressure needs to be exerted** on the parties to reach settlement under FCAMS
- Duty Mediator may consider seeking parties' consent for **discussion with Judicial Officer** in order to assist the parties in narrowing down the issues in dispute.
- **Be familiar with the sample Consent Applications** so the drafting of the agreement may be sped up

H. Virtual Walkthrough of Dispute Resolution Rooms



H. Virtual Walkthrough of Dispute Resolution Rooms



I. Reflections and Final Remarks

- Judicial Officer and Duty Mediator look at the **dispute from different angles**
- Duty Mediator can **dig in the real concerns of the parties of a dispute** which may not be revealed to the Judicial Officer through parties' affirmations and submissions during hearing
- Judicial Officer **can provide a more concrete and realistic roadmap** to the parties in the event that they proceed with the case

I. Reflections and Final Remarks

- Parties realise the importance of communication and clarification through mediation in resolving a dispute
- Not only do the **Parties** reach settlement on the dispute under FCAMS, but the successful experience also **encourages the Parties to choose a different route to resolve their dispute in the future**

I. Reflections and Final Remarks

- Achieve same goal through different skills and roles
- Dispute resolved through multi-disciplinary efforts
- Public education that dispute could be resolved through collaborative efforts

I. Reflections and Final Remarks

Letters of Compliment from Parties

- 感謝上述人員本次的協調，令今次就離婚程序能夠快速解決，而調解員嘅調解過程都好明顯有保持中立，沒有令其中一方感到有任何負面感受。其餘職員都辛苦花費好幾小時在外陪伴及協助，令成件事都走得好暢順，是個非常專業的團隊及服務！
- 首先本人衷心感謝聆案官安排本人及第二申請人參加此次調解計劃並得到一眾人員專業的服務及去對本人是次離婚進行調解以順利解決離婚事項，特別調解員專業解釋及協助商討離婚事項妥當進行。非常感謝此項計劃

Thank You